

[STAFF WORKING DRAFT]

JUNE 13, 2012

112TH CONGRESS
2D SESSION

S. _____

To prohibit unauthorized third-party charges on wireline telephone bills, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE _____, 2012

Mr. ROCKEFELLER introduced the following bill; which was read twice and
referred to the Committee on _____

A BILL

To prohibit unauthorized third-party charges on wireline
telephone bills, 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 “Fair Telephone Billing
5 Act of 2012”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) For years, telephone users have complained
2 that their wireline telephone bills included unauthor-
3 ized third-party charges.

4 (2) This problem, commonly referred to as
5 “cramming,” first appeared in the 1990s, after
6 wireline telephone companies opened their billing
7 platforms to an array of third-party vendors offering
8 a variety of services.

9 (3) Since the 1990s, the Federal Communica-
10 tions Commission, the Federal Trade Commission,
11 and State attorneys general have brought multiple
12 enforcement actions against dozens of individuals
13 and companies for engaging in cramming.

14 (4) An investigation by the Committee on Com-
15 merce, Science, and Transportation of the Senate
16 confirmed that cramming is a problem of massive
17 proportions and has affected millions of telephone
18 users, costing them billions of dollars in unauthor-
19 ized third-party charges over the past decade.

20 (5) The Committee showed that third-party bill-
21 ing through wireline telephone numbers has largely
22 failed to become a reliable method of payment that
23 consumers and businesses can use to conduct legiti-
24 mate commerce.

1 (6) Telephone companies regularly placed third-
2 party charges on their customers' telephone bills
3 without their customers' authorization.

4 (7) Many companies engaged in third-party bill-
5 ing were illegitimate and created solely to exploit the
6 weaknesses in the third-party billing platforms es-
7 tablished by telephone companies.

8 (8) In the last decade, millions of business and
9 residential consumers have transitioned from
10 wireline telephone service to interconnected VoIP
11 service.

12 (9) Users of interconnected VoIP service often
13 use the service as the primary telephone line for
14 their residences and businesses.

15 (10) Users of interconnected VoIP service that
16 have telephone numbers through the service should
17 be protected from the same vulnerabilities that af-
18 fected third-party billing through wireline telephone
19 numbers.

20 (11) In increasing numbers, wireless users are
21 making the same complaints that wireline telephone
22 users have been making since the 1990s.

23 (12) Wireless users are reporting unauthorized
24 third-party charges on their wireless bills for services
25 they did not enroll in.

1 **SEC. 3. UNAUTHORIZED THIRD-PARTY CHARGES.**

2 (a) IN GENERAL.—Section 258 of the Communica-
3 tions Act of 1934 (47 U.S.C. 258) is amended—

4 (1) by amending the heading to read as follows:

5 **“SEC. 258. PREVENTING ILLEGAL CHANGES IN**
6 **SUBSCRIBER CARRIER SECTIONS AND UNAU-**
7 **THORIZED THIRD-PARTY CHARGES.”**; and

8 (2) by adding at the end the following:

9 **“(c) PROHIBITION.—**

10 **“(1) IN GENERAL.—**No local exchange carrier
11 or provider of interconnected VoIP service shall
12 place a third-party charge that is not directly related
13 to the provision of telephone services on the bill of
14 a customer, unless—

15 **“(A)** the third-party charge is from a cer-
16 tified third-party vendor;

17 **“(B)** the third-party charge is for a prod-
18 uct or service that a local exchange carrier or
19 provider of interconnected VoIP service jointly
20 markets or jointly sells with its own service;

21 **“(C)** the customer affirmatively consented
22 to the placement of the third-party charge on
23 the bill; and

24 **“(D)** the local exchange carrier or provider
25 of interconnected VoIP service has a good faith
26 reason to believe that the third-party charge is

1 for a product or service requested by the cus-
2 tomer.

3 “(2) FORFEITURE.—Any person who commits a
4 violation under paragraph (1) shall be subject to a
5 civil forfeiture, which shall be determined in accord-
6 ance with section 503, except that the amount of the
7 penalty shall be double the otherwise applicable
8 amount of the penalty under section 503.

9 “(3) DEFINITIONS.—In this subsection:

10 “(A) CERTIFIED THIRD-PARTY VENDOR.—
11 The term ‘certified third-party vendor’ means a
12 person that has a contractual right to receive
13 billing and collection services from a local ex-
14 change carrier or a provider of interconnected
15 VoIP service.

16 “(B) THIRD-PARTY CHARGE.—The term
17 ‘third-party charge’ means a charge for a prod-
18 uct or service not provided by a local exchange
19 carrier or a provider of interconnected VoIP
20 service that is included on a bill for the services
21 the local exchange carrier or provider of inter-
22 connected VoIP service offers to its cus-
23 tomers.”.

24 (b) RULEMAKING.—Not later than 90 days after the
25 date of enactment of this Act, the Federal Communica-

1 tions Commission shall prescribe any rules necessary to
2 implement the provisions of this section.

3 (c) **EFFECTIVE DATE.**—The Federal Communica-
4 tions Commission shall prescribe that any rule adopted
5 under subsection (b) shall become effective not later than
6 1 year after the date of enactment of this Act.

7 **SEC. 4. THIRD-PARTY CHARGES ON WIRELESS BILLS.**

8 The Federal Communications Commission, in con-
9 sultation with the Federal Trade Commission, shall pro-
10 mulgate, not later than 180 days after the date of enact-
11 ment of this Act, rules to protect consumers from unau-
12 thorized third-party charges on wireless bills. The Federal
13 Communications Commission, in promulgating the rules,
14 shall—

15 (1) ensure that a provider of wireless services
16 gives each customer of wireless services the means to
17 avoid receiving third-party charges on the wireless
18 customer's wireless bill and clearly and conspicu-
19 ously discloses this option to the wireless customer;

20 (2) establish procedures for a provider of wire-
21 less services to follow to ensure that third-party
22 charges placed on a wireless customer's wireless bill
23 have been authorized by the wireless customer; and

24 (3) establish procedures to enable a wireless
25 customer to seek and receive, directly from the pro-

- 1 vider of wireless services, reimbursement for any un-
- 2 authorized third-party charges in a timely manner.