AN ACT concerning telecommunications services; relating to the fraudulent procurement thereof; amending K.S.A. 2001 Supp. 66-1,187 and 66-2002 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2001 Supp. 66-1,187 is hereby amended to read as follows: 66-1,187. As used in this act:

(a) “Broadband” means the transmission of digital signals at rates equal to or greater than 1.5 megabits per second.

(b) “CLASS services” means custom local area signaling services, which include automatic callback, automatic recall, calling number identification, selective call rejection, selective call acceptance, selective call forwarding, distinctive ringing and customer originated trace.

(c) “Commission” means the state corporation commission.

(d) “Dialing parity” means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications carrier of the customer’s designation from among two or more telecommunications carriers, including such local exchange carrier.


(f) “ISDN” means integrated services digital network which is a network and associated technology that provides simultaneous voice and data communications over a single communications channel.

(g) “LATA” has the meaning ascribed to it in the federal act.

(h) “Local exchange carrier” means any telecommunications public utility or its successor providing switched telecommunications service within any local exchange service area, as approved by the commission on or before January 1, 1996. However, with respect to the Hill City exchange area, in which multiple carriers were certified by the commission prior to January 1, 1996, the commission’s determination, subject to any court appeals, of which authorized carrier shall serve as the carrier
of last resort will determine which carrier shall be deemed the local
exchange carrier for that exchange.

(i) "Number portability" has the meaning ascribed to it in the federal
act.

(j) "1+ intraLATA dialing parity" means the ability of a local exchange
service customer to specify the telecommunications or local exchange
carrier that will carry the intraLATA long distance messages when that
customer dials either "1" or "0" plus a 10-digit number.

(k) "Operating area" means:

(1) In the case of a rural telephone company, operating area or service
area means such company's study area or areas as approved by the federal
communications commission;

(2) in the case of a local exchange carrier, other than a rural telephone
company, operating area or service area means such carrier's local
exchange service area or areas as approved by the commission.

(l) "Rural telephone company" has the meaning ascribed to it in the
federal act, excluding any local exchange carrier which together with all
of its affiliates has 20,000 or more access lines in the state.

(m) "Telecommunications carrier" means a corporation, company,
individual, association of persons, their trustees, lessees or receivers that
provides a telecommunications service, including, but not limited to, in-
terexchange carriers and competitive access providers, but not including
local exchange carriers certified before January 1, 1996.

(n) "Telecommunications public utility" means any public utility, as
defined in K.S.A. 66-104, and amendments thereto, which owns, controls,
operates or manages any equipment, plant or generating machinery, or
any part thereof, for the transmission of telephone messages, as defined
in K.S.A. 66-104, and amendments thereto, or the provision of telecom-
munications services in or throughout any part of Kansas.

(o) "Telecommunications service" means the provision of a service
for the transmission of telephone messages, or two-way video or data
messages.

(p) "Telecommunications service abuse" means an act by a third party
which through deception, fraud, trick or other similar ploy results in the
initiation of long distance telephone calls which are billed to a residential
or business customer's account, but which have not been authorized by
the customer.

(q) "Universal service" means telecommunications services and
facilities which include: single party, two-way voice grade calling; stored
program controlled switching with vertical service capability; E911 ca-
pability; tone dialing; access to operator services; access to directory as-
sistance; and equal access to long distance services.

(r) "Enhanced universal service" means telecommunications serv-
ices, in addition to those included in universal service, which shall include:

1. Signaling system seven capability, with CLASS service capability; basic
2. and primary rate ISDN capability, or the technological equivalent; full-
3. fiber interconnectivity, or the technological equivalent, between central
4. offices; and broadband capable facilities to: All schools accredited pur-
5. suant to K.S.A. 72-1101 et seq., and amendments thereto; hospitals as
6. defined in K.S.A. 65-425, and amendments thereto; public libraries; and
7. state and local government facilities which request broadband services.

New Sec. 2. (a) Limits on liability.

(1) A customer shall be liable for charges incurred as a result of tel-
2. ecommunications service abuse only if:
3. (A) The charges are authorized by the customer;
4. (B) the liability is not in excess of $50; or
5. (C) the customer does not notify the interexchange telecommunica-
6. tions service provider of the existence of the unauthorized charges within
7. 90 days of the initiation of the calls resulting in such charges.
8. (2) Burden of proof.

In any action by a telecommunications service provider to enforce li-
9. ability for charges incurred through telecommunications service abuse,
10. the burden of proof is upon the provider to show that the use was au-
11. thorized or, if the use was unauthorized, then the burden of proof is upon
12. the provider to show that the conditions of liability as set forth in this
13. subsection have been met.

(b) Exclusiveness of liability.

Except as provided in this section, a customer incurs no liability for
14. telecommunications services provided as a result of telecommunications
15. service abuse.

Sec. 3. K.S.A. 2001 Supp. 66-2002 is hereby amended to read as
16. follows: 66-2002. The commission shall:

(a) Adopt a definition of “universal service” and “enhanced universal
17. service,” pursuant to subsections (p) and (q) of K.S.A. 2000 Supp. 66-
18. 1,187, and amendments thereto;
19. (b) authorize any requesting telecommunications carrier to provide
20. local exchange or exchange access service pursuant to subsection (a) of
22. (c) on or before July 1, 1996, the commission shall initiate a pro-
23. ceeding to adopt guidelines to ensure that all telecommunications carriers
24. and local exchange carriers preserve and enhance universal service, pro-
25. tect the public safety and welfare, ensure the continued quality of tele-
26. communications services and safeguard the rights of consumers;
27. (d) review, approve and ensure compliance with network infrastruc-
28. ture plans submitted by local exchange carriers pursuant to K.S.A. 2000
29. Supp. 66-2005, and amendments thereto;
(e) review, approve and ensure compliance with regulatory plans submitted by local exchange carriers pursuant to K.S.A. 2000 Supp. 66-2005, and amendments thereto;

(f) on or before January 1, 1997, establish, pursuant to K.S.A. 2000 Supp. 66-2006, and amendments thereto, the Kansas lifeline service program, hereinafter referred to as the KLSP;

(g) initiate and complete a proceeding by January 1, 1997, to establish a competitively neutral mechanism or mechanisms to fund: dual party relay services for Kansans who are speech or hearing impaired; telecommunications equipment for persons with visual impediments; and telecommunications equipment for persons with other special needs. This funding mechanism or mechanisms shall be implemented by March 1, 1997;

(h) on or before January 1, 1997, establish the Kansas universal service fund pursuant to K.S.A. 2000 Supp. 66-2008, and amendments thereto, hereinafter referred to as the KUSF, and make various determinations relating to the implementation of such fund;

(i) authorize all local exchange carriers to provide internet access as outlined in K.S.A. 2000 Supp. 66-2011, and amendments thereto, and report on the status of the implementation provisions to specified legislative committees;

(j) review the federal act and adopt additional standards and guidelines as necessary for enforcing slamming restrictions;

(k) commencing on June 1, 1997 and periodically thereafter, review and, to the extent necessary, modify the definition of universal service and enhanced universal service, and KUSF, taking into account advances in telecommunications and information technology and services;

(l) on or before January 1, 1997, initiate and complete a proceeding to establish minimum quality of service standards which will be equally applicable to all local exchange carriers and telecommunications carriers in the state; any local exchange carrier or telecommunications carrier violating such standards, for each occurrence, shall forfeit and pay a penalty of not less than $100, nor more than $5,000; violations of such standards shall be enforced in accordance with provisions of K.S.A. 66-138 and 66-177, and amendments thereto;

(m) on January 1, 2000, prepare and submit a report to the legislature. The report shall include an analysis of the manner in which the regulatory framework has served to: Protect consumers; safeguard universal service; ensure that consumers have reaped the benefits of competition; maximize the use of market forces; and promote development of the telecommunications infrastructure throughout the state. The commission also shall recommend if and how the KUSF should be modified;
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(n) adopt rules and regulations to facilitate the implementation and enforcement of restrictions against telecommunications services fraud as described by section 2, and amendments thereto.

Sec. 4. Any person who intentionally commits telecommunications services fraud as defined in subsection (p) of K.S.A. 66-1,187, and amendments thereto, and incurs unauthorized charges in an amount in excess of $500 shall be deemed guilty of a class 10, nonperson felony. Any such person which incurs unauthorized services in an amount less than $500 shall be guilty of a misdemeanor.


Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.