

AN ACT concerning regulation.

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

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

(50 ILCS 751/5)

(Section scheduled to be repealed on April 1, 2008)

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

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

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

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

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

It is the intent of the General Assembly to:

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

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

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

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

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

(50 ILCS 751/10)

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

Sec. 10. Definitions. In this Act:

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

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

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

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

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

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

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

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

"Remit period" means the billing period, one month in duration, for which a wireless carrier, other than a prepaid wireless carrier that provides zip code information based upon the addresses associated with its customers' points of purchase, customers' billing addresses, or locations associated with MTNs, as described in subsection (a) of Section 17, remits a surcharge and provides subscriber information by zip code to the Illinois Commerce Commission, in accordance with Section 17 of this Act.

"Statewide wireless emergency 9-1-1 system" means all

areas of the State where an emergency telephone system board or, in the absence of an emergency telephone system board, a qualified governmental entity has not declared its intention for one or more of its public safety answering points to serve as a primary wireless 9-1-1 public safety answering point for its jurisdiction. The operator of the statewide wireless emergency 9-1-1 system shall be the Department of State Police.

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

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

"Wireless enhanced 9-1-1" means the ability to relay the telephone number of the originator of a 9-1-1 call and location information from any mobile handset or text telephone device accessing the wireless system to the designated wireless public safety answering point as set forth in the order of the Federal

Communications Commission, FCC Docket No. 94-102, adopted June 12, 1996, with an effective date of October 1, 1996, and any subsequent amendment thereto.

"Wireless public safety answering point" means the functional division of an emergency telephone system board, qualified governmental entity, or the Department of State Police accepting wireless 9-1-1 calls.

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

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

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

(50 ILCS 751/17)

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

Sec. 17. Wireless carrier surcharge.

(a) Except as provided in Section 45, each wireless carrier shall impose a monthly wireless carrier surcharge per CMRS connection that either has a telephone number within an area

code assigned to Illinois by the North American Numbering Plan Administrator or has a billing address in this State. In the case of prepaid wireless telephone service, this surcharge shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the MTN for each active prepaid wireless telephone that has a sufficient positive balance as of the last day of each month, if that information is available. No wireless carrier shall impose the surcharge authorized by this Section upon any subscriber who is subject to the surcharge imposed by a unit of local government pursuant to Section 45. The wireless carrier that provides wireless service to the subscriber shall collect the surcharge set by the Wireless Enhanced 9-1-1 Board from the subscriber. For mobile telecommunications services provided on and after August 1, 2002, any surcharge imposed under this Act shall be imposed based upon the municipality or county that encompasses the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. The surcharge shall be stated as a separate item on the subscriber's monthly bill. The wireless carrier shall begin collecting the surcharge on bills issued within 90 days after the Wireless Enhanced 9-1-1 Board sets the monthly wireless surcharge. State and local taxes shall not apply to the wireless carrier surcharge.

(b) Except as provided in Section 45, a wireless carrier shall, within 45 days of collection, remit, either by check or

by electronic funds transfer, to the State Treasurer the amount of the wireless carrier surcharge collected from each subscriber. Of the amounts remitted under this subsection, the State Treasurer shall deposit one-third into the Wireless Carrier Reimbursement Fund and two-thirds into the Wireless Service Emergency Fund.

(c) The first such remittance by wireless carriers shall include the number of customers by zip code, and the 9-digit zip code if currently being used or later implemented by the carrier, that shall be the means by which the Illinois Commerce Commission shall determine distributions from the Wireless Service Emergency Fund. This information shall be updated no less often than every year. Wireless carriers are not required to remit surcharge moneys that are billed to subscribers but not yet collected. Any carrier that fails to provide the zip code information required under this subsection (c) or any prepaid wireless carrier that fails to provide zip code information based upon the addresses associated with its customers' points of purchase, customers' billing addresses, or locations associated with MTNs, as described in subsection (a) of this Section, shall be subject to the penalty set forth in subsection (f) of this Section.

(d) Within 90 days after the effective date of this amendatory Act of the 94th General Assembly, each wireless carrier must implement a mechanism for the collection of the surcharge imposed under subsection (a) of this Section from its

subscribers. If a wireless carrier does not implement a mechanism for the collection of the surcharge from its subscribers in accordance with this subsection (d), then the carrier is required to remit the surcharge for all subscribers until the carrier is deemed to be in compliance with this subsection (d) by the Illinois Commerce Commission.

(e) If before midnight on the last day of the third calendar month after the closing date of the remit period a wireless carrier does not remit the surcharge or any portion thereof required under this Section, then the surcharge or portion thereof shall be deemed delinquent until paid in full, and the Illinois Commerce Commission may impose a penalty against the carrier in an amount equal to the greater of:

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

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

A penalty imposed in accordance with this subsection (e) for a portion of a month during which the carrier provides the number of subscribers by zip code as required under subsection (c) of this Section shall be prorated for each day of that month during which the carrier had not provided the number of subscribers by zip code as required under subsection (c) of this Section. Any penalty imposed under this subsection (e) is

in addition to the amount of the delinquency and is in addition to any other penalty imposed under this Section.

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

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

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

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

(g) The Illinois Commerce Commission may enforce the collection of any delinquent amount and any penalty due and unpaid under this Section by legal action or in any other manner by which the collection of debts due the State of Illinois may be enforced under the laws of this State. The Executive Director of the Illinois Commerce Commission, or his or her designee, may excuse the payment of any penalty imposed

under this Section if the Executive Director, or his or her designee, determines that the enforcement of this penalty is unjust.

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

(50 ILCS 751/35)

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

Sec. 35. Wireless Carrier Reimbursement Fund;
reimbursement.

(a) To recover costs from the Wireless Carrier Reimbursement Fund, the wireless carrier shall submit sworn invoices to the Illinois Commerce Commission. In no event may any invoice for payment be approved for (i) costs that are not related to compliance with the requirements established by the wireless enhanced 9-1-1 mandates of the Federal Communications Commission, (ii) costs with respect to any wireless enhanced 9-1-1 service that is not operable at the time the invoice is submitted, or (iii) costs in excess of the sum of (A) the carrier's balance, as determined under subsection (e) of this Section, plus (B) 100% of the surcharge ~~of any wireless carrier exceeding 100% of the wireless emergency services charges~~ remitted to the Wireless Carrier Reimbursement Fund by the wireless carrier under Section 17(b) since the last annual review of the balance in the Wireless Carrier Reimbursement Fund under subsection (e) of this Section, less reimbursements

paid to the carrier out of the Wireless Carrier Reimbursement Fund since the last annual review of the balance under subsection (e) of this Section, unless the wireless carrier received prior approval for the expenditures from the Illinois Commerce Commission.

(b) If in any month the total amount of invoices submitted to the Illinois Commerce Commission and approved for payment exceeds the amount available in the Wireless Carrier Reimbursement Fund, wireless carriers that have invoices approved for payment shall receive a pro-rata share of the amount available in the Wireless Carrier Reimbursement Fund based on the relative amount of their approved invoices available that month, and the balance of the payments shall be carried into the following months until all of the approved payments are made.

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

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

(e) The Illinois Commerce Commission must annually review

the balance in the Wireless Carrier Reimbursement Fund as of June 30 of each year and shall direct the Comptroller to transfer into the Wireless Services Emergency Fund for distribution in accordance with Section 25 of this Act any amount in excess of the amount of deposits into the Fund for the 24 months prior to June 30 less:

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

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

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

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

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

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

(50 ILCS 751/70)

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

Sec. 70. Repealer. This Act is repealed on April 1, 2013
~~2008~~.

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

Section 99. Effective date. This Act takes effect upon

Public Act 095-0063

HB0463 Enrolled

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becoming law.