HOUSE BILL NO. 785

AN ACT TO BE KNOWN AS THE "TELEPHONE CONSUMER SLAMMING PREVENTION ACT"; TO DEFINE CERTAIN TERMS USED IN THE ACT; TO PROHIBIT TELECOMMUNICATIONS COMPANIES FROM CHANGING A SUBSCRIBER'S SERVICE WITHOUT AUTHORIZATION FOR THE CHANGE; TO REQUIRE NEWLY AUTHORIZED SERVICE PROVIDERS TO PROVIDE WRITTEN CONFIRMATION OF A CHANGE IN SERVICE TO THE SUBSCRIBER; TO ESTABLISH A PROCEDURE FOR SUBSCRIBERS WHO HAVE HAD AN UNAUTHORIZED CHANGE OF SERVICE TO BE REFUNDED EXCESS CHARGES PAID DUE TO THE CHANGE OF SERVICE; TO AUTHORIZE THE ATTORNEY GENERAL TO SEEK CIVIL PENALTIES FOR VIOLATIONS OF THIS ACT; TO REQUIRE THE PUBLIC SERVICE COMMISSION TO PROMULGATE RULES AND REGULATIONS FOR IMPLEMENTING THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the "Telephone Consumer Slamming Prevention Act."

SECTION 2. As used in this article, the following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Basic local exchange service" means the access and transmission of two-way switched voice communications within a local exchange area.

(b) "Interexchange service" means the access and transmission of communications between two (2) or more local exchange areas, except for two-way switched communications between local exchanges that are grouped for extended area service.

(c) "Inter-LATA interexchange service" means interexchange service originating and terminating in different LATAs.

(d) "Intra-LATA interexchange service" means interexchange service originating and terminating within the same LATA.
(e) "LATA" means local access transport area, as defined by applicable federal law, rules or regulations.

(f) "Local exchange area" means a territorial area established by a telecommunications company for the administration of telecommunications service for which a Certificate of Public Convenience and Necessity has been issued to the company by the Public Service Commission.

(g) "Telecommunications company" means a public utility of the type defined in Section 77-3-3(d)(iii).

(h) "Telecommunications service" means service provided by a public utility of the type defined in Section 77-3-3(d)(iii).

SECTION 3. This act applies to all telecommunications companies providing basic local exchange service, intra-LATA interexchange service, inter-LATA interexchange service and any other telecommunications services to subscribers in this state.

SECTION 4. (1) Unless a subscriber initiates a request for a change of service by contacting the telecommunications company directly, a telecommunications company may not submit or execute a change in a subscriber's provider of basic local exchange service, intra-LATA interexchange service, or inter-LATA interexchange service without one (1) of the following forms of authorization:

(a) Written change authorization from the subscriber;

(b) Toll free electronic authorization placed from the telephone number that is the subject of the change order; or

(c) Oral authorization obtained by an independent third party.

(2) A separate and distinct authorization is required to execute a change of service for any of the following services provided to subscribers in this state: basic local exchange service; intra-LATA interexchange service; inter-LATA interexchange service; or any other telecommunications service.

SECTION 5. Within thirty (30) days after a subscriber changes the subscriber's authorized provider of basic local
exchange service, intra-LATA interexchange service or inter-LATA
interexchange service, the new authorized service provider shall
provide to the subscriber written confirmation of the change. The
written confirmation must: (a) describe clearly and simply the
nature of the subscription change; (b) not be a part of, or
attached to, any other document; (c) not contain any promotion,
offer or inducement; and (d) be mailed to the subscriber's billing
address.

SECTION 6. (1) If a subscriber determines that an
unauthorized change of service has occurred in violation of
Section 4 of this act and the subscriber has paid charges to an
allegedly unauthorized telecommunications company, the subscriber
may notify the company authorized to provide service to the
subscriber of the unauthorized change and charges paid. Within
thirty (30) days after receiving this notification, the properly
authorized company shall request from the allegedly unauthorized
company proof of verification of the subscriber's authorization to
change companies. Within ten (10) days after receiving the
request, the allegedly unauthorized company shall forward to the
authorized company either:

(a) Proof of verification of the subscriber's
authorization to change companies; or

(b) An amount equal to all charges paid by the
subscriber to the unauthorized company, an amount equal to any
charge required to return the subscriber to the subscriber's
properly authorized company, if applicable, and copies of any
telephone bills issued from the unauthorized company to the
subscriber.

(2) If a subscriber notifies the unauthorized company,
rather than the authorized company, of an unauthorized change, the
unauthorized company must notify the authorized company
immediately.
(3) If an authorized company incurs any billing and collection expenses in collecting charges from the unauthorized company, the unauthorized company shall reimburse the authorized company for the reasonable billing and collection expenses.

(4) Upon receipt from the unauthorized company of the amount equal to charges paid by the subscriber to the unauthorized company, the authorized company shall issue a refund or credit to the subscriber for all charges paid in excess of the amount that the authorized company would have charged the subscriber absent the unauthorized change. If the authorized company does not receive this amount from the unauthorized company, the authorized company is not required to provide any refund or credit to the subscriber; however, the authorized company must inform, within sixty (60) days after receiving notification of the unauthorized change, the subscriber of its failure to collect the charges from the unauthorized company and of the subscriber's right to pursue a claim against the unauthorized company for a refund of all charges paid to the unauthorized company.

(5) Whenever possible, the properly authorized company shall reinstate the subscriber in any premium program in which the subscriber was enrolled before the unauthorized change if the subscriber's participation in the premium program was terminated because of the unauthorized change. If the subscriber has paid charges to the unauthorized company, the properly authorized company also shall provide or restore to the subscriber any premiums to which the subscriber would have been entitled had the unauthorized change not occurred, regardless of whether the authorized company is able to recover from the unauthorized company any charges that were paid by the subscriber.

SECTION 7. If the Public Service Commission finds that a telecommunications company has violated this act, the commission shall order the company to take necessary corrective action and may refer the matter to the Attorney General for investigation.
If the Attorney General finds, after investigation, that there has been a violation, the Attorney General may bring an action to impose a civil penalty and to seek other appropriate relief, including injunctive relief. The civil penalty may not exceed Two Thousand Dollars ($2,000.00) per violation and shall be deposited in the State General Fund. Alternatively, the Attorney General may terminate any investigation or action upon agreement by the telecommunications company to pay a stipulated civil penalty. The Attorney General or the court may waive any civil penalty if the telecommunications company previously has made full restitution or reimbursement or has paid actual damages to the subscribers who have been injured by the violation. Every violation associated with a specific access line within the state is a separate and distinct violation.

SECTION 8. The Public Service Commission shall promulgate rules and regulations to implement this act, including rules and regulations that:

(a) Ensure that subscribers are protected from deceptive practices in the obtaining of authorizations and verifications required by Section 4 of this act;

(b) Are applicable to all basic local exchange service, intra-LATA interexchange service, inter-LATA interexchange service and other telecommunications services provided by telecommunications companies in this state;

(c) Establish a slamming complaint system for subscribers of telecommunications service; and

(d) Are consistent with federal law and rules and regulations prescribed by the Federal Communications Commission prohibiting telecommunications companies from changing a subscriber’s service without consent from the subscriber.

SECTION 9. Sections 1 through 8 of this act shall be codified as a separate article in Chapter 3, Title 77, Mississippi Code of 1972.
SECTION 10. This act shall take effect and be in force from and after July 1, 2001.