

## CHAPTER 293

AN ACT concerning prepaid telephone calling cards and services and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

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

C.56:8-175 Definitions relative to prepaid telephone calling cards and services.

1. As used in this act:

“Advertisement” means the attempt, directly or indirectly by publication, dissemination, solicitation, endorsement or circulation or in any other way, to induce directly or indirectly any person to purchase any prepaid calling card or service, appearing in any newspaper, magazine, periodical, circular, in-store or out-of-store sign or other written matter placed before the consuming public, or in any radio broadcast, television broadcast, electronic medium or delivered to or through any computer.

“Company” means any entity, corporation, company, association, firm, partnership or other business entity, or individual engaged in the business of a prepaid calling service provider or prepaid calling card distributor in this State.

“Director” means the Director of the Division of Consumer Affairs.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Government fees” means and includes any and all fees, taxes and charges assessed pursuant to State or federal law, regulation or other mandate or requirement, including universal service fees and charges.

“Payphone surcharge” means the surcharge that a provider may charge a customer when that customer places a call with a card from a payphone using a toll-free access number. The payphone surcharge shall be deducted from a card’s balance.

“Permitted fee” means the fees and surcharges that a provider may charge to, or deduct from, a card’s balance for the use of that card, in addition to the rate per minute to the particular destination called, which includes and is limited to any payphone surcharge, any recharge convenience fee, any directory assistance fee, and any government fees.

“Prepaid calling card” or “card” means any right of use purchased for a sum certain that contains an access number and authorization code that enables a consumer to use a prepaid calling service. Such rights of use may be embodied on a card or other physical object or may be purchased by an electronic or telephonic means through which the purchaser obtains access numbers and authorization codes that are not physically located on a card or other object. “Prepaid calling card” shall not be construed to include cards or other rights of use that provide access to:

(1) telecommunications service if the card or other rights of use and telecommunications service are provided:

(a) for free or at no additional charge as a promotional item accompanying a product or service purchased by a customer; or

(b) pursuant to an awards, loyalty, rebate or promotional program without any separate monetary consideration being given by the customer solely in exchange therefor; or

(2) a wireless telecommunications service account if the purchaser has a pre-existing relationship with the wireless service provider or establishes a carrier-customer relationship via the purchase of the object.

“Prepaid calling card distributor” or “distributor” means and includes: (1) any company that purchases or receives prepaid calling cards from a prepaid calling service provider or distributor and sells or distributes those cards to one or more distributors of prepaid calling

cards or to one or more prepaid calling card retailers; and (2) any company that otherwise actively engages in the promotion, advertising or dissemination of prepaid calling cards and which is not a provider. "Prepaid calling card distributor" shall not include any prepaid calling card retailers engaged exclusively in point-of-sale transactions with customers.

"Prepaid calling card retailer" means any company that sells or offers to sell prepaid calling cards directly to customers.

"Prepaid calling service" or "service" means any prepaid telecommunications service that allows customers to originate calls through a local, long distance or toll-free access number and authorization code, whether manually or electronically dialed. "Prepaid calling service" shall not include any service that provides access to a wireless telecommunications service account wherein the purchaser has a pre-existing relationship with the wireless service provider or establishes a carrier-customer relationship via the purchase of the object.

"Prepaid calling service provider" or "provider" means any company, providing prepaid calling service to the public using its own, or a resold telecommunications network, or voice over Internet technology.

"Toll-free number" means an 800 number, or other telephone number widely understood to be toll-free, which, when called as the destination number or as an access number, shall not result in the calling party being assessed, by virtue of completing the call, any fee, charge or higher rate for the call unless such fee, charge or higher rate is disclosed pursuant to subsection a. of section 2 of this act.

C.56:8-176 Disclosure of certain information required.

2. a. Prepaid calling service providers and prepaid calling card distributors shall disclose the following information on cards or their packaging, as prescribed by the director by regulation, and in any advertising for the service or cards, including any Internet web site used to promote or distribute the service or cards:

- (1) The name of the prepaid calling service provider;
- (2) The provider's 24 hour customer service telephone number;
- (3) The amount and frequency of any permitted fee that may be applicable to the use of the card or service for calls originating within the United States;
- (4) Notice that additional or different per minute rates, charges or fees may apply to use of the card or the service for calls to or from international telephone numbers, international cellular and international wireless telephone numbers;
- (5) Notice that per minute rates may be higher for calls made via toll-free numbers;
- (6) The value of the card or service, in dollars or minutes;
- (7) Any applicable policies relating to refund, recharge, decrement and expiration; and
- (8) Such additional information as the director may prescribe by regulation, including, but not limited to, information concerning the notice and disclosure of any rates, charges or fees for the use of the card or the service for calls.

b. Prepaid calling service providers and prepaid calling card distributors shall make available through the customer service number, a website or other electronic medium, packaging, if any, or in a clear and conspicuous poster or other writing in plain language at the point of sale such information as the director may prescribe by regulation.

c. All minutes or rates, or both, promoted or advertised on any prepaid calling card, any point of sale material relating to that card or otherwise relating to any prepaid calling service, shall be available and achievable by the customer, and there shall be no limitations on the period of time for which the promoted or advertised minutes or rates, or both, will be available to the customer unless those limitations are clearly and conspicuously disclosed in

P.L. 2007, CHAPTER 293

the same location on the card, advertising or point of sale material where the minutes or rates, or both, are promoted or advertised. All minutes promoted, advertised or disclosed on any voice prompt given to a customer at the time the customer places a call with the card, whether or not required by regulation to be given to the customer, shall be immediately available and achievable by the customer on that call. The customer shall not be charged for any busy signal or unanswered call.

d. A provider may not charge, apply or deduct from a card's balance any fees, taxes, surcharges or other amounts for use of the card, except: (1) the rate per minute for the particular destination called; (2) any permitted fees; and (3) any rate per minute, fee or charge permitted pursuant to paragraph (4) or (5) of subsection a. of this section.

e. If a language other than English is predominantly used on a prepaid calling card, its packaging, or in point of sale advertising or promotion for the prepaid calling card or prepaid calling service, then the disclosures required by this section shall be disclosed in that language on that card, packaging, advertisement or promotion.

f. In the case of a prepaid calling service provider, the company's 24 hour customer service telephone number shall enable the customer to obtain, at no charge, any and all applicable information regarding the rates, any permitted fees, charges and minutes available and remaining on the card for use in a single, uninterrupted call to a single, requested destination through the card and prepaid calling service. Customer service may be provided by a combination of a live operator, interactive voice response, and electronic voice recording of customer inquiries and complaints, but live operator service shall be available 24 hours a day, seven days a week. If an electronic voice recorder is used, the provider shall attempt to contact the customer no later than the next day following the date of the recording.

g. Providers and distributors shall conspicuously display the applicable access numbers for the use of the card on the body of the card itself or on its packaging.

h. A company shall not impose any fee or surcharge that is not disclosed as required by this section or that exceeds the amount disclosed by the company.

C.56:8-177 Certain cards not to be offered for sale.

3. Prepaid calling card retailers shall not sell or offer for sale any prepaid calling card that the retailer knows provides fewer minutes than the number of minutes promoted or advertised for that card, including the number of minutes listed on the card, any advertising or point of sale material related to the card or any voice prompt indicating the number of minutes available for a call with the card.

C.56:8-178 Violation deemed unlawful practice; remedies, penalties.

4. A violation of any provision of this act shall be an unlawful practice pursuant to P.L.1960, c.39 (C.56:8-1 et seq.) and shall be subject to all remedies and penalties available pursuant to P.L.1960, c.39 (C.56:8-1 et seq.).

C.56:8-179 Report to Governor, Legislature.

5. Not later than 18 months after the date of adoption of regulations implementing this act, the division shall issue a report to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the activities of the division, including their quantitative results, in enforcing this act and any recommendations for additional legislation regulating the industry.

C.56:8-180 Rules, regulations.

P.L. 2007, CHAPTER 293

6. The Director of the Division of Consumer Affairs shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to effectuate the purposes of this act.

C.56:8-181 Effective date; applicability of act.

7. This act shall take effect on the first day of the seventh month next following enactment, but the director may take such anticipatory action in advance of that date as may be necessary for the timely implementation of this act. This act shall not apply to prepaid calling cards and point-of-sale materials related to those prepaid calling cards printed prior to the effective date. The act shall apply to any prepaid calling card printed after the effective date and to any advertisement, promotion, point-of-sale material or voice prompt that is created, aired, printed, distributed, or otherwise disseminated on or after the effective date.

Approved January 13, 2008.