

392.150. Employees to notify sender when message cannot be transmitted immediately — penalty. — In all cases where application is made to any telephone or telegraph company, or the operator, agent, clerk or servant thereof, to send a dispatch, it shall be the duty of such operator, agent, clerk or servant who may receive dispatches at that station, plainly to inform the applicant, and, if required by him, to write upon the dispatch that the line is not in working order, or that the dispatches already on hand for transmission will occupy the time so that the dispatch offered cannot be transmitted within the time required, or promptly, if the facts be so; and for omitting so to do, or for intentionally giving false information to the applicant in relation to the time within which the dispatch offered may be sent, such operator, agent, clerk or servant, and the company by which he is employed, shall incur a like penalty as in section 392.130.

(RSMo 1939 § 5332)

Prior revisions: 1929 § 4927; 1919 § 10138; 1909 § 3332

392.160. Penalty for transmitting false communications. — If any officer, manager, agent or operator of any telephone or telegraph line operating in this state, or any other person, shall knowingly transmit by such telephone or telegraph line any false communication or intelligence with intent to injure anyone, or to speculate in any article of merchandise, commerce or trade, or with intent that another may do so, or shall knowingly send or deliver any dispatch that is forged or not authorized by the person whose name purports to be signed thereto, shall, on conviction thereof in the court having criminal jurisdiction in the proper county, be liable to the same penalty as is provided in section 392.130.

(RSMo 1939 § 5333)

Prior revisions: 1929 § 4928; 1919 § 10139; 1909 § 3333

392.170. Liability for negligence in transmitting and delivering messages — not to disclose contents — penalty. — Every telephone or telegraph company now organized under the laws of this state, and every telephone or telegraph company now organized, or which may hereafter be organized under the laws of any other state or territory, and doing business in this state, shall be liable for special damages occasioned by the failure or negligence of their operators or servants in receiving, copying, transmitting or delivering dispatches; and for the disclosure of any of the

contents of any private dispatches to any person other than to him to whom it was addressed, or to his agent, they shall be liable to the sender of the dispatch, and to the person to whom it was addressed, in the sum of fifty dollars to each, recoverable by any action before a magistrate, and for all special damages in addition thereto.

(RSMo 1939 § 5334)

Prior revisions: 1929 § 4929; 1919 § 10140; 1909 § 3334

(1957) This section does not dispense with the element of proximate cause, but telephone company is liable for neglect or refusal to transmit notice of fire to fire department within reasonable time after it has notice thereof, and under pleadings question of proximate cause was jury question. *Jennings v. Southwestern Bell Tel. Co. (Mo.)*, 307 S.W.2d 464.

392.175. Operator services, live operator to be provided, when. — 1. As used in this section, the meanings of words and phrases shall have the same meaning as given to such words and phrases in section 386.020, RSMo.

2. A telecommunications company that provides operator services within this state shall enable a caller to access a live operator at the beginning of a call by a means that is easily and readily understood.

3. The requirements of this section shall not apply to telephones located in any correctional or detention facility.

(L. 1997 S.B. 333 § 1)

REGULATION UNDER STATE PUBLIC SERVICE COMMISSION LAW

392.180. What definitions to apply. — The provisions of section 386.020, RSMo, defining words, phrases and terms, shall apply to and determine the meaning of all such words, phrases and terms as used in sections 392.190 to 392.530.

(1949 H.B. 2104, A.L. 1996 S.B. 507)

392.185. Purpose of chapter. — The provisions of this chapter shall be construed to:

- (1) Promote universally available and widely affordable telecommunications services;
- (2) Maintain and advance the efficiency and availability of telecommunications services;
- (3) Promote diversity in the supply of telecommunications services and products throughout the state of Missouri;
- (4) Ensure that customers pay only reasonable charges for telecommunications service;
- (5) Permit flexible regulation of competitive telecommunications companies and competitive telecommunications services;

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(6) Allow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest;

(7) Promote parity of urban and rural telecommunications services;

(8) Promote economic, educational, health care and cultural enhancements; and

(9) Protect consumer privacy.

(L. 1996 S.B. 507)

392.190. Application of sections 392.190 to 392.530. — The provisions of sections 392.190 to 392.530 shall apply to telecommunications service between one point and another within the state of Missouri and to every telecommunications company.

(RSMo 1939 § 5663, A.L. 1987 H.B. 360)

Prior revisions: 1929 § 5207; 1919 § 10495

392.200. Adequate service — just and reasonable charges — unjust discrimination — unreasonable preference — reduced rates permitted for federal lifeline connection plan — delivery of telephone and telegraph messages — customer — specific pricing. — 1. Every telecommunications company shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable. All charges made and demanded by any telecommunications company for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for any such service or in connection therewith or in excess of that allowed by law or by order or decision of the commission is prohibited and declared to be unlawful.

2. No telecommunications company shall directly or indirectly or by any special rate, rebate, drawback or other device or method charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered or to be rendered with respect to telecommunications or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect to telecommunications under the same or substantially the same circumstances and conditions. Promotional programs for telecommunica-

tions services may be offered by telecommunications companies for periods of time so long as the offer is otherwise consistent with the provisions of this chapter and approved by the commission. Neither this subsection nor subsection 3 of this section shall be construed to prohibit an economy rate telephone service offering. This section and section 392.220 to the contrary notwithstanding, the commission is authorized to approve tariffs filed by local exchange telecommunications companies which elect to provide reduced charges for residential telecommunications connection services pursuant to the lifeline connection assistance plan as promulgated by the federal communications commission. Eligible subscribers for such connection services shall be those as defined by participating local exchange telecommunications company tariffs.

3. No telecommunications company shall make or give any undue or unreasonable preference or advantage to any person, corporation or locality, or subject any particular person, corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever except that telecommunications messages may be classified into such classes as are just and reasonable, and different rates may be charged for the different classes of messages.

4. (1) No telecommunications company may define a telecommunications service as a different telecommunications service based on the geographic area or other market segmentation within which such telecommunications service is offered or provided, unless the telecommunications company makes application and files a tariff or tariffs which propose relief from this subsection. Any such tariff shall be subject to the provisions of sections 392.220 and 392.230 and in any hearing thereon the burden shall be on the telecommunications company to show, by clear and convincing evidence, that the definition of such service based on the geographic area or other market within which such service is offered is reasonably necessary to promote the public interest and the purposes and policies of this chapter.

(2) It is the intent of this act* to bring the benefits of competition to all customers and to ensure that incumbent and alternative local exchange telecommunications companies have the opportunity to price and market telecommunications services to all prospective customers in any geographic area in which they compete. To pro-