

1991

## Recent Legislative Activity

Colleen P. Sheehan

Follow this and additional works at: <http://lawcommons.luc.edu/lclr>

 Part of the [Consumer Protection Law Commons](#)

---

### Recommended Citation

Colleen P. Sheehan *Recent Legislative Activity*, 4 Loy. Consumer L. Rev. 24 (1991).

Available at: <http://lawcommons.luc.edu/lclr/vol4/iss1/4>

This Recent Legislative Activity is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in Loyola Consumer Law Review by an authorized administrator of LAW eCommons. For more information, please contact [law-library@luc.edu](mailto:law-library@luc.edu).

# Recent Legislative Activity

## Consumer Protection for 900 Services

The Senate is currently considering the **900 Services Consumer Protection Act of 1991** which would protect consumers by regulating providers of 900 telephone services. Most 900 telephone services currently charge users per minute or per call without explaining the fee structure. The bill would authorize the Federal Communications Commission ("FCC") to require each 900 telephone service to announce certain billing information to the consumer at the beginning of each call. The announcement would be required to include: (1) the price of the call per minute and the length of the call; (2) a description of the service being offered; and (3) that the caller may terminate the call to avoid any charges. Under the Act, a consumer would also be able to block access to 900 numbers at her residence at no cost.

In addition, the Act would protect minors from 900 services solicitation. The Act prohibits television and radio advertisements directed at minors from including tone calling. Tone calling allows a telephone number to be dialed just by placing the receiver close to the television or radio that is emitting the tone. Television and radio advertisements directed at minors would also be required to include a warning that the minor must have permission of a guardian or parent to use the 900 telephone service. **S. 471, 102d Cong., 1st Sess. (1991).**

## Equal Health Care for Women

The House of Representatives is considering the **Women's Health Equity Act of 1991** intended to promote greater equality in health care services to women. The Act would require the creation of new offices that would expand research on women's physical and mental

health. Specifically, the Act would establish research programs on ovarian cancer, osteoporosis, breast cancer and women infected with Acquired Immune Deficiency Syndrome ("AIDS"). The Act would also require women and minority groups to be included as research subjects, unless inappropriate, when conducting clinical research.

Additionally, money would be earmarked for research on alcoholism in women and grants available to healthcare centers focusing on contraception and infertility problems. Access to health care services would also be improved. Lastly, this Act calls for Medicaid and Medicare coverage for breast cancer treatment. **H.R. 1161, 102d Cong., 1st Sess. (1991).**

## Labeling and Marketing for Recyclables

The House of Representatives is currently considering the **National Recycling Markets Act of 1991** to develop, assist and stabilize recycling markets. The Act would require the Secretary of Commerce to establish a Bureau of Recyclable Commodities within the Department of Commerce which would promote the use of recyclable materials diverted from solid waste. The Bureau would identify and standardize types and grades of specified recyclable materials. Producers of the materials or products treated as recyclable materials would be required to meet the grade specifications and to affix a label identifying whether or not the package is recyclable.

The Act would also require the Bureau to discourage the use of materials that are not easily recycled and encourage the substitution of recyclable materials. Additionally, annual reports would be made available to the public on the prevailing national recycling rate of recycled materials and factors that may influence the market for

recovered materials and promote the sale of recycled material foreign markets. **H.R. 2746, 102d Cong., 1st Sess. (1991).**

## Liability for Hazardous Waste

The House of Representatives is currently considering the **Toxic Cleanup Equity and Acceleration Act of 1991**. The Act would amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") to absolve citizens, municipalities and other generators and transporters of municipal solid waste and sewage sludge from liability to any persons other than the United States. An individual could not bring a lawsuit against these persons unless there is a basis for liability under CERCLA's provisions governing operators and owners dealing with hazardous waste. The President would also be prohibited from initiating an action against any person, other than owners and operators, in the absence of exceptional circumstances.

The Act would also encourage settlement between a municipality and other persons by limiting acceptable excuses for not settling. All administrative and judicial actions commenced before the Act's effective date would be required to comply with the Act, unless a final court judgment or court settlement has been reached. **H.R. 3026, 102d Cong., 1st Sess. (1991).**

## Uniform Product Liability

The Senate is considering the **Product Liability Fairness Act** intended to regulate interstate commerce by providing for a uniform product liability law. The Act would govern any product liability action brought against a manufacturer or product seller, on any theory, for harm caused by their

product. The Act would set forth expedited settlement measures, including, (1) an option to include an offer of settlement for a specific dollar amount; and (2) awarding attorneys' fees and costs if the other party does not accept a settlement offer.

The Act also would set forth alternative dispute resolution procedures. A party could offer to participate in any voluntary alternative dispute resolution procedure in lieu of or in addition to a settlement offer. A court could then award attorney's fees to that party if the other party unreasonably refused to participate in the alternative procedure. The trier of fact would be allowed to consider the conduct of the seller regarding construction or condition of the product and any failure to pass on warnings or instructions from the manufacturer. Punitive damages would be generally allowed except against drug, medical device or aircraft manufacturers that received approval from and complied with regulations of appropriate federal administrative agencies. S. 640, 102d Cong., 1st Sess. (1991).

---

### **Restrictions on Dating Referral Services' Contracts**

Illinois law now requires all dating referral services to provide every customer with a written contract not to exceed a two year extended service period. The contract must contain specified cancellation terms and set refund procedures. The cancellation clause must allow a customer three business days to cancel with a full refund or if the customer relocates 20 miles or more from the original distance then he is entitled to cancel after paying a small fee. Additionally, the contract is prohibited from requiring payments or financing to extend more than three years and cannot require a note that when executed, would cut off a third party defense or action. Treble damages for injury to a customer are imposed for violations of the new law. However,

escort services, governmental, and not-for-profit organizations are exempt. 1991 IL H.B. 1889.

---

### **Motor Vehicle Contracts**

California is considering the **One-Day Cancellation Law** which would allow the buyer of a motor vehicle the right to cancel the contract until the close of the business day following the day on which the buyer signed the contract. Unless the buyer waives the right to cancel, the seller shall not deliver the vehicle until the right to cancel period has expired. The contract for sale must contain a form explaining the buyer's right to cancel and right to waive. In addition to written notice, the seller must provide the buyer with oral notice of the right to cancel. The bill would also apply to leased vehicles. 1991 CA A.B. 126.

---

### **Rental Purchase Agreements**

Illinois has expanded consumer protection by adding additional requirements to the **Finance and Credit Regulations** concerning rental purchase agreements. These additions particularly focus on consumers buying real estate. The law requires rental purchase agreements to itemize payments so that the total amount being paid toward principal and interest is clearly stated. The law also requires rates of interest to be clearly expressed in annual percentage rates. 1991 IL H.B. 1379.

---

### **Imputed Liability**

The California Senate is considering an Act that would provide for broader liability for corporations and managers having actual knowledge of a serious concealed danger. A serious concealed danger is defined under the Act as one that can cause bodily harm or death. The Act would affect any corporation or manager with respect to a production, facility, equipment, process,

place of employment, or business practice. Under the Act, a corporation or a manager would be guilty of a public offense punishable by imprisonment and/or fine if they have actual knowledge of a serious concealed danger that is subject to regulatory authority and knowingly fail to inform the Department of Industrial Relations in writing within 15 days. 1991 CA A.B. 1313.

---

### **Disclosure of Foreclosure Risks**

New York is currently considering an Act which would provide for the disclosure of certain contract risks where a mortgage is used to secure a home improvement loan. The disclosure would warn the buyer of foreclosure risks and provide that the period to cancel a home improvement contract shall commence on the date that the owner signs the home improvement contract. 1991 NY A.B. 7302.

---

### **Motor Vehicle Sales**

Illinois has recently amended its **Motor Vehicle Retail Installment Sales Act** to allow for a sales contract processing fee. The law now permits a seller of a retail installment contract to charge a documentary fee for processing documents and performing services related to the closing of a sale. The maximum amount that may be charged by a seller for a documentary fee is \$40 and shall be subject to an annual rate of adjustment. Notice of this fee must be printed in every retail installment contract intending to collect this amount. 1991 IL S.B. 1273.

---

*"Recent Legislative Activity" is prepared by the Research Editor. A limited number of statutes appearing here are available for a \$5 copying charge. Please be specific (include volume number, issue number, and statute cite) when ordering. Send requests to: Managing Editor, Loyola Consumer Law Reporter, One East Pearson Street, Chicago, Illinois, 60611.*