

111TH CONGRESS
1ST SESSION

S. 2825

To require cell phone early termination fees to be pro-rated over the term of a subscriber's contract, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 3, 2009

Ms. KLOBUCHAR (for herself, Mr. FEINGOLD, Mr. WEBB, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require cell phone early termination fees to be pro-rated over the term of a subscriber's contract, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cell Phone Early Ter-
5 mination Fee, Transparency, and Fairness Act” or the
6 “Cell Phone ETF Act”.

1 **SEC. 2. PRO-RATED EARLY TERMINATION FEES FOR CELL**
2 **PHONES.**

3 (a) IN GENERAL.—Not later than 180 days after the
4 date of enactment of this Act, the Federal Communica-
5 tions Commission shall promulgate regulations requiring,
6 at a minimum, that providers of commercial mobile service
7 (as defined in section 332(d)(1) of the Communications
8 Act of 1934 (47 U.S.C. 332(d)(1))—

9 (1) prorate any early termination fee over the
10 term of a subscriber’s contract; and

11 (2) link the fee to the cost to the provider of
12 the handset device provided to the subscriber, re-
13 duced by the price paid by the subscriber for the
14 handset device at the start of a subscriber’s con-
15 tract.

16 (b) RATE OF REDUCTION AND OTHER CONSIDER-
17 ATIONS.—In promulgating the regulations required by
18 subsection (a), the Commission—

19 (1) shall prohibit an early termination fee that
20 exceeds the cost to the provider of the handset de-
21 vice provided to the subscriber, reduced by the price
22 paid by the subscriber for the handset device at the
23 start of a subscriber’s contract;

24 (2) shall require a ratable reduction of the early
25 termination fee over the term of the contract;

1 (3) shall require clear and conspicuous dislo-
2 sure of the early termination fee at the point of pur-
3 chase and disclosure on customers' monthly state-
4 ments of account of the prorated early termination
5 fee that would be due if the contract were termi-
6 nated before the end of the next billing cycle;

7 (4) shall consider, among other things, the ef-
8 fect of early termination fees on competition and on
9 the ability of consumers to select and change pro-
10 viders of commercial mobile service; and

11 (5) shall consider the economic basis and busi-
12 ness rationale for the imposition of early termination
13 fees by providers of commercial mobile service.

14 **SEC. 3. NO PREEMPTION OF STATE LAW.**

15 Nothing in this Act shall be construed to preempt the
16 laws of any State or local government regulating early ter-
17 mination fees chargeable to residents of that State or ju-
18 risdiction by commercial mobile service providers to which
19 section 2 applies.

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