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To protect consumers from overcollections for the use of pay telephones, to provide consumers with information to make informed decisions about the use of pay telephones, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 2, 1998

Mr. LEAHY introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To protect consumers from overcollections for the use of pay telephones, to provide consumers with information to make informed decisions about the use of pay telephones, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Pay Tele-
5 phone Protection Act of 1998”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) Some payphone service providers have in-
2 creased the charge for the use of a coin-operated pay
3 telephone for a local call to 35 cents but have not
4 put into place a system for providing change to
5 users of such telephones for amounts deposited in
6 such telephones in excess of such charge.

7 (2) Payphone service providers should charge
8 pay telephone users only for the actual time of use
9 of pay telephones.

10 (3) Most consumers, if given a choice, would
11 prefer that any amount of such excess deposits that
12 are not refunded to consumers be used for pay tele-
13 phones for public health, safety, and welfare pur-
14 poses rather than have such excess deposits accrue
15 to the financial benefit of payphone service provid-
16 ers.

17 (4) There are approximately 2,000,000 pay
18 telephones in the United States, and payphone serv-
19 ice providers accrue substantial revenue at the ex-
20 pense of Americans who do not have the exact
21 amount of the charge for their use.

22 (5) A decision of the Federal Communications
23 Commission to deregulate the provision of payphone
24 service was premature and did not address ade-

1 quately the need for local competition that would
2 benefit users of pay telephones.

3 (6) The decision of the Commission does not
4 promote the widespread deployment of affordable
5 payphone service that would benefit the general pub-
6 lic, nor does the decision promote the widespread de-
7 ployment of public interest telephones.

8 (7) The use of coin-operated pay telephones
9 represents an increasing commercial activity that
10 substantially affects interstate commerce.

11 (8) Public interest telephones should be main-
12 tained in each State and should be provided to pro-
13 mote the public safety, health, and welfare.

14 (b) PURPOSE.—The purpose of this Act is—

15 (1) to require payphone service providers—

16 (A) to provide cash change to pay tele-
17 phone users who deposit amounts for local tele-
18 phone calls in excess of the amounts charged
19 for such calls; or

20 (B) in the event that such providers do not
21 provide such change, to transfer amounts equal
22 to such change to appropriate State entities for
23 public interest purposes related to telephone
24 service;

1 (2) to encourage such changes in pay telephone
2 technology as are needed to assure that payphone
3 service providers—

4 (A) do not overcharge pay telephone users
5 who do not have the exact amount of the charge
6 for local pay telephone calls; and

7 (B) do not charge pay telephone users for
8 any time in which pay telephones are not actu-
9 ally in use; and

10 (3) to require the Federal Trade Commission to
11 determine—

12 (A) whether dysfunctions exist in the mar-
13 ket for payphone service including locational
14 monopolies in which the size of the market con-
15 cerned results in the availability of payphone
16 service from a single provider; and

17 (B) whether rates for coin-operated pay
18 telephones for local telephone calls are market
19 based.

20 **SEC. 3. PUBLIC INTEREST PAY TELEPHONES.**

21 Section 276(b)(2) of the Communications Act of
22 1934 (47 U.S.C. 276(b)(2)) is amended to read as follows:

23 “(2) PUBLIC INTEREST PAY TELEPHONES.—

24 “(A) SENSE OF CONGRESS.—It is the
25 sense of Congress that—

1 “(i) in the interest of the public
2 health, safety, and welfare, public interest
3 pay telephones should be available and
4 maintained in locations where there would
5 not otherwise likely be a pay telephone;
6 and

7 “(ii) such public interest pay tele-
8 phones should be fairly and equitably sup-
9 ported.

10 “(B) USE OF FUNDS.—In accordance with
11 such regulations as the Commission shall pre-
12 scribe, each State agency that receives amounts
13 under subsection (c)(2)(A) shall use such
14 amounts to promote or otherwise support the
15 installation, maintenance, and use of public in-
16 terest pay telephones, including specially de-
17 signed payphones for the disabled and the pro-
18 vision of payphone service in remote locations,
19 nursing homes, emergency homeless shelters,
20 hospitals, facilities that assist the disabled,
21 schools, and other appropriate locations deter-
22 mined by the State agency concerned.”.

1 **SEC. 4. REQUIREMENT FOR CHANGE AT PAY TELEPHONES.**

2 (a) REQUIREMENT.—Section 276 of the Communica-
 3 tions Act of 1934 (47 U.S.C. 276), as amended by section
 4 3 of this Act, is further amended—

5 (1) by redesignating subsections (c) and (d) as
 6 subsections (d) and (e), respectively; and

7 (2) by inserting after subsection (b) the follow-
 8 ing new subsection (c):

9 “(c) CHANGE AT PAY TELEPHONES.—

10 “(1) REQUIREMENT.—

11 “(A) IN GENERAL.—Except as provided in
 12 paragraph (2), a payphone service provider
 13 shall provide any individual using a pay tele-
 14 phone of such provider to make a telephone call
 15 described in subparagraph (B) an amount of
 16 cash change equal to the amount (if any) by
 17 which the amount deposited by the individual
 18 for the call exceeds the charge for the call.

19 “(B) COVERED TELEPHONE CALLS.—Sub-
 20 paragraph (A) applies to any local telephone
 21 call the charge for which exceeds 10 cents.

22 “(2) ALTERNATIVE USE OF EXCESS COLLEC-
 23 TIONS.—

24 “(A) TRANSFER.—In accordance with such
 25 regulations as the Commission shall prescribe, a

1 payphone service provider may, in lieu of pro-
2 viding cash change under paragraph (1)—

3 “(i) transfer any excess amounts col-
4 lected by the provider at pay telephones to
5 the State agency in the State in which the
6 telephones are located that is responsible
7 for the support of public interest pay tele-
8 phones under subsection (b)(2); or

9 “(ii) if the State has no such agency
10 by reason of a determination under sub-
11 paragraph (B), transfer such excess
12 amounts to the Commission for use under
13 subparagraph (D).

14 “(B) STATE OPTION.—

15 “(i) STATE OPTION.—The chief execu-
16 tive officer of each State may determine
17 whether or not to permit the transfer of
18 funds to an agency of such State under
19 subparagraph (A).

20 “(ii) REVOCATION.—The chief execu-
21 tive officer of a State may revoke any pre-
22 vious decision with respect to the State
23 under this subparagraph.

24 “(iii) NOTICE.—The chief executive
25 officer of a State shall notify the Commis-

1 sion, in writing, of any determination or
2 revocation of a determination under this
3 subparagraph.

4 “(C) USE BY STATES.—

5 “(i) IN GENERAL.—A State agency re-
6 ceiving amounts under subparagraph (A)
7 shall utilize such amounts for purposes of
8 promoting and supporting public interest
9 pay telephones in the State under sub-
10 section (b)(2).

11 “(ii) ADDITIONAL USE.—In the event
12 that amounts received by a State agency
13 under subparagraph (A) exceed the
14 amounts determined by the agency to be
15 required to properly promote and support
16 public interest pay telephones in the State,
17 the agency shall utilize the excess amounts
18 for purposes relating to providing universal
19 service or improving telephone service in
20 the State under section 254.

21 “(D) USE BY COMMISSION.—

22 “(i) DEPOSIT.—The Commission shall
23 deposit any amounts received by the Com-
24 mission under subparagraph (A) in an ac-

1 count in the Treasury established for that
2 purpose.

3 “(ii) AVAILABILITY.—Under such reg-
4 ulations as the Commission shall prescribe,
5 the Commission shall utilize amounts in
6 the account under clause (i) to assist
7 States that receive amounts under sub-
8 paragraph (A) with additional assistance
9 to promote and support public interest pay
10 telephones under subsection (b)(2).

11 “(E) NOTICE TO CONSUMERS.—

12 “(i) IN GENERAL.—In the event a
13 payphone service provider decides to trans-
14 fer excess amounts deposited at any given
15 pay telephone under subparagraph (A) for
16 purposes of supporting public interest pay
17 telephones under subsection (b)(2), the
18 provider shall post at such pay telephone a
19 notice informing potential users of such
20 pay telephone that any such excess amount
21 shall not be returned as cash change or
22 credit but shall be utilized for such pur-
23 poses.

24 “(ii) ADDITIONAL NOTICE.—Nothing
25 in clause (i) shall be interpreted to limit a

1 State from requiring additional notices
2 with respect to the matters set forth in
3 that clause.

4 “(3) REGULATIONS.—

5 “(A) REQUIREMENT.—Not later than one
6 year after the date of enactment of the Con-
7 sumer Pay Telephone Protection Act of 1998,
8 the Commission shall prescribe the regulations
9 required under this subsection.

10 “(B) ADDITIONAL ELEMENTS.—The regu-
11 lations shall—

12 “(i) provide for the monitoring of the
13 compliance of payphone service providers
14 with the provisions of this subsection;

15 “(ii) ensure that such providers do
16 not pass any costs relating to such compli-
17 ance to consumers; and

18 “(iii) ensure that the implementation
19 of such provisions do not result in any re-
20 duction in payphone service, including the
21 imposition of time limits on local telephone
22 calls or other reductions or limitations in
23 such service.

24 “(C) EFFECTIVE DATE.—The regulations
25 shall provide that the provisions of the regula-

1 tions take effect not earlier than 6 months after
2 the date of the final issuance of the regulations
3 and not later than 12 months after that date.”.

4 (b) STUDY OF ALTERNATIVE TECHNOLOGIES.—

5 (1) IN GENERAL.—Not later than 18 months
6 after the date of enactment of this Act, the Federal
7 Communications Commission shall submit to Con-
8 gress a report on the availability of technologies or
9 systems that permit persons who do not have exact
10 change to utilize pay telephones for local telephone
11 calls without being overcharged for such calls.

12 (2) ELEMENTS.—The report shall address the
13 use of tokens, cash debit cards, systems for crediting
14 the monthly telephone bills of individuals who use
15 pay telephones, and such other technologies and sys-
16 tems as the Commission considers appropriate.

17 **SEC. 5. STUDY OF COMPETITIVENESS OF PAY TELEPHONE**
18 **MARKET.**

19 (a) STUDY.—

20 (1) IN GENERAL.—The Federal Trade Commis-
21 sion shall, in consultation with the Federal Commu-
22 nications Commission, carry out a study of competi-
23 tion in the market for intrastate payphone service,
24 including—

1 (A) whether or not locational monopolies in
2 such service exist by reason of the size of par-
3 ticular markets for such service;

4 (B) whether or not potential users of such
5 service are effectively barred from choice in
6 such service in particular markets by reason of
7 difficulties in identifying a variety of payphone
8 service providers in such markets;

9 (C) whether or not rates for local pay tele-
10 phone calls are market-based; and

11 (D) whether or not there is evidence of mo-
12 nopoly pricing in such service.

13 (2) SCOPE OF COMMENT.—In carrying out the
14 study, the Federal Trade Commission shall seek
15 comment from a variety of sources, including State
16 and local public entities, consumers and consumer
17 representatives, and payphone service providers and
18 their representatives.

19 (b) REPORT.—Not later than one year after the date
20 of enactment of this Act, the Federal Trade Commission
21 shall submit to Congress a report on the results of the
22 study carried out under subsection (a). The report shall
23 include the findings of the Commission with respect to the
24 matters set forth under paragraph (1) of that subsection.

1 (c) FEDERAL COMMUNICATIONS COMMISSION AC-
2 TION.—Notwithstanding any provision of the Communica-
3 tions Act of 1934 (47 U.S.C. 151 et seq.), the Federal
4 Communications Commission may, as a result of the study
5 under subsection (a), conduct a rule-making proceeding in
6 order to accomplish any of the following:

7 (1) To set limitations on rates for local pay
8 telephone calls.

9 (2) To permit the States to establish rates for
10 such calls on a cost basis.

11 (3) To set limitations on the commissions that
12 payphone service providers may pay to persons who
13 lease space to such providers for pay telephones.

14 (4) To prohibit payphone service providers from
15 entering into exclusive contracts with persons who
16 lease space to such providers for pay telephones
17 which contracts cover multiple locations.

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