

Assembly Bill No. 1994

Passed the Assembly August 27, 1998

Chief Clerk of the Assembly

Passed the Senate August 26, 1998

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to add Section 17538.9 to the Business and Professions Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

AB 1994, Bowen. Advertising: prepaid calling cards and services.

Existing law provides for the regulation of advertising in the state.

This bill, the provisions of which would become operative on July 1, 1999, would prescribe certain standards and requirements for consumer disclosure and services with respect to the advertising and sale of prepaid calling cards and prepaid calling services, as defined.

Existing law makes it a crime to violate any of the provisions regulating advertising. By adding these new standards and requirements with respect to the advertising of prepaid calling cards and prepaid calling services, this bill would expand the scope of an existing crime, thereby creating a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 17538.9 is added to the Business and Professions Code, to read:

17538.9. (a) For the purposes of this section:

(1) "Company" refers to any entity providing prepaid calling services to the public using its own or a resold telecommunications network.

(2) "Prepaid calling services" or "services" refers to any prepaid telecommunications service that allows



consumers to originate calls through an access number and authorization code, whether manually or electronically dialed.

(3) “Prepaid calling card” or “card” means any object containing an access number and authorization code that enables a consumer to use prepaid calling services. It does not include any object of that type used for promotional purposes.

(4) “Cellular telephone services” means facilities-based, commercial mobile telephone services.

(b) The following standards and requirements for consumer disclosure and services shall apply with respect to the advertising and sale of prepaid calling cards and prepaid calling services:

(1) Any advertisement of the price, rate, or unit value in connection with the sale of prepaid calling services shall include a disclosure of any geographic limitation to the advertised price, rate, or unit value, as well as a disclosure of any additional surcharges, call setup charges, or fees applicable to the advertised price, rate, or unit value.

(2) The following information shall be legibly printed on the card:

(A) The name of the company.

(B) A toll-free customer service number.

(C) A toll-free network access number, if required to access service.

(D) The authorization code, if required to access service.

(E) The expiration date or policy, if applicable, except where paragraph (6) applies.

(3) The company shall print legibly on the card or packaging, and the vendor shall make available in a prominent area at the point of sale of the prepaid calling card or prepaid calling services, the following information:

(A) Any surcharges or fees, including monthly fees, per-call access fees, or surcharges for the first minute of use that may be applicable to the use of the prepaid



calling card or prepaid calling services within the United States.

(B) Whether there are additional or different prices, rates, or unit values applicable to international usage of the prepaid calling card or prepaid calling services.

(C) The minimum charge per call, such as a three-minute minimum charge, if any.

(D) The charge for calls that do not connect, if any.

(E) The definition of the term “unit,” if applicable.

(F) The billing decrement.

(G) The name of the company.

(H) The recharge policy, if any.

(I) The refund policy, if any.

(J) The expiration policy, if any.

(K) The 24-hour customer service toll-free telephone number required in paragraph (4).

(4) Each company shall establish and maintain a toll-free customer service telephone number with a live operator to answer incoming calls 24-hours a day, seven days a week, through which consumers may lodge relevant complaints and through which the following information may be obtained by consumers:

(A) All rates, surcharges, and fees.

(B) The company’s recharge, refund, and expiration policies.

(C) The balance of use in the consumer’s account, if applicable.

A company offering prepaid cellular telephone services shall be deemed to be in compliance with the requirements of this paragraph if, when a request for information is made outside of normal business hours, that company provides the information requested on the next business day.

(5) Each company that issues prepaid calling cards or prepaid calling services shall provide a refund to any purchaser of a prepaid calling card or prepaid calling services if the network services associated with that card or services fail to operate in a commercially reasonable manner. The refund shall be in an amount not less than the value remaining on the card or in the form of a



replacement card, and shall be provided to the consumer within 60 days from the date of receipt of notification from the consumer that the card has failed to operate in a commercially reasonable manner.

(6) Cards without a specific expiration date or policy printed on the card, and with a balance of service remaining, shall be considered active for a minimum of one year from the date of purchase, or if recharged, from the date of the last recharge.

(7) In the case of prepaid calling cards or services utilized at a payphone, the company may provide voice prompt notification of any applicable payphone surcharges, in lieu of providing notice of surcharges as required by paragraph (1) and by subparagraph (A) of paragraph (3).

(c) This section shall become operative on July 1, 1999.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved _____, 1998

Governor

