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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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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: Representatives Lyle, Nardone, Place, Filippi, and Quattrocchi

Date Introduced: March 29, 2019

Referred To: House Finance

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. Emergency services and first response surcharge.**

4 (a) A monthly surcharge of one dollar (\$1.00) is hereby levied upon each residence and
5 business telephone line or trunk or path and data, telephony, internet, voice over internet protocol
6 (VoIP) wireline, line, trunk or path in the state including PBX trunks and centrex equivalent
7 trunks and each line or trunk serving, and upon each user interface number or extension number
8 or similarly identifiable line, trunk, or path to or from a digital network (such as, but not exclusive
9 of, integrated services digital network (ISDN), Flexpath, or comparable digital private branch
10 exchange, or connecting to or from a customer-based or dedicated telephone switch site (such as,
11 but not exclusive of, a private branch exchange (PBX)), or connecting to or from a customer-
12 based or dedicated central office (such as, but not exclusive of, a centrex system but exclusive of
13 trunks and lines provided to wireless communication companies) that can access to, connect with,
14 or interface with the Rhode Island E-911 uniform emergency telephone system (RI E-911). The
15 surcharge shall be billed by each telecommunication services provider at the inception of services
16 and shall be payable to the telecommunication services provider by the subscriber of the services.
17 A monthly surcharge of one dollar (\$1.00) is hereby levied effective July 1, 2002, on each
18 wireless instrument, device, or means including prepaid, cellular, telephony, internet, voice over

1 internet protocol (VoIP), satellite, computer, radio, communication, data or data only wireless
2 lines or any other wireless instrument, device, or means that has access to, connects with, or
3 activates or interfaces or any combination thereof with the E 9-1-1 uniform emergency telephone
4 system. The surcharge shall be in addition to the surcharge collected under § 39-1-62 and shall be
5 billed by each telecommunication services provider and shall be payable to the
6 telecommunication services provider by the subscriber. Prepaid wireless telecommunications
7 services shall not be included in this act, but shall be governed by chapter 21.2 of this title. The E-
8 911 uniform emergency telephone system shall establish, by rule or regulation, an appropriate
9 funding mechanism to recover from the general body of ratepayers this surcharge. [If the public
10 utilities commission shall determine that the funds collected pursuant to this chapter and chapter
11 21.2 of title 39 exceed what is needed to operate the E 9-1-1 uniform emergency telephone
12 system, it may authorize a 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 percent (10%) of such money collected shall
26 be 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, improvement, construction, maintenance, repair, and utilities for
7 the equipment and site or sites occupied by the state's first responder and emergency services
8 agencies; salaries, benefits, and other associated personnel costs; acquisition, upgrade, or
9 modification of PSAP equipment to be capable of receiving E 9-1-1 information, including
10 necessary computer hardware, software, and database provisioning, addressing, and non-recurring
11 costs of establishing emergency services; network development, operation, and maintenance;
12 database development, operation, and maintenance; on-premise equipment maintenance and
13 operation; training emergency service personnel regarding use of E 9-1-1; educating consumers
14 regarding the operations, limitations, role, and responsible use of E 9-1-1; reimbursement to
15 telephone common carriers or telecommunication services providers of rates or recurring costs
16 associated with any services, operation, administration, or maintenance of E 9-1-1 services as
17 approved by the division; reimbursement to telecommunication services providers or telephone
18 common carriers of other costs associated with providing E 9-1-1 services, including the cost of
19 the design, development, and implementation of equipment or software necessary to provide E 9-
20 1-1 service 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 Charge Act" are hereby amended to read as follows:

28 **39-21.2-4. Emergency services and first response surcharge.**

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

1 [section.](#)

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

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

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

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

33 (g) Bundled transactions. When prepaid wireless telecommunications service is sold with
34 one or more other products or services for a single, non-itemized price, then the percentage

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

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

13 **39-21.2-5. Administration of E911 charge.**

14 (a) Time and manner of payment. Prepaid wireless E911 charges collected by sellers shall
15 be remitted to the division at the times and in the manner provided by the streamlined sales and
16 use tax as described in § 44-18.1-34. The division shall establish registration and payment
17 procedures that substantially coincide with the registration and payment procedures that apply to
18 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 and
22 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 **39-21-18. Restricted receipt account.**

33 [There is created within the general fund a restricted receipt account to be known as the](#)
34 ["911 account". All funds in the account shall be utilized by the division of taxation to effectuate](#)

1 [the provisions of chapters 21, 21.1 and 21.2 of this title. All funds received pursuant to §§ 39-](#)
2 [21.1-14, 39-21.2-4 and 39-21.2-5 shall be deposited in the "911 account". The general treasurer is](#)
3 [authorized and directed to draw his or her orders on the account upon receipt of properly](#)
4 [authenticated vouchers from the division of taxation.](#)

5 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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