

**MA H.4216: Massachusetts Bill Would Strip Existing
Consumer Protections from Telephone Landline Customers
and Prohibit State from Implementing
Future Protections for Wireless Consumers**

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Massachusetts H.4216 in a Nutshell

See bill at: <http://www.malegislature.gov/Bills/187/House/H04216>

The same historic protections that enable Massachusetts consumers to enjoy and maintain access to reliable and affordable voice service are needed regardless of whether a call is made by using an old-fashioned telephone or modern wireless phone. *These important protections are now threatened.*

H.4216 harms consumers by (1) prohibiting the state from creating or enforcing consumer protections for wireless customers; and (2) making it impossible for most consumers to get assistance from state agencies when trying to resolve complaints against their telephone (wireline) or wireless service carrier.

- ❖ Current law under Chapter 159 of Massachusetts General Laws requires the Department of Telecommunications and Cable (“DTC”) to ensure that the practices, equipment, appliances and services provided by a telephone company or voice service provider are “just, reasonable, safe, adequate, and proper.”¹
- ❖ H.4216 prohibits the DTC from exercising *any* authority or supervision over wireless service.² This means that the state’s telecommunications regulator cannot do anything to protect consumers who depend on wireless service.
- ❖ H.4216 would also strip the power of regulatory oversight from the DTC whenever there are two voice service providers in an area.³ H.4216 would amend Chapter 159 with the result that, as long as there are two voice providers offering service to an area exchange (such as Verizon and Comcast), DTC authority would no longer apply **even to basic telephone service**. DTC would be unable to resolve customer complaints regarding static on the line, extended or frequent service outages, inadequate customer service, or affordable rates.⁴
- ❖ While H.4216 appears to limit deregulation of voice service to certain areas – those with two or more service providers⁵ – in fact, the reach of H.4216 would be to practically deregulate voice service in all areas of the Commonwealth, because two or more providers in an exchange area is the norm.

¹ See Mass. Gen. Laws Ch. 159, § 16.

² H.4216, § 8.

³ See H.4216, § 9. Section 9 of the bill would amend Chapter 159 of Massachusetts General Laws with the result that the mere presence of two voice service providers in an area (i.e., an “exchange”) would exempt those providers from the DTC’s ability to protect consumers. The voice service providers can be any combination of telephone company, wireless voice service provider, and provider of Voice Over Internet Protocol (“VoIP”) service.

⁴ Affordable rates can also be part of reasonable and adequate service. See Mass. Gen. Laws Ch. 159, §§ 13, 14, 16, 17. DTC currently regulates basic exchange service rates (local service) to ensure that they are just and reasonable.

⁵ H.4216, § 9.

The impact of H.4216, if passed, means that in all or virtually all areas of the Commonwealth the bill would:

- ❖ Eliminate the DTC's ability to ensure that carriers are providing reliable service to customers.⁶ This means that the DTC could no longer assist consumers if they experience problems with voice service, customer service, service response time to trouble reports, notices, or billing and termination procedures;
- ❖ Eliminate the ability of customers to be excluded, without charge, from harassing automatic telephone dialing system calls, as currently provided by Chapter 159⁷;
- ❖ Eliminate the obligation of DTC to refer instances of neglect or violations of the law by the voice service provider to the state Attorney General⁸;
- ❖ Eliminate the ability of the DTC to bring an action against the telecommunications provider for violations of the law or DTC's orders, in the Supreme Judicial Court;⁹

Individual consumers with complaints will be forced to bear the expense and burden of bringing their individual complaints through the civil courts.¹⁰ This is an expensive and burdensome proposition for resolving a simple billing dispute. Currently, individuals are assisted by the DTC in resolving individual complaints.

Consumers today have the same goals they have always had in making a voice call. The value of the telephone network is in the ability of consumers to connect with employers; doctors and other health providers; public safety; and family and friends.

H.4216 disregards these rights. It would take away the long-standing consumer protections that have for decades ensured people the right to reasonable and adequate voice service.

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⁶ Compare H.4216, § 9 (Chapter 159 of Mass. Gen. Laws will not apply to any carrier or wireless or VoIP service provider) with Mass. Gen. Laws Ch. 159, § 16 (Section 16 of Chapter 159 holds carriers to standard of just, reasonable, safe and adequate service).

⁷ See Mass. Gen. Laws Ch. 159, § 19C; 220 CMR 37.00 et seq.

⁸ See Mass. Gen. Laws Ch. 159, § 39.

⁹ See Mass Gen. Laws Ch. 159, § 40.

¹⁰ See H.4216, § 10. While the ability of the Attorney General (AG) to apply and enforce Chapter 93A and other consumer protection laws of general applicability remain, the AG does not typically prosecute individual consumer cases. H.4216 fails to provide any reasonable and economic option for individual consumers to pursue their complaint against a telephone company or wireless service provider.