

## Sec. 6. TITLE.

This act shall be known as "The Minnesota Museum Property Act."

Presented to the governor May 15, 2004

Signed by the governor May 19, 2004, 9:45 a.m.

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**CHAPTER 214—S.F.No. 1115**

*An act relating to telecommunications; regulating third-party billing on telecommunications bills; modifying provisions for alternative forms of regulation of telephone companies; amending Minnesota Statutes 2002, sections 237.766; 237.773, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 237.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

**Section 1. [237.665] PROHIBITION AGAINST BILLING FOR UNAUTHORIZED CHARGES.**

(a) A telephone company or telecommunications carrier providing local service shall not include on a customer's bill a charge for goods or services on behalf of a third-party service provider unless the third-party service provider has obtained the customer's prior express authorization to include such charges on the customer's bill.

(b) If a customer of a telephone company or telecommunications carrier notifies the telephone company or telecommunications carrier that an unauthorized charge from a third-party service provider has been included on the customer's bill, then the telephone company or telecommunications carrier shall remove the unauthorized charge. The telephone company or telecommunications carrier shall credit to the customer any amounts paid for the unauthorized charges that were billed by the telephone company or telecommunications carrier during the six months prior to the customer's complaint, unless the third-party service provider can produce within 14 calendar days of the complaint evidence to the customer and the telephone company or the telecommunications carrier of prior express authorization by the customer.

(c) A third-party service provider meets the prior express authorization requirements of this section only if it obtains or receives a customer's written authorization in the form of a letter of agency, a customer's oral authorization verified by an independent third party, or a copy of an e-mail notice of verification as described in clause (3).

(1) If the third-party service provider obtains the customer's written authorization in the form of a letter of agency, it must be a separate or easily separable document. The sole purpose of the letter of agency shall be to authorize a charge for goods or services to appear on the customer's telephone bill. The letter of agency must be of sufficient size to be clearly legible and must contain clear and unambiguous language

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that contains separate statements for each good or service for which the customer is agreeing to be billed. The letter of agency must be signed and dated by the customer.

(2) If the customer's authorization is oral, the authorization must be verified by an independent third-party verifier. The verification is valid only if:

(i) the independent third party confirms the customer's identity with information unique to the customer unless the customer refuses, then that fact must be noted; and

(ii) the independent third party informs the customer that the customer is agreeing to be billed for goods or services that will appear as a charge on the customer's telephone bill.

(3) If a customer enters a contract via the Internet with a third-party service provider for goods or services which are charged to the bill issued by the customer's telephone company or telecommunications carrier providing local service, the third-party service provider must, within 48 hours of receiving the customer's authorization, send the customer, via e-mail, a notice of verification confirming the authorization. The third-party service provider shall maintain a copy of the notice of verification for the duration of the contract as a record of the customer's express authorization to be charged for the goods or services on the customer's telephone bill for local service.

(d) For direct-dialed calls, where the call itself represents the service for which the charge is placed on a customer's local telephone bill, such as "900 number" services and "dial around" services, evidence that the call was placed from the number that is subject to the telephone bill shall be considered sufficient evidence of authorization for that call for billing authorization purposes established in this section. Nothing in this section shall be construed to change a telephone company's or telecommunication carrier's obligations or affect a telephone subscriber's rights under section 325F.692.

(e) This section does not apply to charges for collect calls.

(f) Nothing in this section restricts the right of a telephone company or telecommunications carrier to seek to recover from a third-party service provider unauthorized charges credited to the customer by the telephone company or telecommunications carrier.

Sec. 2. Minnesota Statutes 2002, section 237.766, is amended to read:

**237.766 PLAN DURATION AND EXTENSION.**

Subdivision 1. PLAN DURATION. An alternative regulation plan approved by the commission under section 237.764 must remain in force as approved for the term specified in the plan, which must be for no less than three years. Except as otherwise provided in this section, within six months prior to the termination of the plan, the plan must be reviewed by the commission and, with the consent of the company, revised or renewed consistent with sections 237.76 to 237.774, except that the justification of earnings levels in section 237.764, subdivision 1, paragraph (e), if required and the provisions prohibiting rate increases at the initiation of or during the first three years of a plan contained in section 237.762, shall not apply to a revised or renewed plan. Any revised or renewed plan must be approved by the commission and shall contain

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a mechanism under which a telephone company may reduce the rates for price-regulated services below the initial rates or prices or increase the rates or prices during the term of the revised or renewed plan. The plan must specify the reports required of the telephone company for review of the plan and specify that the telephone company shall maintain records in sufficient detail to facilitate the review the company shall give notice that it will propose a new plan, extend an existing plan, or revert to rate of return regulation.

**Subd. 2. NEW PLAN.** A new plan proposed by a company must be reviewed by the commission and, with the consent of the company, revised or approved consistent with sections 237.76 to 237.774, except that the justification of earnings levels in section 237.764, subdivision 1, paragraph (c), if required, and the provisions prohibiting rate increases at the initiation of or during the first three years of a plan contained in section 237.762, shall not apply to a new plan. Any new plan must be approved by the commission and shall contain a mechanism under which a telephone company may reduce the rates for price-regulated services below the initial rates or prices or increase the rates or prices during the term of the plan. The plan must specify the reports required of the telephone company for review of the plan and specify that the telephone company shall maintain records in sufficient detail to facilitate the review. A new plan is not an extension, which must be made pursuant to subdivision 3.

**Subd. 3. PLAN EXTENSION.** (a) Notwithstanding the provisions of its plan, a telephone company operating under a plan as of the effective date of this section, may elect to extend that plan for up to three years from the expiration date of the plan or until December 31, 2007, whichever is earlier. The election is effective upon notification to customers, the commission, the department, and the Office of the Attorney General. A telephone company must provide notification of its election within 30 days of the effective date of this section, or within six months of the expiration of its current or expired plan, whichever is later. Once a telephone company has elected to exercise the option provided under this subdivision, the company may elect at any time to terminate the plan by notifying customers, the commission, the department, and the Office of the Attorney General, in writing, six months prior to the termination date. Upon termination of a plan, the company shall be regulated as provided in this chapter.

(b) A telephone company may elect to extend a plan entered into after the effective date of this section in lieu of proposing a new plan only if the company is in substantial compliance with the plan's service quality provisions and has met its infrastructure obligations under the plan. If the company elects to extend a plan, the rates for price-regulated services shall be capped at the rate levels in effect at the time the extension commences, provided, however, exceptions to a price cap contained in the plan being extended may remain in force. Unless otherwise specified in the plan, all other provisions of the plan shall continue in effect throughout the extension period. A plan may not be extended for less than one year or more than three years, and may only be extended once.

(c) The Department of Commerce or the Office of the Attorney General may file an objection to the extension with the commission if the company is not in substantial

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compliance with the service quality provisions of its plan or has not met its infrastructure obligations under the plan. An objection must be filed within 45 days of the company's notice of its intention to extend the plan.

(d) If an objection is filed by the Department of Commerce or the Office of the Attorney General, the commission may hold a hearing on the issues raised in the objection. The hearings shall be completed within 30 days of the deadline for filing the objections. If the commission finds that the issues raised in the objection are valid, it may reject the extension. If the commission finds that the issues raised in the objection are not valid, it shall approve the extension. The commission shall issue its decision within 15 days of the completion of the hearings concerning the objection.

(e) If the Department of Commerce or the Office of the Attorney General does not file an objection, the commission shall approve the extension within 60 days of the company's filing of its notice of its intention to extend the plan.

Sec. 3. Minnesota Statutes 2002, section 237.773, subdivision 3, is amended to read:

Subd. 3. **LOCAL RATE.** (a) Except as provided in paragraph (b), a small telephone company shall not implement a rate increase for any service listed in section 237.761, subdivision 3, beyond the level in effect 60 days prior to an election under subdivision 2, until the later of January 1, 1998, or two years after making an election. However, a small telephone company may implement any new service and establish rates for any new service and may change rates for any other service at any time subject to the requirements of section 237.761, subdivision 4. A small company shall provide to its customers the ability to block, at no extra charge, any new service which it offers, provides, or bills. This requirement shall not apply to services that require affirmative subscription by the customer. Nothing in this section shall prevent the commission from requiring blocking or other privacy or safety protections for other types of telecommunications services under section 237.081.

(b) At any time following one year after electing under subdivision 2, a small telephone company may change rates for local services except switched network access services, listed in section 237.761, subdivision 3, to reflect:

- (1) changes in state and federal taxes;
- (2) changes in jurisdictional allocations from the Federal Communications Commission, the amount of which the small telephone company cannot control and for which equal and opposite exogenous changes are made on the federal level;
- (3) substantial financial impacts of investments in network upgrades which are made; or
  - (i) if the investment exceeds 20 percent of the gross plant investment of the company; or
  - (ii) as the result of government mandates to construct specific telephone infrastructure, if the mandate applies to local telephone companies and the company would not otherwise be compensated.

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A small telephone company may change rates for local services listed in section 237.761, subdivision 3, at any time, to implement extended area service or any successor to that service on an income-neutral basis.

A small telephone company proposing an increase under this subdivision shall provide 60 days' advance written notice to the department and each of the company's customers including the individual rates affected and the procedure necessary for the customers to petition for investigation. If the department receives a petition within 45 days after the notice from five percent or 500, whichever is fewer, of the customers of the small telephone company, the department and the company shall jointly determine if the petition is valid and, if so, may investigate the rate change to determine if it conforms to the limitations of this subdivision. Within 30 days of validating the petition, the department shall report its findings to the commission, which shall either adopt the report or order changes to conform to this subdivision.

(c) On or after the later of January 1998, or two years after making an election under subdivision 2, a small telephone company may increase rates for local services, except switched network access services, listed in section 237.761, subdivision 3. A small telephone company proposing an increase shall provide 60 days' advance written notice to its customers including individual rates affected and the procedure necessary for the customers to petition for investigation. If the commission receives a petition within 45 days after such notice, from five percent or 500, whichever is fewer, of the customers of the small telephone company, the department and the company shall jointly determine if the petition is valid and, if so, may investigate the proposed rate increase to determine if it is appropriate in light of rates charged by other local exchange telephone companies for comparable services, taking into account calling scope, quality of service, the availability of competitive alternatives, service costs, and the features available to the customers. Within 30 days of validating the petition, the department shall file a report with the commission which shall then approve appropriate rates for those services. Rates established by the commission under this paragraph shall not be increased within one year of implementation.

#### Sec. 4. **AFOR PLAN EXTENDED; EXPEDITED APPROVAL OF NEW PLAN.**

(a) A telephone company that has received an order from the Federal Communications Commission, pursuant to United States Code, title 47, section 271, to provide in-region interLATA services in the state and that was operating under an alternative form of regulation plan approved under Minnesota Statutes, sections 237.73 to 237.775, as of December 1, 2003, shall continue to be regulated under the provisions of that plan until December 31, 2005, notwithstanding any contrary provision in the plan or in Minnesota Statutes, sections 237.73 to 237.773. During this period, the telephone company may elect to be regulated under traditional rate of return regulation under Minnesota Statutes, chapter 237, but must give six months' notice of that election to the Public Utilities Commission, the Office of the Attorney General, and the Department of Commerce.

(b) If, on or before December 31, 2004, a telephone company described in paragraph (a), the Department of Commerce and the Office of the Attorney General

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jointly file with the Public Utilities Commission a new alternative form of regulation plan for the telephone company under Minnesota Statutes, sections 237.73 to 237.775, the new plan shall be effective 60 days after the date of filing.

**Sec. 5. EFFECTIVE DATE.**

Section 1 is effective August 1, 2004. Sections 2 and 4 are effective the day following final enactment.

Presented to the governor May 15, 2004

Signed by the governor May 19, 2004, 10:00 a.m.

**CHAPTER 215—H.F.No. 2368**

*An act relating to game and fish; modifying hunting provisions and fees; modifying restriction on importation of cervidae carcasses; modifying restrictions on the transport of game birds; clarifying validity of firearms safety certificates issued to youth; modifying turtle license requirements; modifying waterfowl refuge provisions; providing for suspension of game and fish license and permit privileges under certain conditions; modifying shooting hours for migratory game birds; authorizing a season on mourning doves; prohibiting taking albino deer; modifying certain hearing provisions; modifying certain tagging requirements; modifying fish house provisions; providing for a live bait retailers license; providing for trapping by certain nonresidents; modifying certain game license provisions; requiring public education efforts regarding lead tackle; authorizing grants; authorizing a special permit for use of a scope when hunting with a muzzleloader; providing for a quality deer management pilot zone; requiring reports; providing criminal penalties; amending Minnesota Statutes 2002, sections 97A.015, subdivision 24; 97A.085, subdivisions 2, 3, 4; 97A.095, subdivisions 1, 2, 4; 97A.420, subdivision 4; 97A.421, by adding a subdivision; 97A.435, subdivision 4, by adding a subdivision; 97A.475, subdivision 20, by adding a subdivision; 97A.545, subdivision 5; 97B.015, subdivision 5; 97B.031, by adding a subdivision; 97B.075; 97B.301, subdivisions 6, 7; 97B.601, subdivision 3, by adding a subdivision; 97B.721; 97B.901; 97C.355, subdivision 7; 97C.605, subdivision 2; Minnesota Statutes 2003 Supplement, sections 97A.475, subdivisions 2, 3; 97A.505, subdivision 8; 97B.311; 97C.605, subdivision 2c; proposing coding for new law in Minnesota Statutes, chapter 97C; repealing Minnesota Statutes 2002, section 97B.731, subdivision 2.*

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:**

Section 1. Minnesota Statutes 2002, section 97A.015, subdivision 24, is amended to read:

Subd. 24. **GAME BIRDS.** "Game birds" means migratory waterfowl, pheasant, ruffed grouse, sharp-tailed grouse, Canada spruce grouse, prairie chickens, gray partridge, bob-white quail, turkeys, coots, gallinules, sora and Virginia rails, mourning dove, American woodcock, and common snipe.

Sec. 2. Minnesota Statutes 2002, section 97A.085, subdivision 2, is amended to read:

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