

Amendment No. 167

Senate Amendment to Senate Bill No. 387	(BDR 58-1015)
Proposed by: Senate Committee on Growth and Infrastructure	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION	Initial and Date		SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>
Receded <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

EGO



Date: 4/11/2021

S.B. No. 387—Provides for the regulation of certain suppliers that provide an inmate calling service. (BDR 58-1015)



SENATE BILL NO. 387—SENATOR D. HARRIS

MARCH 26, 2021

Referred to Committee on Growth and Infrastructure

SUMMARY—Provides for the regulation of certain suppliers that provide an inmate calling service. (BDR 58-1015)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to telecommunication service; providing for the regulation of certain suppliers that provide an inmate calling service by the Public Utilities Commission of Nevada; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Public Utilities Commission of Nevada to regulate certain utilities. (Chapter 704 of NRS) Under existing law, all telecommunication providers, with the exception of certain small-scale providers of last resort, are classified as competitive suppliers and subject to reduced regulation by the Commission. (NRS 704.68861-704.68887) Existing federal regulations adopted by the Federal Communications Commission establish rate caps and certain other limitations on charges that may be imposed by a provider of an inmate calling service for interstate or international calls. (47 C.F.R. §§ 64.6000 et seq.)

Section 3 of this bill defines “inmate calling service” to mean a calling service that allows a person confined in a correctional facility to make intrastate calls to persons outside the correctional facility in which the person is being confined. **Section 2** of this bill defines “correctional facility” to include a public or private correctional facility.

Section 5 of this bill requires the Commission to adopt by regulation procedures to: (1) establish rate caps and certain limitations on charges for an inmate calling service; and (2) approve a schedule or tariff that exceeds such a rate cap or fails to comply with a limitation prescribed by the Commission. **Section 5** also requires the Commission to review annually, and, if necessary, revise such a rate cap or limitation established or imposed by the Commission.

Section 4 of this bill requires a competitive supplier to file with the Commission, and obtain approval for, a schedule or tariff that specifies the rates, terms and conditions applicable to an inmate calling service before providing the service. **Section 4** requires the Commission to approve any schedule or tariff that specifies rates, terms and conditions that do not exceed a rate cap ~~for fail to~~ **prescribed by the Commission and that** comply with ~~the~~ **any** limitation prescribed by the Commission. **Section 4** authorizes the Commission to approve a schedule or tariff that exceeds a rate cap or fails to comply with a limitation prescribed by the Commission pursuant to the procedure adopted pursuant to **section 5**. **Section 4** also requires a competitive supplier to submit a revised schedule or tariff if the Commission revises a rate cap or limitation and the schedule or tariff on file with the Commission exceeds the revised rate cap or **fails to comply with the revised** limitation.

Section 12 of this bill authorizes a competitive supplier who provides an inmate calling service before October 1, 2021, to continue to provide such service if the competitive supplier

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31 files with the Commission the tariff or schedule required by **section 4** by a certain date.
 32 **Sections 10 and 11** of this bill make conforming changes to remove certain exemptions from
 33 regulation by the Commission for competitive suppliers that provide an inmate calling service.
 34 **Section 11** of this bill requires a competitive supplier that provides an inmate calling service
 35 to publish the rates, terms and conditions of the inmate calling service. **Sections 6-9** of this
 36 bill make conforming changes to indicate the proper placement of **sections 2-5** in the Nevada
 37 Revised Statutes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 704 of NRS is hereby amended by adding thereto the
 2 provisions set forth as sections 2 to 5, inclusive, of this act.

3 **Sec. 2.** *“Correctional facility” means a local detention facility, county, city*
 4 *or town jail, state prison, reformatory or other correctional facility, including,*
 5 *without limitation, a facility where a prisoner is housed by a private entity with*
 6 *which the Department of Corrections has contracted to perform core correctional*
 7 *services pursuant to NRS 208.175.*

8 **Sec. 3.** *“Inmate calling service” means a calling service that allows a*
 9 *person confined in a correctional facility to make intrastate calls to persons*
 10 *outside the correctional facility in which the person is being confined, regardless*
 11 *of the technology used to deliver the service.*

12 **Sec. 4. 1.** *Before providing an inmate calling service, a competitive*
 13 *supplier must file with the Commission, for its approval, a schedule or tariff that*
 14 *specifies the rates, terms, and conditions applicable to the inmate calling service*
 15 *to be provided.*

16 **2. The Commission:**

17 **(a)** *Shall approve any schedule or tariff that specifies rates, terms and*
 18 *conditions that ~~do not~~ :*

19 *(1) Do not exceed a rate cap ~~for fail to comply~~ prescribed by the*
 20 *Commission; and*

21 *(2) Comply with ~~no~~ any limitation prescribed by the Commission.*

22 **(b)** *May approve a schedule or tariff that specifies rates, terms and*
 23 *conditions that exceed a rate cap or fail to comply with a limitation prescribed by*
 24 *the Commission pursuant to the procedure for approval prescribed by regulations*
 25 *adopted by the Commission pursuant to section 5 of this act.*

26 **3.** *A competitive supplier that files with the Commission a schedule or tariff*
 27 *that exceeds a rate cap or fails to comply with a limitation prescribed by the*
 28 *Commission shall submit with the schedule or tariff:*

29 **(a)** *A statement that demonstrates that the rate cap or limitation is not a just*
 30 *or reasonable rate or limitation for the competitive supplier; and*

31 **(b)** *Proof that the competitive supplier participated in a public hearing*
 32 *conducted by the Commission for the purposes of establishing the rate cap or*
 33 *limitation.*

34 **4.** *A competitive supplier shall submit a revised schedule or tariff within 30*
 35 *days after the date on which the Commission revises a rate cap or limitation if the*
 36 *schedule or tariff on file with the Commission for the competitive supplier*
 37 *exceeds the revised rate cap or fails to comply with the revised limitation.*

38 **Sec. 5. 1.** *The Commission shall adopt regulations governing the*
 39 *provision of an inmate calling service, which must prescribe a procedure for:*

1 (a) *Establishing rate caps for inmate calling services in an amount that does*
2 *not exceed any rate caps prescribed by the Federal Communications Commission*
3 *for providers of interstate or international inmate calling services;*

4 (b) *Defining and limiting ancillary service charges that providers may*
5 *charge users of inmate calling services in a manner consistent with any*
6 *limitations on such charges prescribed by the Federal Communications*
7 *Commission for providers of interstate or international inmate calling services;*

8 (c) *Limiting the taxes or fees that providers may charge users of inmate*
9 *calling services in a manner consistent with any limitations on the collection of*
10 *any taxes or fees prescribed by the Federal Communications Commission for*
11 *providers of interstate or international inmate calling services; and*

12 (d) *Approving a schedule or tariff that exceeds a rate cap or fails to comply*
13 *with a limitation established by the Commission in accordance with this*
14 *subsection.*

15 2. *The Commission shall annually review and, if necessary, revise a rate*
16 *cap or limitation established by the Commission pursuant to the procedure*
17 *required by regulations adopted pursuant to subsection 1.*

18 3. *As used in this section, “ancillary service charge” means a charge*
19 *relating to the use of inmate calling services that is not included in the per-*
20 *minute charge assessed for a call.*

21 **Sec. 6.** NRS 704.005 is hereby amended to read as follows:

22 704.005 As used in this chapter, unless the context otherwise requires, the
23 words and terms defined in NRS 704.006 to 704.028, inclusive, *and sections 2 and*
24 *3 of this act* have the meanings ascribed to them in those sections.

25 **Sec. 7.** NRS 704.390 is hereby amended to read as follows:

26 704.390 1. Except as otherwise provided in NRS 704.68861 to 704.68887,
27 inclusive, *and sections 4 and 5 of this act*, it is unlawful for any public utility to
28 discontinue, modify or restrict service to any city, town, municipality, community
29 or territory theretofore serviced by it, except upon 30 days’ notice filed with the
30 Commission, specifying in detail the character and nature of the discontinuance or
31 restriction of the service intended, and upon order of the Commission, made after
32 hearing, permitting such discontinuance, modification or restriction of service.

33 2. Except as otherwise provided in subsection 3, the Commission, in its
34 discretion and after investigation, may dispense with the hearing on the application
35 for discontinuance, modification or restriction of service if, upon the expiration of
36 the time fixed in the notice thereof, no protest against the granting of the
37 application has been filed by or on behalf of any interested person.

38 3. The Commission shall not dispense with the hearing on the application of
39 an electric utility.

40 **Sec. 8.** NRS 704.68861 is hereby amended to read as follows:

41 704.68861 1. Except as otherwise provided in this section, any
42 telecommunication provider operating within this State is a competitive supplier
43 that is subject to the provisions of NRS 704.68861 to 704.68887, inclusive ~~§~~, *and*
44 *sections 4 and 5 of this act.*

45 2. A small-scale provider of last resort is not a competitive supplier that is
46 subject to the provisions of NRS 704.68861 to 704.68887, inclusive, *and sections 4*
47 *and 5 of this act*, unless the small-scale provider of last resort is authorized by the
48 Commission pursuant to NRS 704.68869 to be regulated as a competitive supplier.

49 **Sec. 9.** NRS 704.68863 is hereby amended to read as follows:

50 704.68863 The provisions of NRS 704.68861 to 704.68887, inclusive, *and*
51 *sections 4 and 5 of this act* do not:

1 1. Apply to the Commission in connection with any actions or decisions
2 required or permitted by the Telecommunications Act of 1996, Public Law 104-
3 104, 110 Stat. 56-161; or

4 2. Limit or modify:

5 (a) The duties of a competitive supplier that is an incumbent local exchange
6 carrier regarding the provision of network interconnection, unbundled network
7 elements and resold services under the provisions of the Telecommunications Act
8 of 1996, Public Law 104-104, 110 Stat. 56-161; or

9 (b) The authority of the Commission to act pursuant to NRS 704.6881 and
10 704.6882.

11 **Sec. 10.** NRS 704.68871 is hereby amended to read as follows:

12 704.68871 1. ~~§~~ *Except as otherwise provided by section 4 of this act, a*
13 competitive supplier is not subject to any review of earnings or monitoring of the
14 rate base or any other regulation by the Commission relating to the net income or
15 rate of return of the competitive supplier, and the Commission shall not consider
16 the rate of return, the rate base or any other earnings of the competitive supplier in
17 carrying out the provisions of NRS 704.68861 to 704.68887, inclusive ~~§~~, *and*
18 *sections 4 and 5 of this act.*

19 2. On or before May 15 of each year, a competitive supplier shall file with the
20 Commission an annual statement of income, a balance sheet, a statement of cash
21 flows for the total operations of the competitive supplier and a statement of
22 intrastate service revenues, each prepared in accordance with generally accepted
23 accounting principles.

24 3. ~~§~~ *Except as otherwise provided by section 4 of this act, a* competitive
25 supplier is not required to submit any other form of financial report or comply with
26 any other accounting requirements, including, without limitation, requirements
27 relating to depreciation and affiliate transactions, imposed upon a public utility by
28 this chapter, chapter 703 of NRS or the regulations of the Commission.

29 **Sec. 11.** NRS 704.68875 is hereby amended to read as follows:

30 704.68875 1. ~~§~~ *Except as otherwise provided by section 4 of this act, a*
31 competitive supplier is not required to maintain or file any schedule or tariff with
32 the Commission.

33 2. For any area in which a competitive supplier is a provider of last resort, the
34 competitive supplier:

35 (a) Shall publish the rates, pricing, terms and conditions of basic network
36 service by:

37 (1) Posting such rates, pricing, terms and conditions electronically on a
38 publicly available Internet website maintained by the competitive supplier;

39 (2) Maintaining for inspection by the public a copy of such rates, pricing,
40 terms and conditions at the principal office in Nevada of the competitive supplier;
41 or

42 (3) Delivering to the customer a copy of the rates, pricing, terms and
43 conditions in writing with the first invoice, billing statement or other written
44 summary of charges for the telecommunication service provided by the competitive
45 supplier to the customer; and

46 (b) May publish the rates, pricing, terms and conditions of other
47 telecommunication service by:

48 (1) Posting such rates, pricing, terms and conditions electronically on a
49 publicly available Internet website maintained by the competitive supplier;

50 (2) Maintaining for inspection by the public a copy of such rates, pricing,
51 terms and conditions at the principal office in Nevada of the competitive supplier;
52 or

1 (3) Delivering to the customer a copy of the rates, pricing, terms and
2 conditions in writing with the first invoice, billing statement or other written
3 summary of charges for the telecommunication service provided by the competitive
4 supplier to the customer.

5 **3. A competitive supplier that provides an inmate calling service shall**
6 **publish the rates, terms and conditions of the inmate calling service by:**

7 **(a) Posting such rates, pricing, terms and conditions electronically on a**
8 **publicly available Internet website maintained by the competitive supplier;**

9 **(b) Maintaining for inspection by the public a copy of such rates, pricing,**
10 **terms and conditions at the principal office in Nevada of the competitive supplier;**
11 **and**

12 **(c) Delivering to the customer a copy of the rates, pricing, terms and**
13 **conditions in writing with the first invoice, billing statement or other written**
14 **summary of charges for the telecommunication service provided by the**
15 **competitive supplier to the customer.**

16 **Sec. 12.** A competitive supplier who, before October 1, 2021, provides an
17 inmate calling service may, on or after October 1, 2021, continue to provide an
18 inmate calling service, if the competitive supplier files with the Commission the
19 tariff or schedule required by section 4 of this act not later than 30 days after the
20 effective date of the regulations adopted by the Commission pursuant to section 5
21 of this act.

22 **Sec. 13.** Notwithstanding the provisions of NRS 218D.430 and 218D.435, a
23 committee, other than the Assembly Standing Committee on Ways and Means and
24 the Senate Standing Committee on Finance, may vote on this act before the
25 expiration of the period prescribed for the return of a fiscal note in NRS 218D.475.
26 This section applies retroactively from and after March 22, 2021.

27 **Sec. 14.** 1. This section becomes effective upon passage and approval.

28 2. Sections 1 to 13, inclusive, of this act become effective:

29 (a) Upon passage and approval for the purpose of adopting any regulations and
30 performing any other preparatory administrative tasks that are necessary to carry
31 out the provisions of this act; and

32 (b) On October 1, 2021, for all other purposes.