**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3922**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Gunn, Cobb‑Hunter, McEachern, Spires, Ballentine, D.C. Moss, J.H. Neal and M.A. Pitts

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Introduced in the House on April 22, 2009

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Prepaid wireless telephone

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/22/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\04-22-09.docx)‑15

4/22/2009 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\04-22-09.docx)‑15

**VERSIONS OF THIS BILL**

[4/22/2009](file:///p:\pprever\2009-10\3922_20090422.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39‑1‑100 SO AS TO REQUIRE A PERSON WHO SELLS A PREPAID WIRELESS TELEPHONE TO VERIFY THE IDENTITY OF THE PURCHASER BY REQUIRING THE PURCHASER TO SHOW AT LEAST ONE PHOTO IDENTIFICATION CARD, TO PROVIDE SPECIFICATIONS FOR THE PHOTO IDENTIFICATION CARD, TO REQUIRE THE SELLER OF THE TELEPHONE TO REGISTER THE IDENTITY OF THE PURCHASER IN A SECURE FILE OR DATABASE AND TO SUBMIT THE REGISTRATION DATA TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION, TO PROVIDE FOR SITUATIONS IN WHICH A SELLER MAY DISCLOSE DATABASE INFORMATION, TO PROVIDE PENALTIES FOR FAILURE TO COMPLETE OR REMIT THE REGISTRATION OF PHONE PURCHASERS, TO PROVIDE PENALTIES FOR POSSESSING OR USING FALSE INFORMATION FOR PHONE PURCHASES, AND TO PROVIDE DEFINITIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 39 of the 1976 Code is amended by adding:

“Section 39‑1‑100. (A)(1) A person who sells to a purchaser a prepaid wireless telephone shall verify the identity of the purchaser by using at least one form of identifying information from the purchaser, including a photo driver’s license or identification card issued by the South Carolina Department of Transportation or by any other state, military card, or a valid passport or travel visa issued by a foreign country that contains the purchaser’s photograph at the point of sale.

(2) A valid government‑issued photo identification card must contain the purchaser’s name, date of birth, and signature. If it does not contain the purchaser’s current address, another document containing that address, such as a current utility bill, residential lease agreement, or mortgage must be presented by the purchaser.

(3)(a) A person who sells to a purchaser a prepaid wireless telephone shall register the identity of the purchaser on a written or electronic form, which includes, but is not limited to, the following information:

(i) purchaser’s name;

(ii) purchaser’s date of birth;

(iii) purchaser’s residential address;

(iv) date of sale;

(v) name of the manufacturer of the prepaid wireless telephone;

(vi) name of the prepaid wireless telephone provider; and

(vii) serial number of the prepaid wireless telephone sold.

(b) The seller shall maintain the written or electronic registration form in a secure file, facility, or encrypted database until the form is remitted to the South Carolina Law Enforcement Division on a quarterly basis.

(4) The seller may disclose purchaser registration information only to the following:

(a) an investigative or law enforcement officer or a person acting at the direction or request of an investigative or law enforcement officer to investigate suspected criminal activities who has secured a subpoena, warrant, or court order that satisfies the requirements of subsection (A)(5); or

(b) a purchaser who provides written consent to release the registration information upon request of any person.

(5)(a) A court may issue a subpoena, warrant, or court order for disclosure of purchaser registration information pursuant to this section only if there are specific and articulable facts demonstrating reasonable grounds to believe that the registration information is relevant and material to an ongoing criminal investigation.

(b) On a motion promptly made by the seller, the court issuing an order pursuant to this subsection may quash or modify the order if the information or records requested are unusually voluminous in nature or compliance with the order otherwise would cause an undue burden on the seller.

(c) No cause of action shall lie against a seller of prepaid wireless telephone service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, or subpoena issued pursuant to subsection (A)(5).

(B)(1) A person who sells a prepaid wireless telephone and fails to verify the identity of the purchaser or who fails to complete and remit the registration of all sales transactions on a quarterly basis as required pursuant to this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars for his first offense and must be fined not more than one thousand dollars for each second and subsequent offense.

(2) A purchaser who possesses or uses false identifying information or identifying information of another person without the consent of that other person to purchase a prepaid wireless telephone is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars for his first offense and must be fined not more than one thousand dollars for each second and subsequent offense.

(C) As used in this section:

(1) ‘Encryption’ means the use of an algorithmic process to transform data into a form in which there is a low probability of assigning meaning without use of a confidential process or key.

(2) ‘Form’ means the written or electronic purchaser registration document as promulgated by the South Carolina Law Enforcement Division.

(3) ‘Identifying information’ means a document, photographic, pictorial or computer image or another person, or any fact used to establish identity including, but not limited to, a name, birth date, Social Security number, driver’s license number, nondriver governmental identification number, telephone number, checking account number, savings account number, student identification number, or employee or payroll number.

(4) ‘Person’ means an individual, partnership, association, joint stock company, trust, corporation, government entity, limited liability company, or any other entity.

(5) ‘Prepaid wireless telephone’ means a handheld telecommunications device that receives an analog signal or digital signal, or both, and is paid for in advance, that enables the origination of calls using an access number or authorization code, or both, whether manually or electronically dialed, for a defined period of time and in which there are generally no contracts, no monthly bills, no credit checks, no deposits, and no activation fees.”

SECTION 2. This act takes effect upon approval by the Governor.

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