

1 HOUSE BILL 383

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TELECOMMUNICATIONS; AMENDING SECTIONS OF THE
12 ENHANCED 911 ACT TO PROVIDE FOR TECHNOLOGY NEUTRALITY;
13 CLARIFYING THAT THERE IS NO IMMUNITY FOR INTENTIONAL ACTS.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 63-9D-3 NMSA 1978 (being Laws 1989,
17 Chapter 25, Section 3, as amended) is amended to read:

18 "63-9D-3. DEFINITIONS.--As used in the Enhanced 911 Act:

19 A. "911 emergency surcharge" means the monthly
20 uniform charge assessed on each access line in the state and on
21 each active number for a commercial mobile radio service
22 subscriber whose billing address is in New Mexico;

23 B. "911 service area" means the area designated by
24 the fiscal agent, local governing body or the division to
25 receive enhanced 911 service;

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1 C. "access line" means a telecommunications
2 company's line that has the capability to reach local public
3 safety agencies by dialing 911, but does not include a line
4 used for the provision of interexchange services or commercial
5 mobile radio service;

6 D. "commercial mobile radio service" means service
7 provided by a wireless real-time two-way voice communication
8 device, including:

9 (1) radio-telephone communications used in
10 cellular telephone service;

11 (2) the functional or competitive equivalent
12 of radio-telephone communications used in cellular telephone
13 service;

14 (3) a personal communications service; or

15 (4) a network radio access line;

16 E. "commercial mobile radio service provider" means
17 a person who provides commercial mobile radio services,
18 including a person who purchases commercial mobile radio
19 service from a provider and resells that service;

20 F. "commission" means the public regulation
21 commission;

22 G. "database" means information that is collected,
23 formatted and disseminated and that is necessary for the
24 functioning of the enhanced 911 system, including geographic
25 information system (GIS) addressing and digital mapping

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1 information;

2 H. "department" means the taxation and revenue
3 department;

4 I. "division" means the local government division
5 of the department of finance and administration;

6 J. "enhanced 911 system" means, regardless of the
7 technology used, a landline or wireless system consisting of
8 network switching equipment, database, mapping and on-premises
9 equipment, or the functional equivalents thereof, that uses the
10 single three-digit number 911 for reporting police, fire,
11 medical or other emergency situations, thereby enabling a
12 caller to reach a public safety answering point to report
13 emergencies by dialing 911, and includes the capability to:

14 (1) selectively route incoming 911 [~~calls~~]
15 communications to the appropriate public safety answering point
16 operating in a 911 service area;

17 (2) automatically display the name, address
18 and telephone number of an incoming 911 [~~call~~] communication on
19 a video monitor at the appropriate public safety answering
20 point;

21 (3) provide one or more access paths for
22 communications between users at different geographic locations
23 through a network system that may be designed for voice, text
24 or data, or [~~both~~] any combination of these, and may feature
25 limited or open access and may employ appropriate analog,

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1 digital switching or transmission technologies; ~~and~~

2 (4) relay to a designated public safety
3 answering point a 911 caller's number and base station or cell
4 site location and the latitude and longitude of the 911
5 caller's location in relation to the designated public safety
6 answering point; and

7 (5) manage or administer the functions listed
8 in Paragraphs (1) through (4) of this subsection;

9 K. "enhanced 911 equipment" means, regardless of
10 the technology used, the public safety answering point
11 equipment directly related to the operation of an enhanced 911
12 system, including automatic number identification or automatic
13 location identification controllers and display units,
14 printers, logging recorders and software associated with call
15 detail recording, call center work stations, training, latitude
16 and longitude base station or cell site location data and GIS
17 equipment necessary to obtain and process locational map and
18 emergency service zone data for landline and wireless callers;

19 L. "equipment supplier" means a person who provides
20 or offers to provide telecommunications equipment necessary for
21 the establishment of enhanced 911 services, systems or
22 equipment;

23 M. "fiscal agent" means the local governing body
24 that administers grants from the fund for a given locality or
25 region by agreement;

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- 1 N. "fund" means the enhanced 911 fund;
- 2 O. "local governing body" means the board of county
3 commissioners of a county or the governing body of a
4 municipality as defined in the Municipal Code;
- 5 P. "proprietary information" means customer lists,
6 customer counts, technology descriptions or trade secrets,
7 including the actual or development costs of individual
8 components of an enhanced 911 system; provided that such
9 information is designated as proprietary by the commercial
10 mobile radio service provider or telecommunications company;
11 and provided further that "proprietary information" does not
12 include individual payments made by the division or any list of
13 names and identifying information of subscribers who have not
14 paid the surcharge;
- 15 Q. "public safety answering point" means a twenty-
16 four-hour local communications facility that receives 911
17 service [~~calls~~] communications and directly dispatches
18 emergency response services or that relays [~~calls~~]
19 communications to the appropriate public or private safety
20 agency;
- 21 R. "subscriber" means a person who is a retail
22 purchaser of telecommunications services that are capable of
23 originating a 911 [~~call~~] communication;
- 24 S. "surcharge" means the 911 emergency surcharge;
- 25 T. "telecommunications company" means a person who

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1 provides wire telecommunications services that are capable of
2 originating a 911 ~~[call]~~ communication; and

3 U. "vendor" means a person that provides enhanced
4 911 equipment, service or ~~[network]~~ system support."

5 SECTION 2. Section 63-9D-10 NMSA 1978 (being Laws 1989,
6 Chapter 25, Section 10, as amended) is amended to read:

7 "63-9D-10. IMMUNITY.--Enhanced 911 systems are within the
8 governmental powers and authorities of the local governing body
9 or state agency in the provision of services for the public
10 health, welfare and safety. In contracting for such services
11 or the provisioning of an enhanced 911 system, except for
12 ~~[willful or wanton negligence or]~~ intentional acts, the local
13 governing body, public agency, equipment supplier,
14 telecommunications company, commercial mobile radio service
15 provider and their employees and agents are not liable for
16 damages resulting from installing, maintaining or providing
17 enhanced 911 systems or transmitting 911 calls."