

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE DRS35021-LM-3 (12/17)

Short Title: Unauthorized Wireless Phone Use /\$50 Limit.

(Public)

Sponsors: Senator Goss.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT LIMITING LIABILITY FOR THE UNAUTHORIZED USE OF WIRELESS  
3 TELEPHONES TO FIFTY DOLLARS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 75 of the General Statutes is amended by adding the  
6 following new Article to read as follows:

7 "Article 6.

8 "Unauthorized Use of Wireless Telephones.

9 "**§ 75-122. Definitions.**

10 The following definitions apply in this Article.

- 11 (1) Customer. – A person who has a contract for wireless telephone service with  
12 a wireless telephone service provider.  
13 (2) Unauthorized use. – The use of a wireless telephone by a person other than  
14 the customer who does not have actual, implied, or apparent authority for the  
15 use and from which the customer receives no benefit.  
16 (3) Wireless telephone. – A telephone that operates without a physical wireline  
17 connection to the wireless service provider's equipment. The term includes  
18 cellular and mobile telephones.  
19 (4) Wireless telephone service provider. – A provider of wireless telephone  
20 service and its dealers, distributors, and agents.  
21 (5) Wireless telephone service. – A service that is a two-way real-time voice  
22 telecommunications service that is interconnected to a public switched  
23 telephone network and is provided by a commercial mobile radio service, as  
24 the term is defined by 47 C.F.R. § 20.3.

25 "**§ 75-123. Liability of customer of wireless telephone service provider.**

26 (a) A customer of a wireless telephone service provider shall be liable for the  
27 unauthorized use of a wireless telephone only if the following conditions are met:

- 28 (1) The customer has a contract for wireless telephone service with a wireless  
29 telephone service provider.  
30 (2) The liability is not in excess of fifty dollars (\$50.00).  
31 (3) The wireless telephone service provider gives adequate notice to the  
32 customer of the potential liability.  
33 (4) The wireless telephone service provider has provided the customer with a  
34 description of a means by which the wireless telephone service provider may  
35 be notified of loss or theft of the wireless telephone. The description may be



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- 1                   provided on the face or reverse side of the customer billing statement or on a  
2                   separate notice accompanying the statement.
- 3           (5)   The unauthorized use occurs before the wireless telephone service provider  
4                   has been notified that an unauthorized use of the wireless telephone has  
5                   occurred or may occur as the result of loss, theft, or otherwise.
- 6           (6)   The wireless telephone service provider has provided a method whereby the  
7                   user of the wireless telephone can be identified as the person authorized to  
8                   use the wireless telephone.
- 9           (b)   In any action by a wireless telephone service provider to enforce liability for the use  
10           of a wireless telephone, the burden of proof is on the wireless telephone service provider to  
11           show that the use was authorized or, if the use was unauthorized, the burden of proof is on the  
12           wireless telephone service provider to show that the conditions of liability for the unauthorized  
13           use of a wireless telephone as provided in subsection (a) of this section have been met.
- 14           (c)   Nothing in this section imposes liability upon a customer for the unauthorized use of  
15           a wireless telephone in excess of the customer's liability for the use under other applicable law  
16           or under any agreement with the wireless telephone service provider.
- 17           (d)   Except as provided in this section, a customer incurs no liability from the  
18           unauthorized use of a wireless telephone.
- 19           (e)   A violation of this section is a violation of G.S. 75-1.1."
- 20           **SECTION 2.** This act is effective when it becomes law, and applies only to  
21           contracts entered into or renewed on or after October 1, 2009.