

Sixtieth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2409

Introduced by

Senators Krauter, Heitkamp, Holmberg

Representatives Gulleason, Nelson

1 A BILL for an Act to create and enact chapter 49-21.2 of the North Dakota Century Code,  
2 relating to wireless telephone service customer protection by the public service commission.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Chapter 49-21.2 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **49-21.2-01. Wireless telephone customer protection.**

- 7 1. The commission shall adopt rules consistent with federal law regulating wireless  
8 telephone service or providers of wireless telephone service.
- 9 2. The rules must provide for the timely written disclosure to each customer or  
10 potential customer of at least the following information concerning any plan or  
11 proposed plan offered for the provision of wireless telephone service to the  
12 customer:
- 13 a. The calling area for the plan;
- 14 b. The monthly access fee or base charge;
- 15 c. The number of airtime minutes included in the plan;
- 16 d. Any night and weekend minutes included in the plan or other differing charges  
17 for differing time periods and the time periods when night and weekend  
18 minutes or other charges apply;
- 19 e. The charges for excess or additional minutes;
- 20 f. Whether and the extent to which per minute domestic or international  
21 long-distance charges are included in other rates and to the extent not  
22 included the applicable per minute long-distance rates;
- 23 g. Per minute roaming or off-network charges;

- 1            h. The amount of any additional taxes, fees, or surcharges that will be collected  
2            or retained by the wireless telephone service provider;
- 3            i. If the plan requires a fixed-term contract, the duration of the contract;
- 4            j. The amount of any early termination fee and the conditions under which any  
5            early termination fee would apply, including the length of any trial period  
6            during which an early termination fee does not apply. In addition to any other  
7            disclosures of information, the first bill rendered by the wireless telephone  
8            service provider to the customer must include notice of the terms on and the  
9            period of time during which the service may be terminated without penalty;
- 10           k. Notice to the customer that the service includes basic wireless 911 service;
- 11           l. Information about the enhanced wireless 911 service in this state and an  
12           explanation of the enhanced wireless 911 system;
- 13           m. Web site information to permit the customer to access information required by  
14           this subsection via the internet;
- 15           n. The toll-free hotline number by which information required by this subsection  
16           may be accessed by the customer; and
- 17           o. Based upon customer-supplied information regarding anticipated usage  
18           patterns and upon the customer's request, a good-faith estimate of the  
19           monthly fixed and usage charges and additional taxes, fees, or surcharges  
20           and of the anticipated total monthly bill for the customer under the plan.
- 21           3. The rules at least must establish procedures for disclosure at any point of sale or  
22           of contact with potential or existing customers of maps displaying the wireless  
23           telephone service provider's outside coverage within the state and within each  
24           county of the state in which such provider provides service. The maps must be  
25           prepared by each wireless telephone service provider in the state using generally  
26           accepted methodologies and standards as established by the commission. The  
27           maps prepared on the county level must identify all geographic areas within the  
28           county larger than four square miles [1036 hectares] where cell phone coverage is  
29           not supplied.
- 30           4. The rules at least must require that:

- 1           a. The bill for wireless telephone service to be clearly organized, to clearly  
2           describe in plain language the products and services for which charges are  
3           imposed, and to conform to format standards established by the commission;  
4           b. The bill for wireless telephone service to contain only charges for products  
5           and services authorized by the customer;  
6           c. The bill for wireless telephone service to itemize roaming charges to within  
7           sixty days of the call's being placed and the roaming charges must identify the  
8           date and originating location of the call;  
9           d. The bill for wireless telephone service to place taxes and fees that are  
10          required by federal or state statute or regulation to be collected from the  
11          customer in a separate section of the bill; and  
12          e. The charges associated with the use of wireless telephone equipment or  
13          service not to be the liability of the customer if the use was unauthorized by  
14          the customer due to loss or theft if the loss or theft is promptly reported to the  
15          wireless telephone service provider.  
16          5. The rules at least must require the wireless telephone service provider to establish  
17          procedures for the timely prior notice to residential customers of the wireless  
18          telephone service provider's intent to terminate the customer's service so that, at a  
19          minimum the customer is advised of the amount that must be paid to maintain  
20          service; the procedures available to make the payments so that the termination  
21          may be avoided; and the commission's complaint-handling procedures.  
22          6. The rules at least must require the wireless telephone service provider to establish  
23          procedures for the handling of customer complaints which, must at least require  
24          that each wireless telephone service provider shall maintain procedures for prompt  
25          investigation of any complaint on a bill for wireless telephone service rendered or  
26          on any other term of a contract for the services and for prompt reporting to the  
27          complainant of the result of the investigation. If the report is made orally, the  
28          wireless telephone service provider must offer the complainant, upon a written  
29          request, the opportunity to receive the report in writing.

30          **49-21.2-02. Complaint procedures and adjudication of complaints - Civil penalty.**

- 1           1. The commission shall establish procedures for the administration and adjudication  
2           by the commission of complaints by wireless telephone customers concerning  
3           compliance of wireless telephone service providers with the requirements of rules  
4           implementing this chapter. In adjudicating complaints, the commission may enter  
5           and enforce any order determined necessary to secure compliance with this  
6           chapter or rules implementing this chapter. The procedures must include, at a  
7           minimum:
- 8           a. Provision for investigation and informal review by staff and for appeal to the  
9           commission;
- 10          b. That the burden of proof in all proceedings is on the wireless telephone  
11          service provider, except as otherwise provided by the commission for good  
12          cause; and
- 13          c. Provisions for parties to receive a written determination of any complaint,  
14          upon request, which determination must state the relevant facts established,  
15          the reasons for the determination, what actions must be taken, and what  
16          further procedures are available to a complainant.
- 17          2. The commission may assess an administrative penalty not to exceed one  
18          thousand dollars against any wireless telephone service provider that neglects or  
19          knowingly fails to comply with any requirement of this chapter or any rule  
20          implementing this chapter.

21           **49-21.2-03. Complaint and compliance report.** The commission shall maintain  
22 records concerning and report annually the number and nature of complaints received  
23 concerning wireless telephone service. The report must be transmitted to the governor and the  
24 legislative council. The records must include data identifying the wireless telephone service  
25 provider associated with each complaint, the provisions of this chapter or rules on which each  
26 complaint is based, the actions taken by the commission to address each complaint, the  
27 actions taken to resolve each complaint, the period of time between the time when the  
28 commission is first notified of the facts underlying the customer's complaint, the time when the  
29 complaint is recorded as a complaint by the commission, and the time when the complaint is  
30 resolved and relief, if any, afforded to the customer.