

CHAPTER 195

AN ACT prohibiting regulation of certain aspects of Voice over Internet Protocol and Internet Protocol-enabled services and supplementing Title 48 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.48:17-32 Short title.

1. This act shall be known and may be cited as the “Voice over Internet Freedom Act.”

C.48:17-33 Findings, declarations relative to Voice over Internet Protocol, Protocol-enabled services.

2. The Legislature finds and declares that:

- a. The growth and enhancement of services using Internet Protocol technology provide consumers more choice in voice, data, and video service than at any other time;

- b. The proliferation of new technologies and applications and the growth in the number of providers developing and offering innovative services using Internet Protocol are due in large part to a light regulatory touch, including freedom from traditional telephone regulation that these new technologies and services and the companies that offer them have enjoyed in New Jersey; and

- c. These economic benefits, including consumer choice, new jobs, and significant capital investment, will be jeopardized and competition minimized by the imposition of traditional State entry and rate regulation on Voice over Internet Protocol service and Internet Protocol-enabled service.

C.48:17-34 Definitions relative to Voice over Internet Protocol, Protocol-enabled services.

3. As used in this act:

“Circuit switched local exchange access service” means circuit switched local “telephone exchange service” as that term is defined in 47 U.S.C. s.153.

“Cramming” means the practice of placing unauthorized, misleading or deceptive charges on a consumer's telephone bill for any communications service, which service the consumer did not order or authorize in advance.

“Internet Protocol-enabled service” or “IP-enabled service” means, except as provided in the definition hereunder of “Voice over Internet Protocol service,” any service, capability, functionality, or application provided using Internet Protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet Protocol format, or any successor format, regardless of whether the communication is voice, data or video.

“Slamming” means the changing of a communications service provider, including a customer's telephone service provider, whether for long distance, regional toll or local calls, without the customer's knowledge or permission.

“Telecommunications relay service” means a telephone transmission service that provides the ability for an individual who has a hearing impairment or speech impairment to engage in communication with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services.

“Voice over Internet Protocol service” or “VoIP service” means any service that:

- a. enables real-time, two-way voice communications from the user’s location in Internet Protocol or any successor protocol;
- b. uses a broadband connection from the user's location; and

c. permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

C.48:17-35 Regulation of VoIP limited to this act.

4. Except as otherwise provided in this act, notwithstanding any other provision of law, rule, regulation or order to the contrary, neither the State, nor any department, agency, board or commission thereof, nor any political subdivision of the State shall enact, adopt or enforce any law, ordinance, resolution, rule, regulation, order, standard or other provision, either directly or indirectly, having the force and effect of law that regulates, or has the effect of regulating, the rates, terms and conditions of VoIP service or IP-enabled service offered to customers.

C.48:17-36 Construction of act.

5. Nothing in this act shall be construed to:

a. affect the application or enforcement of criminal or other statutes or regulations that apply generally to the conduct of business in the State, consumer protection, or unfair or deceptive trade practices, including, but not limited to, any statutes or regulations that prohibit cramming or slamming, affect the provisions of the "Underground Facility Protection Act," P.L.1994, c.118 (C.48:2-73 et seq.), or any law or regulation concerning any easement on any real property or the extension of any telecommunications service to any customer;

b. affect the authority of the State or its agencies to enforce such requirements as are otherwise expressly provided for by federal law, including, but not limited to, the collection of enhanced 9-1-1 fees, telecommunications relay service fees, or federal Universal Service Fund fees on VoIP or IP-enabled services that may be determined to apply or to affect any rights or duties the State or its agencies may have under the provisions of 47 U.S.C. s.251 or 47 U.S.C. s.252;

c. affect the authority of the State or its political subdivisions, including municipalities, as appropriate, to set forth the requirements of providing cable service or operating a cable television system as pursuant to the provisions of the "Cable Communications Policy Act of 1984," Pub.L.98-549 (47 U.S.C. s.521 et seq.) or the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.);

d. affect the authority of the State or its political subdivisions, as applicable, to manage the use of public rights-of-way, including, but not limited to, any requirement for the joint use of poles or other structures in such rights-of-way; or

e. affect the authority of the Board of Public Utilities in regulating the rates, terms and conditions of circuit switched local exchange access service, consistent with federal law.

6. This act shall take effect immediately.

Approved October 26, 2007.