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Indicates New Matter

AMENDED

March 11, 2010

**H. 4551**

Introduced by Reps. Sandifer, Thompson, Bedingfield, Hayes, Brady, Mack, Harrell, Cato, Ott, Harrison, Duncan, J.R. Smith, White, Cooper, Hutto, Horne, Cobb‑Hunter, Anderson, Hodges, Harvin, Skelton, Gunn and Bales

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Read the first time March 10, 2010.

**A** **BILL**

TO AMEND SECTION 23‑47‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITION OF TERMS ASSOCIATED WITH THE PUBLIC SAFETY COMMUNICATIONS CENTER, SO AS TO REVISE THE DEFINITION OF SEVERAL EXISTING TERMS AND TO PROVIDE DEFINITIONS FOR SEVERAL NEW TERMS; TO AMEND SECTION 23‑47‑20, AS AMENDED, RELATING TO 911 SYSTEM SERVICE REQUIREMENTS, SO AS TO DELETE “A CAPABILITY TO HAVE CELLULAR PHONES ROUTED TO 911” AS A SYSTEM REQUIREMENT AND TO ADD “ROUTING AND CAPABILITIES TO RECEIVE AND PROCESS CMRS SERVICE AND VOIP SERVICE CAPABLE OF MAKING 911 CALLS” AS A SYSTEM REQUIREMENT; TO AMEND SECTION 23‑47‑50, RELATING TO SUBSCRIBER BILLING OR 911 SERVICE, SO AS TO PROVIDE THAT FOR THE BILLING OF 911 CHARGES FOR LOCAL EXCHANGE ACCESS FACILITIES THAT ARE CAPABLE OF SIMULTANEOUSLY CARRYING FIVE OR MORE OUTGOING 911 VOICE CALLS, TO REVISE THE 911 CHARGE THAT PREPAID WIRELESS TELECOMMUNICATIONS SERVICE IS SUBJECT TO AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 23‑47‑65, RELATING TO THE CMRS EMERGENCY TELEPHONE ADVISORY COMMITTEE, SO AS TO REVISE THE NAME OF THE COMMITTEE AND ITS MEMBERSHIP, TO MAKE TECHNICAL CHANGES, AND TO PROVIDE THAT THE COMMITTEE AND THE STATE BUDGET AND CONTROL BOARD ARE AUTHORIZED TO REGULATE PREPAID WIRELESS SELLERS; BY ADDING SECTION 23‑47‑67 SO AS TO IMPOSE A VOIP 911 CHARGE ON EACH LOCAL EXCHANGE ACCESS FACILITY, AND TO PROVIDE FOR THE COLLECTION OF THE CHARGE AND ITS DISTRIBUTION; BY ADDING SECTION 23‑47‑68 SO AS TO IMPOSE A PREPAID WIRELESS 911 CHARGE, AND TO PROVIDE FOR ITS COLLECTION AND DISTRIBUTION; BY ADDING SECTION 23‑47‑69 SO AS TO LIMIT THE CHARGES THAT MAY BE IMPOSED FOR 911 SERVICE; AND TO AMEND SECTION 23‑47‑70, RELATING TO LIABILITY FOR DAMAGES THAT MAY OCCUR FROM A GOVERNMENTAL AGENCY PROVIDING 911 SERVICE, SO AS TO PROVIDE FOR LIABILITY WHEN 911 SERVICE IS PROVIDED AND WHEN IT IS NOT PROVIDED PURSUANT TO TARIFFS ON FILE WITH THE PUBLIC SERVICE COMMISSION AND TO MAKE A TECHNICAL CHANGE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 23‑47‑10 of the 1976 Code is amended to read:

“Section 23‑47‑10. As used in this chapter:

(1) ‘911 charge’ means a fee for the 911 service start‑up equipment costs, subscriber notification costs, addressing costs, billing costs, and nonrecurring and recurring installation, maintenance service, and network charges of a service supplier providing 911 service as provided in this chapter.

(2) ‘911 system’ or ‘911 service’ means an emergency telephone system that provides the user of the public telephone system with the ability to reach a public safety answering point by dialing the digits 911. The term 911 system or service also includes ‘enhanced 911 service’, which means an emergency telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features. ‘911 system’ and ‘911 service’ include those systems and services that use or rely upon internet protocol or other similar technologies to provide services that direct voice calls to public safety answering points.

(3) ‘911 plan’ means a plan for the 911 system, enhanced 911 system, or any amendment to the plan developed by a county or municipality.

(4) ‘Basic 911 system’ means a system by which the various emergency functions provided by public safety agencies within each local government’s jurisdiction may be accessed utilizing the three‑digit number 911, but no available options of enhanced systems are included in the system.

(5) ‘Enhanced 911 network features’ means selective routing, automatic number identification, and location identification.

(6) ‘Enhanced 911 system’ means enhanced 911 service, which is a telephone exchange communications service consisting of telephone network features and public safety answering points designated by the local government which enables users of the public telephone system to access a 911 public safety communications center by dialing the digits 911. The service directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification.

(7) ‘Addressing’, with respect to nonCMRS exchange access service, means the assigning of a numerical address and street name (the name may be numerical) to each location within a local government’s geographical area necessary to provide public safety service as determined by the local government. This address replaces any route and box number currently in place in the ‘911’ database and facilitates quicker response by public safety agencies.

(8) ‘Automatic location identification’ means an enhanced 911 service capability that enables the automatic display of information.

(9) ‘Automatic number identification’ means an enhanced 911 service capability that enables the automatic display of the seven‑digit number used to place a 911 call.

(10) ‘Board’ means the South Carolina State Budget and Control Board.

(11) ‘Committee’ means the ~~CMRS Emergency Telephone Service Advisory Committee established in this chapter~~ South Carolina 911 Advisory Committee.

(12) ‘CMRS Connection’ means each mobile number assigned to a CMRS customer.

(13) ‘Commercial Mobile Radio Service’ (CMRS) means commercial mobile service under Sections 3(27) and 332(d), Federal Telecommunications Act of 1996 (47 U.S.C. Section 151, et seq.), Federal Communications Commission Rules, and the Omnibus Budget Reconciliation Act of 1993. The term includes any wireless two‑way communication device, including radio‑telephone communications used in cellular telephone service, personal communication service, or the functional and/or competitive equivalent of a radio‑telephone communications line used in cellular telephone service, a personal communication service, or a network radio access line. The term does not include services that do not provide access to 911 service, a communication channel suitable only for data transmission, a wireless roaming service or other nonlocal radio access line service, or a private telecommunications system.

(14) ‘Customer’ means the local government subscribing to 911 service from a service supplier.

(15) ‘Department’ means the Department of Revenue.

(16) ‘Enhancement’ means any addition to a 911 system such as automatic number identification, selective routing of calls, or other future technological advancements, as determined by the Public Service Commission for nonCMRS exchange access companies.

~~(16)~~(17) ‘Exchange access facility’ means the access from a particular telephone subscriber’s premises to the telephone system of a service supplier. Exchange access facilities include service supplier provided access lines, PBX trunks, and Centrex network access registers, all as defined by the South Carolina Public Service Commission. Exchange access facilities do not include service supplier owned and operated telephone pay station lines, or wide area telecommunications service (wats), foreign exchange (fx), or incoming lines.

~~(17)~~(18) ‘Local government’ means any city, county, or political subdivision of the State.

~~(18)~~(19) ‘Mapping’ means the development of a computerized geographical display system of roads and structures where emergency response may be required.

(20) ‘Prepaid wireless 911 charge’ means the charge that a prepaid wireless seller is required to collect from a prepaid wireless consumer pursuant to Section 23‑47‑68.

(21) ‘Prepaid wireless consumer’ means a person or entity that purchases prepaid wireless telecommunications service in a prepaid wireless retail transaction.

(22) ‘Prepaid wireless provider’ means a person or entity that provides prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission.

(23) ‘Prepaid wireless retail transaction’ means the purchase of prepaid wireless telecommunications service from a prepaid wireless seller for any purpose other than resale.

(24) ‘Prepaid wireless seller’ means a person or entity that sells prepaid wireless telecommunications service to another person or entity for any purpose other than resale.

(25) ‘Prepaid wireless telecommunications service’ means any commercial mobile radio service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in units or dollars which decline with use in a known amount.

~~(19)~~(26) ‘Public safety agent’ means a functional agency which provides fire fighting, law enforcement, medical, or other emergency services.

~~(20)~~(27) ‘Public safety answering point’ (PSAP) means a communications facility operated on a twenty‑four hour basis which first receives 911 calls from persons in a 911 service area and which may directly dispatch public safety services or extend, transfer, or relay 911 calls to appropriate public safety agencies. A PSAP may be designated to a primary or secondary exchange service, referring to the order in which calls are directed for answering.

~~(21)~~(28) ‘Regional systems’ means the formation of two or more local governments or multi‑jurisdictional systems for the purpose of jointly forming and funding 911 systems.

~~(22)~~(29) ‘Selective routing’ means the method employed to direct 911 calls to the appropriate public safety answering point based on the geographical location from which the call originated.

~~(23)~~(30) ‘Service subscriber’ means any person, company, corporation, business, association, or party not exempt from county or municipal taxes or utility franchise assessments who is provided telephone (local exchange access facility) service in the political subdivision or CMRS service or VoIP service.

~~(24)~~(31) ‘Service supplier’ means any person, company, or corporation, public or private, providing exchange telephone service, ~~or~~ CMRS service, or VoIP service to end users.

~~(25)~~(32) ‘Rate’ means the recurring or nonrecurring rates billed by the service supplier, which represents the service supplier’s recurring charges for exchange access facilities, exclusive of all taxes, fees, licenses, or similar charges.

~~(26)~~(33) ‘Telephone subscriber’ or ‘subscriber’ means a person or entity to whom exchange telephone service, either residential or commercial, is provided and in return for which the person or entity is billed on a monthly basis. When the same person, business, or organization has several telephone access lines, each exchange access facility constitutes a separate subscription.

(34) ‘Voice over Internet Protocol (VoIP) service’ means interconnected VoIP service as that term is defined in 47 C.F.R. Section 9.3 as may be amended.

(35) ‘Voice over Internet Protocol (VoIP) provider’ means a person or entity that provides VoIP service.

(36) ‘Voice over Internet Protocol (VoIP) subscriber’ means a person or entity that purchases VoIP service from a VoIP provider.

(37) ‘Voice over Internet Protocol (VoIP) 911 charge’ means the charge imposed pursuant to Section 23‑47‑67.

(38) ‘Voice over Internet Protocol (VoIP) service line’ means a VoIP service that offers an active telephone number or successor dialing protocol assigned by a VoIP service provider to a customer that has outbound calling capability.”

SECTION 2. Section 23‑47‑20(C)(14) of the 1976 Code is amended to read:

“(14) ~~capabilities to have cellular phones routed to 911~~ routing and capabilities to receive and process CMRS service and VoIP service capable of making 911 calls;”

SECTION 3. Section 23‑47‑50 of the 1976 Code is amended to read:

“Section 23‑47‑50. (A) The maximum 911 charge that a subscriber may be billed for an individual local exchange access facility must be in accordance with the following scale:

Tier I‑‑1,000 to 40,999 access lines‑‑$1.50 for start‑up costs, $1.00 for on‑going costs.

Tier II‑‑41,000 to 99,999 access lines‑‑$1.00 for start‑up costs, $.60 for on‑going costs.

Tier III‑‑more than 100,000 access lines‑‑$.75 for start‑up costs, $.50 for on‑going costs.

Start‑up includes a combination of recurring and nonrecurring costs and up to a maximum of fifty local exchange lines ~~an~~ per account. For bills rendered on or after the effective date of this act, for any individual local exchange access facility that is capable of simultaneously carrying multiple voice and data transmissions, a subscriber must be billed a number of 911 charges equal to: (a) the number of outward voice transmission paths activated on such a facility in cases where the number of activated outward voice transmission paths can be modified by the subscriber only with the assistance of the service supplier; or (b) five, where the number of activated outward voice transmission paths can be modified by the subscriber without the assistance of the service supplier. The total number of 911 charges remains subject to the maximum of fifty 911 charges per account set forth above.

(B) Every local telephone subscriber served by the 911 system is liable for the 911 charge imposed. A service supplier has no obligation to take any legal action to enforce the collection of the 911 charges for which a subscriber is billed. However, a collection action may be initiated by the local government that imposed the charges. Reasonable costs and attorney’s fees associated with that collection action may be awarded to the local government collecting the 911 charges.

(C) The local government subscribing to 911 service is ultimately responsible to the service supplier for all 911 installation, service, equipment, operation, and maintenance charges owed to the service supplier. Upon request by the local government, the service supplier shall provide a list of amounts uncollected along with the names and addresses of telephone subscribers who have identified themselves as refusing to pay the 911 charges. Taxes due on a 911 system service provided by the service supplier must be billed to the local government subscribing to the service. State and local taxes do not apply to the 911 charge billed to the telephone subscriber.

(D) Service suppliers that collect 911 charges on behalf of the local government are entitled to retain two percent of the gross 911 charges remitted to the local government as an administrative fee. The service supplier shall remit the remainder of charges collected during the month to the fiscal offices of the local government. The 911 charges collected by the service supplier must be remitted to the local government within forty‑five days of the end of the month during which such charges were collected and must be deposited by and accounted for by the local government in a separate restricted fund known as the ‘emergency telephone system fund’ maintained by the local government. The local government may invest the money in the fund in the same manner that other monies of the local government are invested and income earned from the investment must be deposited into the fund. Monies from this fund are totally restricted to use in the 911 system.

(E) The ‘emergency telephone system’ fund must be included in the annual audit of the local government in accordance with generally accepted auditing standards.

(F) Fees collected by the service supplier pursuant to this section are not subject to any tax, fee, or assessment, nor are they considered revenue of the service supplier. A monthly CMRS 911 charge is levied for each CMRS connection for which there is a mobile identification number containing an area code assigned to South Carolina by the North American Numbering Plan Administrator. The amount of the levy must be approved annually by the board at a level not to exceed the average monthly telephone (local exchange access facility) 911 charges paid in South Carolina. The board and the committee may calculate the CMRS 911 charge based upon a review of one or more months during the year preceding the calculation of telephone (local exchange access facility) charges paid in South Carolina. The CMRS 911 charge must have uniform application and must be imposed throughout the State; however, trunks or service lines used to supply service to CMRS providers shall not be subject to a CMRS 911 levy. Prepaid wireless telecommunications service is subject to the 911 charge set forth in Section 23‑47‑68 and not to the CMRS 911 charge set forth in this subsection. On or before the twentieth day of the second month succeeding each monthly collection of the CMRS 911 charges, every CMRS provider shall file with the Department of Revenue a return under oath, in a form prescribed by the department, showing the total amount of fees collected for the month and, at the same time, shall remit to the department the fees collected for that month. The department shall place the collected fees on deposit with the State Treasurer. The funds collected pursuant to this subsection are not general fund revenue of the State and must be kept by the State Treasurer in a fund separate and apart from the general fund to be expended as provided in Section 23‑47‑65.

(G)(1) Fees collected by the service supplier pursuant to this section are not subject to any tax, fee, or assessment, nor are they considered revenue of the service supplier.

(2) ~~A~~ Except as provided in Section 23‑47‑68(B), a 911 charge~~, including a CMRS 911 charge,~~ imposed under this chapter shall be added to the billing by the service supplier to the service subscriber and may be stated separately.

(3) A billed subscriber shall be liable for any 911 charge~~, including a CMRS 911 charge,~~ imposed under this chapter until it has been paid to the service supplier.”

SECTION 4. Chapter 47 of Title 23 of the 1976 Code is amended by adding:

“Section 23‑47‑55. (A) For services for which a bill is rendered prior to the effective date of this act, for an exchange access facility that is capable of simultaneously carrying multiple voice and data transmissions, a subscriber is not liable to any person or entity for a different number of 911 charges than the subscriber has been billed for any such facility, and no service supplier is liable to any person or entity for billing, collecting, or remitting a different number of 911 charges for any such facility than is required by Section 23‑47‑50(A).

(B) For services for which a bill is rendered prior to the effective date of this act, no subscriber is liable to any person or entity for a different 911 charge on VoIP service or VoIP service lines than the subscriber has been billed, and no service supplier is liable to any person or entity for billing, collecting, or remitting a different 911 charge on VoIP service or VoIP service lines than is required by Section 23‑47‑67, or both.”

SECTION 5. Section 23‑47‑65 of the 1976 Code is amended to read:

“Section 23‑47‑65. (A)(1) The ~~CMRS Emergency Telephone Services~~ South Carolina 911 Advisory Committee is created to assist the board in carrying out its responsibilities in implementing a wireless enhanced 911 system consistent with FCC Docket Number 94‑102. The committee must be appointed by the Governor and shall consist of: ~~the Director of the State Chief Information Officer Division,~~ a director of a division of the State Budget and Control Board, ex officio; the Director of the Office of Research and Statistics; two employees of CMRS providers licensed to do business in the State; two 911 system employees; and one employee of a telephone (local exchange access facility) service supplier licensed to do business in the State; and one consumer. Local governments and related organizations such as the National Emergency Number Association may recommend PSAP Committee members, and industry representatives may recommend wireline and CMRS Committee members to the Governor. There is no expense reimbursement or per diem payment from the fund created by the CMRS surcharge made to members of the committee.

(2) All committee members, except the ex officio members, must be appointed for a three‑year term by the Governor. Committee members may be appointed to one subsequent term.

(3) In the event a vacancy arises, it must be filled for the remainder of the term in the manner of the original appointment. A partial term does not count toward the term limits; however, service for three‑fourths or more of a term constitutes service for a term.

(4) Any committee member who terminates his holding of the office or employment which qualified him for appointment shall cease immediately to be a member of the committee; the person appointed to fill the vacancy shall do so for the unexpired term of the member whom he succeeds.

(5) The committee shall establish its own procedures with respect to the selection of officers, quorum, place, and conduct of meetings.

(B) The responsibilities of the committee with respect to CMRS emergency telephone services are to:

(1) advise the board on technical issues regarding the implementation of a wireless ~~E~~ 911 system, especially matters concerning appropriate systems and equipment to be acquired by CMRS providers and PSAP’s to assure the compatibility of the systems and equipment and the ability of the systems and equipment to comply with the requirements of FCC Docket Number 94‑102;

(2) recommend systems and equipment for which reimbursement may be allowed to CMRS providers and PSAP’s under the provisions of this chapter, which are compatible with each other as needed for the public’s safety, and will not result in wasteful spending on inappropriate or redundant technology.

(C) The responsibilities of the board with respect to CMRS emergency telephone services are to:

(1) direct the State Treasurer in the management and disbursal of the funds in and from an interest‑bearing account in the following manner:

(a) hold and distribute not more than thirty‑nine and eight‑tenths percent of the total monthly revenues in the interest‑bearing account to PSAP administrators based on CMRS 911 call volume for expenses incurred for the answering, routing, and proper disposition of CMRS 911 calls;

(b) hold and distribute not more than fifty‑eight and two‑tenths percent of the total monthly revenues in the interest‑bearing account solely for the purposes of complying with applicable requirements of FCC Docket Number 94‑102. These funds may be utilized by the PSAP and the CMRS providers licensed to do business in this State for the following purposes in connection with compliance with the FCC requirements: upgrading, acquiring, maintaining, programming, and installing necessary data, hardware, and software. Invoices detailing specific expenses for these purposes must be presented to the board in connection with any request for reimbursement, and the request must be approved by the board, upon recommendation of the committee. Any invoices presented to the board for reimbursements of costs not described by this section may be approved only by a unanimous vote of the committee, but in no event shall reimbursement be made for costs unrelated to compliance with applicable requirements of FCC Docket Number 94‑102;

(c) hold and distribute not more than two percent of the total monthly revenues in the interest‑bearing account to compensate the independent auditor provided for herein and for expenses which the board is authorized to incur by contract, or otherwise, for provision of any administrative, legal, support, or other services to assist the board in fulfilling its responsibilities under this act;

(2) with the State Treasurer, prepare annual reports outlining fees collected and monies disbursed to PSAP and CMRS providers, and submit annual reports outlining monies disbursed for operations of the board;

(3) retain an independent, private auditor, as provided in the Consolidated Procurement Code, for the purposes of receiving, maintaining, and verifying the accuracy of proprietary information submitted to the board by CMRS providers or PSAP’s, and assisting the committee in its duties including its annual calculation of the average 911 charges pursuant to Section 23‑47‑50(f) and in cost studies it may conduct. Due to the confidential and proprietary nature of the information submitted by CMRS providers, the information may not be released to a party other than the independent private auditor and is expressly exempt from disclosure pursuant to Chapter 4 of Title 30. The information collected by the auditor may be released only in aggregate amounts that do not identify or allow identification of numbers of subscribers or revenues attributable to an individual CMRS provider;

(4) conduct a cost study to be submitted to the House Ways and Means Committee and Senate Finance Committee one year from the effective date of this section and thereafter at the board’s discretion. The board may include any information it considers appropriate to assist the General Assembly in determining whether future legislation is necessary or appropriate, but the report must include information to assist in determining whether to adjust the CMRS 911 charge to reflect actual costs incurred by PSAP’s or CMRS providers for compliance with applicable requirements of FCC Docket Number 94‑10;

(5) convene the committee and consult with it concerning the performance of the responsibilities assigned to the board and to the committee in this chapter, and the development and maintenance of the state’s CMRS emergency telephone services and system;

(6) report as required or suggested by this chapter, promulgate any regulations, and take further actions as are appropriate in implementing it.

(D) The board and committee must:

(1) annually calculate the average 911 charge as provided in Section 23‑47‑50(F);

(2) take appropriate measures to maintain the confidentiality of the proprietary information described in this section ~~23‑47‑65(C)(1)(e)~~. This information may be disclosed to board and committee members only in the event a dispute arises with respect to the board’s and committee’s discharge of their responsibilities under Section 23‑47‑65(B)(2) which necessitates such disclosure. The information shall also be exempt from disclosure pursuant to Chapter 4 ~~of~~ , Title 30. Members of the board may not disclose the information to any third parties, including their employers;

(3) take appropriate measures to see that all prepaid wireless sellers comply with the requirements of Section 23‑47‑68(F) and that all other CMRS service suppliers comply with the requirements of Section 23‑47‑50(F).

(E) CMRS providers are entitled to retain two percent of the fees collected as reimbursement for collection and handling of the CMRS 911 charge.

~~(F)~~ ~~On August 1, 2004, the committee’s existence terminates and all its duties and powers devolve to the board, except that the committee may continue to exist and function upon adoption by the General Assembly of a joint resolution extending its existence past August 1, 2004.~~”

SECTION 6. Chapter 47 of Title 23 of the 1976 Code is amended by adding:

“Section 23‑47‑67. (A) There is hereby imposed a VoIP 911 charge in an amount identical to the amount of the 911 charge imposed on each local exchange access facility pursuant to Section 23‑47‑40(A) and 23‑47‑50(A).

(B) A VoIP provider must collect the VoIP 911 charge established in subsection (A) on each VoIP service line. This VoIP 911 charge must be sourced to the local government in the same manner as CMRS is sourced pursuant to the Mobile Telecommunications Sourcing Act as provided in Title 4 of the United States Code.

(C) Funding from the VoIP 911 charge established in subsection (A) must be used in the same manner as set forth in Section 23‑47‑40(B) and (C). The provisions of Section 23‑47‑50(B), (C), (D), (E), and (G) apply with equal force with regard to the VoIP 911 charge.

(D) A VoIP provider that purchases its 911 capabilities in South Carolina from another person or entity is responsible for directly remitting the VoIP 911 charge as set forth in this section unless the VoIP provider and the other person or entity have agreed in writing that the other person or entity will remit the VoIP 911 charge on behalf of the VoIP provider.

(E) If a billed subscriber purchases a service that is both a CMRS service and a VoIP service, and there is a single active mobile telephone number or successor dialing protocol associated with the service, then only the CMRS 911 charge set forth in Section 23‑47‑50(F) shall apply to the service. Similarly, if an exchange access facility is also a VoIP service line, then only the 911 charge set forth in Sections 23‑47‑40(A) and 23‑47‑50(A) shall apply to the service.”

SECTION 7. Chapter 47 of Title 23 of the 1976 Code is amended by adding:

“Section 23‑47‑68. (A) There is hereby imposed a prepaid wireless 911 charge in the amount equal to the average 911 charges calculated pursuant to Section 23‑47‑50(F).

(B) A prepaid wireless seller must collect the prepaid wireless 911 charge established in subsection (A) from a prepaid wireless consumer with respect to each prepaid wireless retail transaction occurring in this State. The amount of the prepaid wireless 911 charge shall be either: separately stated on an invoice, receipt, or other similar document that is provided to the prepaid wireless consumer by the prepaid wireless seller or otherwise disclosed to the prepaid wireless consumer.

(C) For the purposes of this section, a prepaid wireless retail transaction must be sourced as provided in Section 12‑36‑910(B)(5)(b).

(D) The prepaid wireless 911 charge is the liability of the prepaid wireless consumer and not the prepaid wireless seller or of any prepaid wireless provider. However, the prepaid wireless seller is liable to remit to the department all prepaid wireless 911 charges that the prepaid wireless seller collects from prepaid wireless consumers as provided in this section.

(E) The amount of the prepaid wireless 911 charge collected by a prepaid wireless seller from a prepaid wireless consumer, whether or not such amount is separately stated on an invoice, receipt, or other similar document provided to the prepaid wireless consumer by the prepaid wireless seller, shall not be included in the base for measuring any tax, fee, prepaid wireless 911 charge, or other charge that is imposed by this State, any political subdivision of this State, or any intergovernmental agency. This amount shall not be considered revenue of the prepaid wireless seller.

(F) A prepaid wireless seller is entitled to retain three percent of the gross prepaid wireless 911 charges remitted to the department as an administrative fee. A prepaid wireless seller must remit the remainder of the prepaid wireless 911 charges collected to the department on a monthly, quarterly, or annual basis.

(G) The audit and appeal procedures applicable under Chapter 36, Title 12 shall apply to the prepaid wireless 911 charge.

(H) The department shall establish procedures by which a prepaid wireless seller may document that a sale is not a prepaid wireless retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions under Section 12‑36‑950.

(I) The department shall transfer all remitted prepaid wireless 911 charges to the State Treasurer in the same manner as provided in Section 23‑47‑50(F). These funds are not general fund revenue of the State and must be kept by the State Treasurer in a fund separate and apart from the general fund to be expended as provided in Section 23‑47‑65.”

SECTION 8. Chapter 47 of Title 23 of the 1976 Code is amended by adding:

“Section 23‑47‑69. Neither the State, any political subdivision of the State, nor an intergovernmental agency may require any service provider to impose, collect, or remit a tax, fee, surcharge, or other charge for 911 funding purposes other than the 911 charges set forth in this chapter.”

SECTION 9. Section 23‑47‑70 of the 1976 Code is amended to read:

“Section 23‑47‑70. (A) A local government or public safety agency, as defined in Section 23‑47‑10, or state government entity, their officers, agents, or employees, together with any person following their instructions in rendering services, are not liable for civil damages as a result of an act or omission under this chapter, including, but not limited to, developing, adopting, operating, or implementing a plan or system pursuant to the South Carolina Tort Claims Act, Section 15‑78‑60(5) or 15‑78‑60(19).

(B) ~~Liability concerning all service suppliers as defined in this chapter~~ To the extent that a 911 service is provided pursuant to tariffs on file with the South Carolina Public Service Commission, the liability of the provider of this service must be governed by the filed and approved tariffs of the South Carolina Public Service Commission, including, but not limited to, those general subscriber service tariffs concerning emergency reporting services.

(C) ~~Notwithstanding any other provision of law,~~ To the extent that a 911 service is not provided pursuant to tariffs on file with the South Carolina Public Service Commission, in no event shall ~~any CMRS service supplier~~ the provider of these services or its officers, employees, assigns, or agents be liable for civil damages or criminal liability in connection with the development, design, installation, operation, maintenance, performance, or provision of 911 service unless such event was the result of reckless, wilful, or wanton conduct of the ~~CMRS~~ 911 service supplier or its officers, employees, assigns, or agents.

No ~~CMRS~~ 911 service supplier or its officers, employees, assigns, or agents shall be liable for civil damages or criminal liability in connection with the release of subscriber information to any governmental entity as required under the provisions of this chapter.”

SECTION 10. SECTIONS 1, 2, 3, 5, 6, and 7 of this act take effect on July 1, 2011. The remaining sections of this act take effect upon approval by the Governor.

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