

111TH CONGRESS  
1ST SESSION

# S. 2825

To require cell phone early termination fees to be pro-rated over the term of a subscriber's contract, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 3, 2009

Ms. KLOBUCHAR (for herself, Mr. FEINGOLD, Mr. WEBB, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To require cell phone early termination fees to be pro-rated over the term of a subscriber's contract, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Cell Phone Early Ter-  
5       mination Fee, Transparency, and Fairness Act” or the  
6       “Cell Phone ETF Act”.

1 **SEC. 2. PRO-RATED EARLY TERMINATION FEES FOR CELL**  
2 **PHONES.**

3 (a) IN GENERAL.—Not later than 180 days after the  
4 date of enactment of this Act, the Federal Communica-  
5 tions Commission shall promulgate regulations requiring,  
6 at a minimum, that providers of commercial mobile service  
7 (as defined in section 332(d)(1) of the Communications  
8 Act of 1934 (47 U.S.C. 332(d)(1))—

9 (1) prorate any early termination fee over the  
10 term of a subscriber’s contract; and

11 (2) link the fee to the cost to the provider of  
12 the handset device provided to the subscriber, re-  
13 duced by the price paid by the subscriber for the  
14 handset device at the start of a subscriber’s con-  
15 tract.

16 (b) RATE OF REDUCTION AND OTHER CONSIDER-  
17 ATIONS.—In promulgating the regulations required by  
18 subsection (a), the Commission—

19 (1) shall prohibit an early termination fee that  
20 exceeds the cost to the provider of the handset de-  
21 vice provided to the subscriber, reduced by the price  
22 paid by the subscriber for the handset device at the  
23 start of a subscriber’s contract;

24 (2) shall require a ratable reduction of the early  
25 termination fee over the term of the contract;

1           (3) shall require clear and conspicuous disclo-  
2           sure of the early termination fee at the point of pur-  
3           chase and disclosure on customers' monthly state-  
4           ments of account of the prorated early termination  
5           fee that would be due if the contract were termi-  
6           nated before the end of the next billing cycle;

7           (4) shall consider, among other things, the ef-  
8           fect of early termination fees on competition and on  
9           the ability of consumers to select and change pro-  
10          viders of commercial mobile service; and

11          (5) shall consider the economic basis and busi-  
12          ness rationale for the imposition of early termination  
13          fees by providers of commercial mobile service.

14   **SEC. 3. NO PREEMPTION OF STATE LAW.**

15          Nothing in this Act shall be construed to preempt the  
16          laws of any State or local government regulating early ter-  
17          mination fees chargeable to residents of that State or ju-  
18          risdiction by commercial mobile service providers to which  
19          section 2 applies.

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