

February 3, 2009

**S 47. UNAUTHORIZED WIRELESS PHONE USE/\$50 LIMIT.** Filed 2/3/09. *LIMITING LIABILITY FOR THE UNAUTHORIZED USE OF WIRELESS TELEPHONES TO FIFTY DOLLARS.*

Enacts new Article 6 of GS Chapter 75 as the title indicates.

Provides definitions for terms as used in the Article. Delineates the following conditions that must be met for a customer of a wireless telephone service provider to have liability for the unauthorized use of wireless telephone: (1) customer must have a contract for service; (2) the liability does not exceed \$50; (3) the wireless telephone service provider must provide the customer with adequate notice of the potential liability; (4) the service provider must have provided the customer with a means to notify the service provider of loss or theft of the wireless telephone; (5) the unauthorized use occurs before the service provider is notified that an unauthorized use has occurred or may occur; and (6) the service provider provided a method for identifying the customer as the person authorized to use the wireless phone.

States that in an action to enforce liability for the use of a wireless phone, the burden of proof is on the service provider to show that the use of the phone was authorized or, if the use was unauthorized that the conditions of liability for unauthorized use of a wireless phone have been met. Provides that a customer has no liability for the unauthorized use of a wireless telephone except as provided in the proposed new section. Provides that a violation of the proposed section is a violation of GS 75-1.1 (methods of competition, acts and practices regulated; legislative policy). Asserts that nothing in the proposed new section imposes any liability on the customer for unauthorized use of a wireless telephone in excess of the customer's liability under other applicable law or agreement with the service provider.

Effective when the act becomes law; applies only to contracts entered into or renewed after October 1, 2009.

**Intro. by Goss.**

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