

1989

## Recent Legislative Activity

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## Operator Service Providers

Illinois amended its Public Utilities Act to regulate operator service providers. An "operator service provider" is any telecommunications carrier which provides operator assisted services to assist callers in placing or charging a call. The providers are now required to inform the caller, without charge, about the rates, terms and conditions of the assistance. Also, the customer must be made aware of the operator service's identity before the start of the billing, either over the phone, by a sign on the phone, or by some other means. Finally, operator services must provide consumers access, where technically feasible, to any other operator service, to the local exchange company operator and to the emergency telephone service in the area. Effective August 15, 1989. Ill. Rev. Stat. ch. 111 2/3, para. 13-901 (1989).

Texas amended its Public Utility Regulatory Act in three ways. First, it added a new section requiring operator services to provide certain information to the public. The Act defines an operator service as any service using either live or automated operator functions for handling telephone service. Operator services must, prior to connecting each call, announce the provider's name and, at the caller's request, quote the applicable rate and other costs. The services must, for each telephone served, also provide an informational sticker card or other form of information which includes the services name, that the operator will provide rate information upon request, that the caller will be informed how to access the local

exchange carrier operator upon request, and the complaint process. Second, the law limits to no greater than 50 cents the amount a hotel or motel may charge for a local telephone call, a credit card call, a collect call, or local telephone call not requiring operator assistance. Third, the statute creates a statewide telecommunication relay access service for hearing-impaired and speech-impaired consumers. 1989 Tex. Sess. Law Serv. 1154 (Vernon).

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## Facsimile Solicitations

Illinois amended its Criminal Code to regulate facsimile transmissions. The new section prohibits knowingly sending unsolicited advertizing or fund-raising material, except where the sender reasonably believes he/she has the receiver's permission. A person guilty of this offense can be fined up to \$500. Effective January 1, 1990. Ill. Rev. Stat. ch. 38, para. 26-3 (1989).

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## Telephone Solicitations

Florida law now provides that a contract made pursuant to a telephone solicitation is not valid and enforceable unless and until the agreement is embodied in a written contract that is signed by the consumer and that accurately describes the goods or services in the phone solicitation. The contract must contain the name, address, and telephone number of the seller, the total price of the contract, and a detailed description of the goods. The contract must also warn the consumer, immediately

preceding the signature and in at least twelve point type: "You are not obligated to pay any money unless you sign this contract and return it to the seller." The seller may not charge the consumer's credit card account until the above steps are followed. The statute does not apply where the sale was negotiated by the consumer at the seller's retail business establishment; where the consumer may return the unused goods to the seller within seven days and receive a refund within thirty days; where the consumer previously purchased from the seller or the consumer had a preexisting business relationship with the seller; or where the consumer has examined the seller's television, radio or print advertisement which contains the seller's name, address and telephone number, describes the goods or services being sold, and contains any limitations on the offer. Effective October 1, 1989. 1989 Fla. Sess. Law Serv. 89-45 (West).

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## Radon Gas

Illinois amended its Consumer Fraud and Deceptive Business Practices Act to make the following acts class A misdemeanors: intentionally or negligently misrepresenting the capabilities of a device to detect and measure radon or radon progeny; misrepresenting the test results from such a device; or providing detection services without an objective basis for believing that radon or radon progeny will be reduced. Any person who proves that he or she has been injured by such acts shall be awarded treble damages, in addi-

tion to costs and attorney fees. Effective August 15, 1989. Ill. Rev. Stat. ch. 121 1/2, para. 262 U-W (1989).

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### Contract Rescission Rights

California amended its Dating Service Contracts and Weight Loss Contracts statutes. The statutes now allow a three business day cancellation period for weight loss or dating service contracts. The contracts must conspicuously notify the consumer of the right to rescind. In addition, the contracts must be in writing and given to the purchaser at the time of contracting, and cannot be financed over more than two years. Any buyer injured by a willful violation of the statute may recover treble damages. Effective January 1, 1990. 1989 Cal. Adv. Legis. Serv. 138 (Deering).

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### Consumer Credit

New York amended its Surety On Consumer Credit Transaction Or Account — Notice Of Additional Liability Act. The amendment removes the requirement in the consumer credit transaction definition that the loan or sale pursuant to which credit is extended not exceed twenty-five thousand dollars. The amendment also removes the requirement in the consumer credit account definition that the maximum credit limit not exceed twenty-five thousand dollars. The notice requirements for both consumer credit transactions and consumer credit accounts have been changed also. The notice for consumer credit

transactions now must state that the transaction does not include late charges, additional finance charges resulting from delinquency, repossession or foreclosure costs, court costs or attorney's fees, or other charges that may be stated in the note or contract. The notice for consumer credit account now must state that the account does not include court costs, attorney's fees, or other costs or charges stated in the agreement. 1989 N.Y. Sess. Laws 624 (McKinney).

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### Deceptive mail

The House of Representatives passed the Deceptive Mailing Prevention Act to curb deceptive mail from advertisers and fund raisers. The statute prohibits the delivery of any item designed to resemble a bill, an invoice, or a solicitation for a donation, unless such mail matter has a clear notice that it is a solicitation for donations and that the receiver has no obligation to pay. The bill would require conspicuous disclaimers on mailings that could be interpreted as a government mailing or document. H.R. 2331, 101st Cong. 1st Sess. (1989).

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### Children's Television

Both the Senate and House of Representatives are considering bills that would limit advertising on children's television. In 1984, the Federal Communication Commission lifted restrictions on advertising on children's programming. The Children's Television Act of 1989 would limit advertising to 10 1/2 minutes per hour on weekends

and 12 minutes per hour on weekdays. Another Senate bill, the Children's Television Education Act of 1989, would shorten the weekend limit to 9 1/2 minutes and ban program length commercials, which are 30 minute children's shows that critics say are designed exclusively to sell toys. H.R. 1677, 101st Cong. 1st Sess. (1989) and S. 707, 101st Cong. 1st Sess. (1989). S. 1215, 101st Cong. 1st Sess. (1989).

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### Security Interests

California now requires that a person take possession of household goods in order to secure a security interest in the goods in connection with a consumer credit contract or other credit obligation incurred for primarily personal or household purposes. The statute excepts household goods that were financed through a consumer credit contract. An agreement creating such a security interest must also be reviewed and signed by the borrower, and specifically indicate each item secured by the agreement. The security interest may only be enforced by judicial action, unless the property is abandoned or freely and voluntarily surrendered by the borrower, or unless the personal property is a motor vehicle. 1989 Cal. Adv. Legis. Serv. 397, (Deering).

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