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SENATE BILL 38

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

Bill Tallman

AN ACT

RELATING TO TELECOMMUNICATIONS; AMENDING THE CRAMMING AND  
SLAMMING ACT; CLARIFYING THE DEFINITION OF "CRAMMING".

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 63-9G-2 NMSA 1978 (being Laws 1999,  
Chapter 138, Section 2) is amended to read:

"63-9G-2. DEFINITIONS.--As used in the Cramming and  
Slamming Act:

A. "billing aggregator" means a person that bills  
customers for goods or services provided by others and that  
uses a local exchange company as a billing agent;

B. "commission" means the public regulation  
commission;

C. "cramming" means:

(1) charging a customer for telecommunications

1 services that were not authorized by the customer;

2 (2) charging a customer for goods or services  
3 that are not telecommunications services and were not  
4 authorized by the customer; or

5 (3) using a sweepstakes, contest or drawing  
6 entry form as authorization to change or add telecommunications  
7 services to a customer's telephone bill;

8 D. "customer" means the person whose name appears  
9 on the telephone bill or the person responsible for payment of  
10 the telephone bill;

11 E. "local exchange company" means a provider that  
12 provides local exchange services;

13 F. "local exchange services" means the transmission  
14 of two-way interactive communications within a local exchange  
15 area described in maps, tariffs or rate schedules filed with  
16 the commission where local exchange rates apply;

17 G. "provider" means a telephone company,  
18 transmission company, telecommunications common carrier,  
19 telecommunications company, cellular or other wireless  
20 telecommunications service company, cable television service,  
21 telecommunications reseller, billing aggregator or other person  
22 that bills directly or has a billing contract with a local  
23 exchange company;

24 H. "slamming" means:

25 (1) changing a customer's provider without the

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1 customer's authorization; or

2 (2) using a sweepstakes, contest or drawing  
3 entry form as authorization to change a customer's provider;  
4 and

5 I. "telecommunications service" means the  
6 transmission of signs, signals, writings, images, sounds,  
7 messages, data or other information of any nature by wire,  
8 radio, lightwaves or other electromagnetic means or goods and  
9 services related to the transmission of information that are  
10 provided by the provider; provided that a good or service that  
11 does not meet the definition of "telecommunications service"  
12 does not become a telecommunications service merely because it  
13 is bundled with a telecommunications service for marketing or  
14 billing purposes."

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