

2016 -- S 2794

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- 911 EMERGENCY TELEPHONE
NUMBER ACT -- PREPAID WIRELESS E911 CHARGE ACT

Introduced By: Senators Algiere, and Pagliarini

Date Introduced: March 23, 2016

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-21.1-14 of the General Laws in Chapter 39-21.1 entitled "911
2 Emergency Telephone Number Act" is hereby amended to read as follows:
3 **39-21.1-14. Funding. --** (a) A monthly surcharge of one dollar (\$1.00) is hereby levied
4 upon each residence and business telephone line or trunk or path and data, telephony, Internet,
5 Voice Over Internet Protocol (VoIP) wireline, line, trunk or path in the state including PBX
6 trunks and centrex equivalent trunks and each line or trunk serving, and upon each user interface
7 number or extension number or similarly identifiable line, trunk, or path to or from a digital
8 network (such as, but not exclusive of, integrated services digital network (ISDN), Flexpath or
9 comparable digital private branch exchange, or connecting to or from a customer-based or
10 dedicated telephone switch site (such as, but not exclusive of, a private branch exchange (PBX)),
11 or connecting to or from a customer-based or dedicated central office (such as, but not exclusive
12 of, a centrex system but exclusive of trunks and lines provided to wireless communication
13 companies) that can access to, connect with or interface with the Rhode Island E-911 Uniform
14 Emergency Telephone System (RI E-911). The surcharge shall be billed by each
15 telecommunication services provider at the inception of services and shall be payable to the
16 telecommunication services provider by the subscriber of the services. A monthly surcharge of
17 one dollar (\$1.00) is hereby levied effective July 1, 2002, on each wireless instrument, device or
18 means including prepaid, cellular, telephony, Internet, Voice Over Internet Protocol (VoIP),

1 satellite, computer, radio, communication, data or data only wireless lines or any other wireless
2 instrument, device or means which has access to, connects with, or activates or interfaces or any
3 combination thereof with the E 9-1-1 Uniform Emergency Telephone System. The surcharge
4 shall be in addition to the surcharge collected under § 39-1-62 and shall be billed by each
5 telecommunication services provider and shall be payable to the telecommunication services
6 provider by the subscriber. Prepaid wireless telecommunications services shall not be included in
7 this act, but shall be governed by chapter 21.2 of title 39. The E-911 Uniform Emergency
8 Telephone System shall establish, by rule or regulation an appropriate funding mechanism to
9 recover from the general body of ratepayers this surcharge. If the public utilities commission shall
10 determine that the funds collected pursuant to this chapter and chapter 21.2 of title 39 exceed
11 what is needed to operate the E 9-1-1 uniform emergency telephone system, it may authorize a
12 reduction in the surcharge authorized by this section.

13 (b) The amount of the surcharge shall not be subject to the tax imposed under chapter 18
14 of title 44 nor be included within the telephone common carrier's gross earnings for the purpose
15 of computing the tax under chapter 13 of title 44.

16 (c) Each telephone common carrier and each telecommunication services provider shall
17 establish a special account to which it shall deposit on a monthly basis the amounts collected as a
18 surcharge under this section.

19 (d) The money collected by each telecommunication services provider shall be
20 transferred within sixty (60) days after its inception of wireline, wireless, prepaid, cellular,
21 telephony, Voice Over Internet Protocol (VoIP), satellite, computer, Internet, or communications
22 services in this state and every month thereafter, to the division of taxation, together with the
23 accrued interest and shall be deposited in ~~the general fund as general revenue:~~ a restricted receipt
24 account and used solely for the operation of the E 9-1-1 uniform emergency telephone system;
25 provided, however, that beginning July 1, 2015, ten (10) percent of such money collected shall be
26 deposited in the Information Technology Investment Fund established pursuant to § 42-11-2.5.
27 Any money not transferred in accordance with this paragraph shall be assessed interest at the rate
28 set forth in § 44-1-7 from the date the money should have been transferred.

29 (e) Every billed subscriber-user shall be liable for any surcharge imposed under this
30 section until it has been paid to the telephone common carrier or telecommunication services
31 provider. Any surcharge shall be added to and may be stated separately in the billing by the
32 telephone common carrier or telecommunication services provider and shall be collected by the
33 telephone common carrier or telecommunication services provider.

34 (f) Each telephone common carrier and telecommunication services provider shall

1 annually provide the E 9-1-1 uniform emergency telephone system division or any other agency
2 that may replace it, with a list of amounts uncollected together with the names and addresses of
3 its subscriber-users who can be determined by the telephone common carrier or
4 telecommunication services provider to have not paid the surcharge.

5 (g) Included within, but not limited to, the purposes for which the money collected may
6 be used are rent, lease, purchase, improve, construct, maintenance, repair, and utilities for the
7 equipment and site or sites occupied by the E 9-1-1 uniform emergency telephone system;
8 salaries, benefits, and other associated personnel costs; acquisition, upgrade or modification of
9 PSAP equipment to be capable of receiving E 9-1-1 information, including necessary computer
10 hardware, software, and data base provisioning, addressing, and non-recurring costs of
11 establishing emergency services; network development, operation and maintenance; data-base
12 development, operation, and maintenance; on-premise equipment maintenance and operation;
13 training emergency service personnel regarding use of E 9-1-1; educating consumers regarding
14 the operations, limitations, role and responsible use of E 9-1-1; reimbursement to telephone
15 common carriers or telecommunication services providers of rates or recurring costs associated
16 with any services, operation, administration or maintenance of E 9-1-1 services as approved by
17 the division; reimbursement to telecommunication services providers or telephone common
18 carriers of other costs associated with providing E 9-1-1 services, including the cost of the design,
19 development, and implementation of equipment or software necessary to provide E 9-1-1 service
20 information to PSAP's, as approved by the division.

21 (h) [Deleted by P.L. 2000, ch. 55, art. 28, § 1.]

22 (i) Nothing in this section shall be construed to constitute rate regulation of wireless
23 communication services carriers, nor shall this section be construed to prohibit wireless
24 communication services carriers from charging subscribers for any wireless service or feature.

25 (j) [Deleted by P.L. 2006, ch. 246, art. 4, § 1].

26 SECTION 2. Sections 39-21.2-4 and 39-21.2-5 of the General Laws in Chapter 39-21.2
27 entitled "Prepaid Wireless E911 Charge Act" are hereby amended to read as follows:

28 **39-21.2-4. Collection and remittance of E911 charge.** -- (a) Amount of charge. The
29 prepaid wireless E911 charge is hereby levied at the rate of two and one-half percent (2.5%) per
30 retail transaction or, on and after the effective date of an adjusted amount per retail transaction
31 that is established under subsection (f) of this section, such adjusted amount. [If the public utilities](#)
32 [commission shall determine that the funds collected pursuant to this chapter and chapter 21.1 of](#)
33 [title 39 exceed what is needed to operate the E 9-1-1 uniform emergency telephone system, it](#)
34 [may authorize a reduction in the surcharge authorized by this section.](#)

1 (b) Collection of charge. - The prepaid wireless E911 charge shall be collected by the
2 seller from the consumer with respect to each retail transaction occurring in this state. The
3 amount of the prepaid wireless E911 charge shall be either separately stated on an invoice,
4 receipt, or other similar document that is provided to the consumer by the seller, or otherwise
5 disclosed to the consumer.

6 (c) Application of charge. - For purposes of subsection (b) of this section, a retail
7 transaction that is effected in person by a consumer at a business location of the seller shall be
8 treated as occurring in this state if that business location is in this state, and any other retail
9 transaction shall be treated as occurring in this state if the retail transaction is treated as occurring
10 in this state for purposes of chapter 18 of title 44 of the general laws.

11 (d) Liability for charge. - The prepaid wireless E911 charge is the liability of the
12 consumer and not of the seller or of any provider, except that the seller shall be liable to remit all
13 prepaid wireless E911 charges that the seller collects from consumers as provided in § 39-21.2-5,
14 including all such charges that the seller is deemed to collect where the amount of the charge has
15 not been separately stated on an invoice, receipt, or other similar document provided to the
16 consumer by the seller.

17 (e) Exclusion of E911 charge from base of other taxes and fees. - The amount of the
18 prepaid wireless E911 charge that is collected by a seller from a consumer, if such amount is
19 separately stated on an invoice, receipt, or other similar document provided to the consumer by
20 the seller, shall not be included in the base for measuring any tax, fee, surcharge, or other charge
21 that is imposed by this state, any political subdivision of this state, or any intergovernmental
22 agency, including, but not limited to, the tax imposed under chapter 18 of title 44 nor be included
23 within the telephone common carrier's gross earnings for the purpose of computing the tax under
24 chapter 13 of title 44.

25 (f) Re-setting of charge. - The prepaid wireless E911 charge shall be proportionately
26 increased or reduced, as applicable, upon any change to the state E911 charge on postpaid
27 wireless telecommunications service under § 39-21.1-14 or subdivision 39-1-62(d)(2). The
28 adjusted amount shall be determined by dividing the sum of the surcharges imposed under § 39-
29 21.1-14 and subdivision 39-1-62(d)(2) by fifty dollars (\$50.00). Such increase or reduction shall
30 be effective on the effective date of the change to the postpaid charge or, if later, the first day of
31 the first calendar month to occur at least sixty (60) days after the enactment of the change to the
32 postpaid charge. The division shall provide not less than thirty (30) days of advance notice of
33 such increase or reduction on the division's website.

34 (g) Bundled transactions. - When prepaid wireless telecommunications service is sold

1 with one or more other products or services for a single, non-itemized price, then the percentage
2 specified in subsection (a) of this section shall apply to the entire non-itemized prices unless the
3 seller elects to apply such percentage (1) If the amount of prepaid wireless telecommunications
4 service is disclosed to the consumer as a dollar amount, such dollar amount, or (2) If the retailer
5 can identify the portion of the price that is attributable to the prepaid wireless telecommunications
6 service, by reasonable and verifiable standards from its books and records that are kept in the
7 regular course of business for other purposes, including, but not limited to, non-tax purposes,
8 such portion.

9 However, if a minimal amount of prepaid wireless telecommunications service is sold
10 with a prepaid wireless device for a single, non-itemized price, then the seller may elect not to
11 apply the percentage specified in subsection (a) of this section to such transaction. For purposes
12 of this paragraph, an amount of service denominated as ten (10) minutes or less, or five dollars
13 (\$5.00) or less, is minimal.

14 **39-21.2-5. Administration of E911 charge.** -- (a) Time and manner of payment. -
15 Prepaid wireless E911 charges collected by sellers shall be remitted to the division at the times
16 and in the manner provided by the streamlined sales and use tax as described in § 44-18.1-34. The
17 division shall establish registration and payment procedures that substantially coincide with the
18 registration and payment procedures that apply to the streamlined sales and use tax.

19 (b) Seller administrative deduction. - A seller shall be permitted to deduct and retain one
20 percent (1%) of prepaid wireless E911 charges that are collected by the seller from consumers.

21 (c) Audit and appeal procedures. - The audit and appeal procedures applicable to sales
22 and use tax under § 44-19-18 of the general laws shall apply to prepaid wireless E911 charges.

23 (d) Exemption documentation. - The division shall establish procedures by which a seller
24 of prepaid wireless telecommunications service may document that a sale is not a retail
25 transaction, which procedures shall substantially coincide with the procedures form documenting
26 sale for resale transactions for sales tax purposes under § 44-19-18 of the general laws.

27 (e) All fees collected pursuant to this section shall be deposited ~~as general revenues~~ [in a](#)
28 [restricted receipt account and used solely for the operation of the E 9-1-1 uniform emergency](#)
29 [telephone system.](#)

30 SECTION 3. Chapter 39-21 of the General Laws entitled "E-911 Uniform Emergency
31 Telephone System Division" is hereby amended by adding thereto the following section:

32 **39-21-17. 911 Restricted receipt account.** -- [There is created within the general fund a](#)
33 [restricted receipt account to be known as the "911 account". All funds in the account shall be](#)
34 [utilized by the division of taxation to effectuate the provisions of chapters 21, 21.1 and 21.2 of](#)

1 [this title. All funds received pursuant to §§39-21.1-14, 39-21.2-4 and 39-21.2-5 shall be deposited](#)
2 [in the "911 account". The general treasurer is authorized and directed to draw their orders on the](#)
3 [account upon receipt of properly authenticated vouchers from the division of taxation.](#)

4 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- 911 EMERGENCY TELEPHONE
NUMBER ACT -- PREPAID WIRELESS E911 CHARGE ACT

1 This act would create a restricted receipt account for all 911 funds collected by telephone
2 service providers on land lines and cell phones, both contract and prepaid, and would require all
3 911 funds to be used solely for the operation of the 911 system. This act would also authorize the
4 PUC to reduce 911 surcharges to the extent they exceed the sums needed to operate the 911
5 system.

6 This act would take effect upon passage.

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