



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0463

Introduced 1/29/2007, by Rep. James D. Brosnahan

#### SYNOPSIS AS INTRODUCED:

50 ILCS 751/5  
50 ILCS 751/10  
50 ILCS 751/17  
50 ILCS 751/35  
50 ILCS 751/70

Amends the Wireless Emergency Telephone Safety Act. Provides for and enforces the collection of surcharge fees of wireless telephone service subscribers for the establishment and implementation of a cohesive statewide emergency telephone number for wireless telephone users. Establishes a penalty for wireless carriers who fail to provide zip code information of customers. Requires wireless carriers to remit the surcharge for all subscribers if a method of surcharge collection from subscribers is not implemented. Provides that the Illinois Commerce Commission may impose penalties on wireless carriers who do not remit the surcharge before midnight on the last day of the third calendar month after the closing date of the remit period. Provides that the Illinois Commerce Commission may collect delinquent amounts from wireless carriers by legal action or other methods permitted under State law. Provides that the Executive Director, or his or her designee, may excuse penalties determined to be unjust. Provides a manner by which wireless carriers may recover costs from the Wireless Carrier Reimbursement Fund. Requires the Illinois Commerce Commission to annually review the balance in the Wireless Carrier Reimbursement Fund. Requires the Comptroller to transfer certain excess amounts into the Wireless Services Emergency Fund. Provides a manner by which funds transferred into the Wireless Services Emergency Fund are to be distributed. Effective immediately.

LRB095 03749 MJR 23778 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Wireless Emergency Telephone Safety Act is  
5 amended by changing Sections 5, 10, 17, 35, and 70 as follows:

6 (50 ILCS 751/5)

7 (Section scheduled to be repealed on April 1, 2008)

8 Sec. 5. Purpose. The General Assembly finds and declares it  
9 is in the public interest to promote the use of wireless 9-1-1  
10 and wireless enhanced 9-1-1 (E9-1-1) service in order to save  
11 lives and protect the property of the citizens of the State of  
12 Illinois.

13 Wireless carriers are required by the Federal  
14 Communications Commission (FCC) to provide E9-1-1 service in  
15 the form of automatic location identification and automatic  
16 number identification pursuant to policies set forth by the  
17 FCC.

18 Public safety agencies and wireless carriers are  
19 encouraged to work together to provide emergency access to  
20 wireless 9-1-1 and wireless E9-1-1 service. Public safety  
21 agencies and wireless carriers operating wireless 9-1-1 and  
22 wireless E9-1-1 systems require adequate funding to recover the  
23 costs of designing, purchasing, installing, testing, and

1 operating enhanced facilities, systems, and services necessary  
2 to comply with the wireless E9-1-1 requirements mandated by the  
3 Federal Communications Commission and to maximize the  
4 availability of wireless E9-1-1 services throughout the State  
5 of Illinois.

6 The revenues generated by the wireless carrier surcharge  
7 enacted by this Act are required to fund the efforts of the  
8 wireless carriers, emergency telephone system boards,  
9 qualified governmental entities, and the Department of State  
10 Police to improve the public health, safety, and welfare and to  
11 serve a public purpose by providing emergency telephone  
12 assistance through wireless communications.

13 It is the intent of the General Assembly to:

14 (1) establish and implement a cohesive statewide  
15 emergency telephone number that will provide wireless  
16 telephone users with rapid direct access to public safety  
17 agencies by dialing the telephone number 9-1-1;

18 (2) encourage wireless carriers and public safety  
19 agencies to provide E9-1-1 services that will assist public  
20 safety agencies in determining the caller's approximate  
21 location and wireless telephone number;

22 (3) grant authority to public safety agencies not  
23 already in possession of the authority to finance the cost  
24 of installing and operating wireless 9-1-1 systems and  
25 reimbursing wireless carriers for costs incurred to  
26 provide wireless E9-1-1 services; and

1           (4) provide for a reasonable fee on wireless telephone  
2           service subscribers to accomplish these purposes and  
3           provide for the enforcement and collection of such fees.

4           (Source: P.A. 91-660, eff. 12-22-99.)

5           (50 ILCS 751/10)

6           (Section scheduled to be repealed on April 1, 2008)

7           Sec. 10. Definitions. In this Act:

8           "Active prepaid wireless telephone" means a prepaid  
9           wireless telephone that has been used or activated by the  
10          customer during the month to complete a telephone call for  
11          which the customer's card or account was decremented.

12          "Emergency telephone system board" means a board appointed  
13          by the corporate authorities of any county or municipality that  
14          provides for the management and operation of a 9-1-1 system  
15          within the scope of the duties and powers prescribed by the  
16          Emergency Telephone System Act.

17          "Master street address guide" means the computerized  
18          geographical database that consists of all street and address  
19          data within a 9-1-1 system.

20          "Mobile telephone number" or "MTN" shall mean the telephone  
21          number assigned to a wireless telephone at the time of initial  
22          activation.

23          "Prepaid wireless telephone service" means wireless  
24          telephone service which is activated by payment in advance of a  
25          finite dollar amount or for a finite set of minutes and which,

1 unless an additional finite dollar amount or finite set of  
2 minutes is paid in advance, terminates either (i) upon use by a  
3 customer and delivery by the wireless carrier of an agreed-upon  
4 amount of service corresponding to the total dollar amount paid  
5 in advance, or within a certain period of time following  
6 initial purchase or activation.

7 "Public safety agency" means a functional division of a  
8 public agency that provides fire fighting, police, medical, or  
9 other emergency services. For the purpose of providing wireless  
10 service to users of 9-1-1 emergency services, as expressly  
11 provided for in this Act, the Department of State Police may be  
12 considered a public safety agency.

13 "Qualified governmental entity" means a unit of local  
14 government authorized to provide 9-1-1 services pursuant to the  
15 Emergency Telephone System Act where no emergency telephone  
16 system board exists.

17 "Remit period" means the billing period, one month in  
18 duration, for which a wireless carrier remits a surcharge and  
19 provides subscriber information by zip code to the Illinois  
20 Commerce Commission, in accordance with Section 17 of this Act.

21 "Statewide wireless emergency 9-1-1 system" means all  
22 areas of the State where an emergency telephone system board  
23 or, in the absence of an emergency telephone system board, a  
24 qualified governmental entity has not declared its intention  
25 for one or more of its public safety answering points to serve  
26 as a primary wireless 9-1-1 public safety answering point for

1 its jurisdiction. The operator of the statewide wireless  
2 emergency 9-1-1 system shall be the Department of State Police.

3 "Sufficient positive balance" means a dollar amount  
4 greater than or equal to the monthly wireless 9-1-1 surcharge  
5 amount.

6 "Wireless carrier" means a provider of two-way cellular,  
7 broadband PCS, geographic area 800 MHZ and 900 MHZ Commercial  
8 Mobile Radio Service (CMRS), Wireless Communications Service  
9 (WCS), or other Commercial Mobile Radio Service (CMRS), as  
10 defined by the Federal Communications Commission, offering  
11 radio communications that may provide fixed, mobile, radio  
12 location, or satellite communication services to individuals  
13 or businesses within its assigned spectrum block and  
14 geographical area or that offers real-time, two-way voice  
15 service that is interconnected with the public switched  
16 network, including a reseller of such service.

17 "Wireless enhanced 9-1-1" means the ability to relay the  
18 telephone number of the originator of a 9-1-1 call and location  
19 information from any mobile handset or text telephone device  
20 accessing the wireless system to the designated wireless public  
21 safety answering point as set forth in the order of the Federal  
22 Communications Commission, FCC Docket No. 94-102, adopted June  
23 12, 1996, with an effective date of October 1, 1996, and any  
24 subsequent amendment thereto.

25 "Wireless public safety answering point" means the  
26 functional division of an emergency telephone system board,

1 qualified governmental entity, or the Department of State  
2 Police accepting wireless 9-1-1 calls.

3 "Wireless subscriber" means an individual or entity to whom  
4 a wireless service account or number has been assigned by a  
5 wireless carrier.

6 "Wireless telephone service" includes prepaid wireless  
7 telephone service and means all "commercial mobile service", as  
8 that term is defined in 47 CFR 20.3, including all personal  
9 communications services, wireless radio telephone services,  
10 geographic area specialized and enhanced specialized mobile  
11 radio services, and incumbent wide area specialized mobile  
12 radio licensees that offer real time, two-way service that is  
13 interconnected with the public switched telephone network.

14 (Source: P.A. 93-507, eff. 1-1-04.)

15 (50 ILCS 751/17)

16 (Section scheduled to be repealed on April 1, 2008)

17 Sec. 17. Wireless carrier surcharge.

18 (a) Except as provided in Section 45, each wireless carrier  
19 shall impose a monthly wireless carrier surcharge per CMRS  
20 connection that either has a telephone number within an area  
21 code assigned to Illinois by the North American Numbering Plan  
22 Administrator or has a billing address in this State. In the  
23 case of prepaid wireless telephone service, this surcharge  
24 shall be remitted based upon the address associated with the  
25 point of purchase, the customer billing address, or the

1 location associated with the MTN for each active prepaid  
2 wireless telephone that has a sufficient positive balance as of  
3 the last day of each month, if that information is available.  
4 No wireless carrier shall impose the surcharge authorized by  
5 this Section upon any subscriber who is subject to the  
6 surcharge imposed by a unit of local government pursuant to  
7 Section 45. The wireless carrier that provides wireless service  
8 to the subscriber shall collect the surcharge set by the  
9 Wireless Enhanced 9-1-1 Board from the subscriber. For mobile  
10 telecommunications services provided on and after August 1,  
11 2002, any surcharge imposed under this Act shall be imposed  
12 based upon the municipality or county that encompasses the  
13 customer's place of primary use as defined in the Mobile  
14 Telecommunications Sourcing Conformity Act. The surcharge  
15 shall be stated as a separate item on the subscriber's monthly  
16 bill. The wireless carrier shall begin collecting the surcharge  
17 on bills issued within 90 days after the Wireless Enhanced  
18 9-1-1 Board sets the monthly wireless surcharge. State and  
19 local taxes shall not apply to the wireless carrier surcharge.

20 (b) Except as provided in Section 45, a wireless carrier  
21 shall, within 45 days of collection, remit, either by check or  
22 by electronic funds transfer, to the State Treasurer the amount  
23 of the wireless carrier surcharge collected from each  
24 subscriber. Of the amounts remitted under this subsection, the  
25 State Treasurer shall deposit one-third into the Wireless  
26 Carrier Reimbursement Fund and two-thirds into the Wireless



1 Service Emergency Fund.

2 (c) The first such remittance by wireless carriers shall  
3 include the number of customers by zip code, and the 9-digit  
4 zip code if currently being used or later implemented by the  
5 carrier, that shall be the means by which the Illinois Commerce  
6 Commission shall determine distributions from the Wireless  
7 Service Emergency Fund. This information shall be updated no  
8 less often than every year. Wireless carriers are not required  
9 to remit surcharge moneys that are billed to subscribers but  
10 not yet collected. Any carrier that fails to provide the zip  
11 code information required under this subsection (c) shall be  
12 subject to the penalty set forth in subsection (f) of this  
13 Section.

14 (d) Within 90 days after the effective date of this  
15 amendatory Act of the 94th General Assembly, each wireless  
16 carrier must implement a mechanism for the collection of the  
17 surcharge imposed under subsection (a) of this Section from its  
18 subscribers. If a wireless carrier does not implement a  
19 mechanism for the collection of the surcharge from its  
20 subscribers in accordance with this subsection (d), then the  
21 carrier is required to remit the surcharge for all subscribers  
22 until the carrier is deemed to be in compliance with this  
23 subsection (d) by the Illinois Commerce Commission.

24 (e) If before midnight on the last day of the third  
25 calendar month after the closing date of the remit period a  
26 wireless carrier does not remit the surcharge or any portion

1 thereof required under this Section, then the surcharge or  
2 portion thereof shall be deemed delinquent until paid in full,  
3 and the Illinois Commerce Commission may impose a penalty  
4 against the carrier in an amount equal to the greater of:

5 (1) \$25 for each month or portion of a month from the  
6 time an amount becomes delinquent until the amount is paid  
7 in full; or

8 (2) an amount equal to the product of 1% and the sum of  
9 all delinquent amounts for each month or portion of a month  
10 that the delinquent amounts remain unpaid.

11 A penalty imposed in accordance with this subsection (e)  
12 for a portion of a month during which the carrier provides the  
13 number of subscribers by zip code as required under subsection  
14 (c) of this Section shall be prorated for each day of that  
15 month during which the carrier had not provided the number of  
16 subscribers by zip code as required under subsection (c) of  
17 this Section. Any penalty imposed under this subsection (e) is  
18 in addition to the amount of the delinquency and is in addition  
19 to any other penalty imposed under this Section.

20 (f) If, before midnight on the last day of the third  
21 calendar month after the closing date of the remit period, a  
22 wireless carrier does not provide the number of subscribers by  
23 zip code as required under subsection (c) of this Section, then  
24 the report is deemed delinquent and the Illinois Commerce  
25 Commission may impose a penalty against the carrier in an  
26 amount equal to the greater of:

1           (1) \$25 for each month or portion of a month from that  
2           the report is delinquent; or

3           (2) an amount equal to the product of 1/2¢ and the  
4           number of subscribers served by the wireless carrier.

5           A penalty imposed in accordance with this subsection (f)  
6           for a portion of a month during which the carrier pays the  
7           delinquent amount in full shall be prorated for each day of  
8           that month that the delinquent amount was paid in full. Any  
9           penalty imposed under this subsection (f) is in addition to any  
10           other penalty imposed under this Section.

11           (g) The Illinois Commerce Commission may enforce the  
12           collection of any delinquent amount and any penalty due and  
13           unpaid under this Section by legal action or in any other  
14           manner by which the collection of debts due the State of  
15           Illinois may be enforced under the laws of this State. The  
16           Executive Director of the Illinois Commerce Commission, or his  
17           or her designee, may excuse the payment of any penalty imposed  
18           under this Section if the Executive Director, or his or her  
19           designee, determines that the enforcement of this penalty is  
20           unjust.

21           (Source: P.A. 92-526, eff. 7-1-02; 93-507, eff. 1-1-04; 93-839,  
22           eff. 7-30-04.)

23           (50 ILCS 751/35)

24           (Section scheduled to be repealed on April 1, 2008)

25           Sec. 35. Wireless Carrier Reimbursement Fund;

1 reimbursement.

2 (a) To recover costs from the Wireless Carrier  
3 Reimbursement Fund, the wireless carrier shall submit sworn  
4 invoices to the Illinois Commerce Commission. In no event may  
5 any invoice for payment be approved for (i) costs that are not  
6 related to compliance with the requirements established by the  
7 wireless enhanced 9-1-1 mandates of the Federal Communications  
8 Commission, (ii) costs with respect to any wireless enhanced  
9 9-1-1 service that is not operable at the time the invoice is  
10 submitted, or (iii) costs in excess of the sum of (A) the  
11 carrier's balance, as determined under subsection (e) of this  
12 Section, plus (B) 100% of the surcharge ~~of any wireless carrier~~  
13 ~~exceeding 100% of the wireless emergency services charges~~  
14 remitted to the Wireless Carrier Reimbursement Fund by the  
15 wireless carrier under Section 17(b) since the last annual  
16 review of the balance in the Wireless Carrier Reimbursement  
17 Fund under subsection (e) of this Section, less reimbursements  
18 paid to the carrier out of the Wireless Carrier Reimbursement  
19 Fund since the last annual review of the balance under  
20 subsection (e) of this Section, unless the wireless carrier  
21 received prior approval for the expenditures from the Illinois  
22 Commerce Commission.

23 (b) If in any month the total amount of invoices submitted  
24 to the Illinois Commerce Commission and approved for payment  
25 exceeds the amount available in the Wireless Carrier  
26 Reimbursement Fund, wireless carriers that have invoices

1 approved for payment shall receive a pro-rata share of the  
2 amount available in the Wireless Carrier Reimbursement Fund  
3 based on the relative amount of their approved invoices  
4 available that month, and the balance of the payments shall be  
5 carried into the following months until all of the approved  
6 payments are made.

7 (c) A wireless carrier may not receive payment from the  
8 Wireless Carrier Reimbursement Fund for its costs of providing  
9 wireless enhanced 9-1-1 services in an area when a unit of  
10 local government or emergency telephone system board provides  
11 wireless 9-1-1 services in that area and was imposing and  
12 collecting a wireless carrier surcharge prior to July 1, 1998.

13 (d) The Illinois Commerce Commission shall maintain  
14 detailed records of all receipts and disbursements and shall  
15 provide an annual accounting of all receipts and disbursements  
16 to the Auditor General.

17 (e) The Illinois Commerce Commission must annually review  
18 the balance in the Wireless Carrier Reimbursement Fund as of  
19 June 30 of each year and shall direct the Comptroller to  
20 transfer into the Wireless Services Emergency Fund for  
21 distribution in accordance with Section 25 of this Act any  
22 amount in excess of the amount of deposits into the Fund for  
23 the 24 months prior to June 30 less:

24 (1) the amount of paid and payables received by June 30  
25 for the 24 months prior to June 30 as determined eligible  
26 under subsection (a) of this Section;

1           (2) the administrative costs associated with the Fund  
2           for the 24 months prior to June 30; and

3           (3) the prorated portion of any other adjustments made  
4           to the Fund in the 24 months prior to June 30.

5           After making the calculation required under this  
6           subsection (e), each carrier's available balance for purposes  
7           of reimbursements must be adjusted using the same calculation.

8           (f) The Illinois Commerce Commission shall adopt rules to  
9 govern the reimbursement process.

10           (Source: P.A. 93-507, eff. 1-1-04; 93-839, eff. 7-30-04.)

11           (50 ILCS 751/70)

12           (Section scheduled to be repealed on April 1, 2008)

13           Sec. 70. Repealer. This Act is repealed on April 1, 2018  
14 ~~2008~~.

15           (Source: P.A. 93-507, eff. 1-1-04.)

16           Section 99. Effective date. This Act takes effect upon  
17 becoming law.