

2009 -- S 0632

LC00419

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS -- CELL  
PHONE LEMON LAW

Introduced By: Senators Ruggerio, Jabour, Pichardo, Doyle, and Walaska

Date Introduced: February 25, 2009

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW - GENERAL  
2 REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 52

4 CELL PHONE LEMON LAW

5 **6-52-1. Short title.** – This chapter shall be known and may be cited as the "Cell Phone  
6 Lemon Law."

7 **6-52-2. Definitions.** – For purposes of this chapter:

8 (1) "Wireless telephone" means a telephone that operates without a physical wireline  
9 connection to the provider's equipment. The term includes, but is not limited to, cellular and  
10 mobile phones.

11 (2) "Wireless telephone service provider" includes a wireless telephone service provider  
12 and its dealers, distributors and agents.

13 **6-52-3. Alternative to replacement of cell phone.** – (a) This section shall apply to any  
14 retail sale of a new wireless telephone to a consumer in this state by a wireless telephone service  
15 provider in conjunction with a contract for wireless telephone service.

16 (b) If, within the period of a contract for wireless telephone service, the wireless  
17 telephone sold in conjunction with a contract for wireless telephone services requires repair or  
18 replacement on three (3) or more occasions, the consumer may, in lieu of having the telephone

1 repaired or replaced on the third (3<sup>rd</sup>) or subsequent occasion, choose either of the following  
2 options:

3 (1) The consumer may choose to cancel the contract for wireless telephone service  
4 without paying any early termination fee, penalty or charge; or

5 (2) The consumer may elect to upgrade or downgrade his or her telephone. If the  
6 consumer chooses to upgrade his or her telephone, then the consumer shall pay the difference  
7 between the price of his or her current telephone and the "best promotional price" of the  
8 telephone to which he or she is upgrading. If the consumer chooses to downgrade his or her  
9 telephone, then the consumer shall receive a credit for the difference between the price of his or  
10 her current telephone and the "best promotional price" of the telephone to which he or he is  
11 downgrading. If the consumer chooses the option of downgrading or upgrading his or her  
12 telephone, the consumer must be allowed to do so without the action automatically renewing his  
13 or her contract for wireless telephone service or extending it. The consumer must be allowed to  
14 change his or her telephone and continue with his or her current contract.

15 (c) This section does not apply to any repair to or replacement of a phone that was  
16 damaged or failed to work properly as a result of some action by the consumer. The types of  
17 damage creating an inference of consumer action include, but are not limited to, the following:  
18 (1) equipment showing signs of water (or other liquid) damage; (2) equipment showing signs of  
19 physical impact; (3) a scratched or broken casing; (4) forced components or buttons; and (5) other  
20 external damage.

21 (d) This section does not apply to the quality or lack of services, including, but not  
22 limited to, cellular or other subscribed services available to the consumer, contractually agreed  
23 upon rates, and equipment compatibility issues.

24 **6-52-4. Notice to consumers.** – The wireless telephone service provider shall give a  
25 consumer a written statement of the consumer's rights under this section when a sale is made to  
26 which this section applies.

27 **6-52-5. Penalty.** – Any person who violates the provisions of this chapter commits an  
28 unlawful practice within the meaning of this act and shall be required to pay a fine in the amount  
29 of five hundred dollars (\$500).

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS -- CELL  
PHONE LEMON LAW

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- 1           This act would create the Cell Phone Lemon Law, and would give cell phone customers
- 2 protection should their cell phone require repair or replacement on three (3) or more occasions.
- 3           This act would take effect upon passage.

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