

P.L. 2007, CHAPTER 195, *approved October 26, 2007*
Assembly, No. 4339 (*First Reprint*)

1 AN ACT prohibiting regulation of certain aspects of Voice over
2 Internet Protocol and Internet Protocol-enabled services and
3 supplementing Title 48 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. This act shall be known and may be cited as the “Voice over
9 Internet Freedom Act.”

10
11 2. The Legislature finds and declares that:

12 a. The growth and enhancement of services using Internet
13 Protocol technology provide consumers more choice in voice, data,
14 and video service than at any other time;

15 b. The proliferation of new technologies and applications and
16 the growth in the number of providers developing and offering
17 innovative services using Internet Protocol is due in large part to a
18 light regulatory touch, including freedom from traditional telephone
19 regulation that these new technologies and services and the
20 companies that offer them have enjoyed in New Jersey; and

21 c. These economic benefits, including consumer choice, new
22 jobs, and significant capital investment, will be jeopardized and
23 competition minimized by the imposition of traditional State entry
24 and rate regulation on Voice over Internet Protocol service and
25 Internet protocol-enabled service.

26
27 3. As used in this act:

28 “Circuit switched local exchange access service” means circuit
29 switched local “telephone exchange service” as that term is defined
30 in 47U.S.C. s.153.¹

31 “Cramming” means the practice of placing unauthorized,
32 misleading or deceptive charges on a consumer's telephone bill for
33 any communications service, which service the consumer did not
34 order or authorize in advance.

35 “Internet Protocol-enabled service” or “IP-enabled service”
36 means “, except as provided in the definition hereunder of “Voice
37 over Internet Protocol service,”¹ any service, capability,
38 functionality, or application provided using Internet Protocol, or
39 any successor protocol, that enables an end user to send or receive a
40 communication in Internet Protocol format, or any successor

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ATU committee amendments adopted June 14, 2007.

1 format, regardless of whether the communication is voice, data or
2 video.

3 “Slamming” means the changing of a communications service
4 provider, including a customer's telephone service provider,
5 whether for long distance, regional toll or local calls, without the
6 customer's knowledge or permission.

7 “Telecommunications relay service” means a telephone
8 transmission service that provides the ability for an individual who
9 has a hearing impairment or speech impairment to engage in
10 communication with a hearing individual in a manner that is
11 functionally equivalent to the ability of an individual who does not
12 have a hearing impairment or speech impairment to communicate
13 using voice communication services.

14 “Voice over Internet Protocol service” or “VoIP service” means
15 any service that ¹:

16 a.¹ enables real-time, two-way voice communications ¹[that
17 originate or terminate]¹ from the user’s location in Internet
18 Protocol or any successor protocol ¹[and];

19 b.¹ uses a broadband connection from the user's location ¹[.
20 “Voice over Internet Protocol service” includes any voice
21 communications service that]; and

22 c.¹ permits users generally to receive ¹[telephone]¹ calls that
23 originate on the public switched telephone network and to terminate
24 ¹[telephone]¹ calls to the public switched telephone network.

25

26 4. Except as otherwise provided in this act, notwithstanding
27 any other provision of law, rule, regulation or order to the contrary,
28 neither the State, nor any department, agency, board or commission
29 thereof, nor any political subdivision of the State shall enact, adopt
30 or enforce any ¹law,¹ ordinance, resolution, rule, regulation, order,
31 standard or other provision, either directly or indirectly, having the
32 force and effect of law that regulates, or has the effect of regulating,
33 the rates, terms and conditions of VoIP service or IP-enabled
34 service ¹offered to customers¹.

35

36 5. Nothing in this act shall be construed to:

37 a. affect the application or enforcement of criminal or other
38 statutes or regulations that apply generally to the conduct of
39 business in the State, consumer protection, or unfair or deceptive
40 trade practices, including, but not limited to, any statutes or
41 regulations that prohibit cramming or slamming ¹, affect the
42 provisions of the "Underground Facility Protection Act," P.L.1994,
43 c.118 (C. 48:2-73 et seq.), or any law or regulation concerning any
44 easement on any real property or the extension of any
45 telecommunications service to any customer¹;

46 b. ¹[either mandate or prohibit the assessment of
47 nondiscriminatory fees for 9-1-1 service or] affect the authority of

1 the State or its agencies to enforce such requirements as are
2 otherwise expressly provided for by federal law, including, but not
3 limited to, the collection of¹ enhanced 9-1-1 **['service] fees'**,
4 telecommunications relay service **'fees'**, or federal Universal
5 Service Fund **['payments] fees'** on VoIP or IP-enabled **['service,**
6 **or to mandate or prohibit the payment of any switched network**
7 **access rates or other intercarrier compensation rates] services'** that
8 may be determined to apply 'or to affect any rights or duties the
9 State or its agencies may have under the provisions of 47U.S.C.
10 s.251 or 47U.S.C. s.252¹; **['or']**¹

11 c. affect the authority of the State or its political subdivisions,
12 including municipalities, 'as appropriate.'¹ to **['require a cable**
13 **television company to obtain franchises within such political**
14 **subdivisions pursuant to section 541(b)(1) of the "Cable**
15 **Communications Policy Act of 1984," Pub.L.98-549 (47 U.S.C.**
16 **s.541(b)(1)) or section 22 of P.L.1972, c.186 (C.48:5A-22)] set**
17 **forth the requirements of providing cable service or operating a**
18 **cable television system as pursuant to the provisions of "Cable**
19 **Communications Policy Act of 1984," Pub.L.98-549 (47U.S.C.**
20 **s.521 et seq.) or the "Cable Television Act," P.L.1972, c.186**
21 **(C.48:5A-1 et seq.);**

22 d. affect the authority of the State or its political subdivisions,
23 as applicable, to manage the use of public rights-of-way, including,
24 but not limited to, any requirement for the joint use of poles or
25 other structures in such rights-of-way; or

26 e. affect the authority of the Board of Public Utilities in
27 regulating the rates, terms and conditions of circuit switched local
28 exchange access service, consistent with federal law¹.

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30 6. This act shall take effect immediately.

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35 Prohibits regulation of certain aspects of Voice over Internet
36 Protocol and Internet Protocol-enabled services.