
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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APRIL 11, 2002

REFERRED TO COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY
PREPAREDNESS, APRIL 11, 2002

AN ACT

1 Establishing a surcharge on wireless telecommunications service
2 and a restricted fund; providing for certain authority to
3 Pennsylvania Emergency Management Agency to pursue the
4 establishment of a program to use revenue derived from the
5 surcharge.

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5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Agency." The Pennsylvania Emergency Management Agency
12 (PEMA).

13 "Automatic location identification" or "ALI." A
14 telecommunications network capability that enables the automatic
15 display of information defining the geography of the telephone
16 used to place an enhanced 911 call.

17 "Automatic number identification" or "ANI." A
18 telecommunications network capability that enables the automatic
19 display of the telephone number used to place an enhanced 911
20 call.

21 "Board." The enhanced 911 advisory board established under
22 section 4.

23 "CMRS." Commercial mobile radio service, as defined in 47
24 CFR 20.3 (relating to definitions) and the Omnibus Budget
25 Reconciliation Act of 1993 (P.L.103-66, 107 Stat. 312). CMRS
26 includes the term "wireless" and service provided by a wireless
27 real-time two-way voice communication device, including
28 radiotelephone communications used in a cellular telephone
29 service or personal communications service.

30 "Coordinator." The wireless 911 coordinator employed by the

1 Pennsylvania Emergency Management Agency.

2 "Enhanced 911 service" or "E 911." A service consisting of a
3 telephone network featuring a public safety answering point
4 provided for users of telephone systems which can be reached by
5 dialing 911. The service automatically directs 911 emergency
6 service calls to the appropriate public safety answering point
7 by selective routing based on a geographic location from which
8 the emergency call originated and provides the capability for
9 automatic number identification and automatic location
10 identification features.

11 "FCC." The Federal Communications Commission.

12 "Fund." The Wireless E 911 Telecommunications Fund, a
13 dedicated fund consisting of all money collected under the
14 wireless enhanced 911 surcharge.

15 "Order." The Federal Communication Order 94-102(61 Federal
16 Registrar 4034 B) or any other FCC order that affects enhanced
17 911 service.

18 "PSAP." A public safety answering point equipped and staffed
19 on a 24-hour basis to receive and process enhanced 911 calls.

20 "Wireless 911 costs." All reasonable direct recurring and
21 nonrecurring capital costs and operating expenses incurred and
22 sworn to by a commercial mobile radio service provider or its
23 agents in designing, upgrading, leasing, purchasing,
24 programming, installing, testing, administering, delivering or
25 maintaining necessary data hardware, software and local exchange
26 telephone service required to provide wireless enhanced 911
27 service.

28 "Wireless service." The enhanced 911 service required to be
29 provided by commercial mobile radio service providers under the
30 Federal Communications Commission order.

1 Section 2. Wireless E 911 Telecommunications Fund established.

2 A special nonreverting fund to be known as the Wireless E 911
3 Telecommunications Fund is hereby established in the State
4 Treasury. All money in the fund shall be used solely for the
5 establishment and continued operation of E 911 service
6 operations in this Commonwealth. Nothing in this act shall
7 prohibit the Commonwealth from supplementing the fund from the
8 General Fund or other sources of revenue.

9 Section 3. Wireless surcharge.

10 A surcharge of \$1 shall be billed monthly on each wireless
11 telephone line by each CMRS provider. Each provider shall
12 collect the surcharge from all of its customers having an
13 address within this Commonwealth and remit the funds to the
14 State Treasurer within 30 days. Each provider shall be permitted
15 to retain an amount not to exceed 2% to defray costs associated
16 with collection of the surcharge. State and local taxes shall
17 not apply to the surcharge.

18 Section 4. Board.

19 (a) Establishment.--A board is established which shall
20 consist of five members:

21 (1) The director of the agency or his designee.

22 (2) Two representatives of the Pennsylvania County
23 Commissioners Association who have experience and knowledge
24 of 911 wireless operations. One member shall be appointed
25 initially for a term of two years and the other for a term of
26 four years.

27 (3) Two members representing the 911 wireless
28 telecommunications industry. One member shall be appointed
29 initially to serve a term of two years and the other for a
30 term of four years.

1 (b) Compensation.--Except for the director of the agency or
2 his designee, members of the board shall serve without
3 compensation but shall be reimbursed for actual expenses.

4 (c) Meetings.--The board shall meet at least quarterly to
5 provide advice to the agency concerning issues related to the E
6 911 system.

7 Section 5. Duties of agency.

8 (a) General rule.--The agency shall provide reasonable
9 payment to each county which submits an annual E 911 county
10 plan. Each county shall submit its plan prior to October 1. The
11 plan shall include the costs the county expects to incur related
12 to the establishment, operation and maintenance of an E 911
13 system within the county during the next Commonwealth fiscal
14 years.

15 (b) Review of plan.--The agency shall review the plan and by
16 February 1 advise the county if its plan qualifies for payment.

17 (c) Payments.--The agency shall make payments to each
18 qualified county on a quarterly basis at the beginning of each
19 Commonwealth fiscal year. If the fund has insufficient revenue
20 to meet payments, they shall be carried forward until approved
21 costs have been paid.

22 Section 6. Payment to CMRS operators.

23 (a) General rule.--The agency shall provide payment to CMRS
24 operators for legitimate E 911 wireless costs under the
25 guidelines of the FCC order.

26 (b) Estimate of costs.--Each provider shall submit to the
27 agency on or before October 1 its estimate of costs associated
28 with providing E 911 service within its service area in the next
29 Commonwealth fiscal year. No later than February 1 the agency
30 shall notify each provider as to whether its estimate qualifies

1 for payment and if the fund is expected to have sufficient
2 revenue for the payment during the next Commonwealth fiscal
3 year. The agency shall reimburse each provider for approved
4 costs on a quarterly basis beginning with the first quarter of
5 the Commonwealth's fiscal year. If revenue is insufficient in
6 the fund the approved payments shall be carried forward into the
7 next quarter until all approved payments have been paid.

8 Section 7. Review of payments.

9 During the period of July 1 to September 1 of each year the
10 agency shall determine if qualifying payments to each county and
11 each CMRS provider during the proceeding fiscal year were more
12 or less than the funds provided. Each county and each CMRS
13 provider shall provide such verification as requested by the
14 agency. Any overpayment shall be refunded to the agency or may
15 be credited to qualifying payments during the current fiscal
16 year.

17 Section 8. Audit.

18 The Auditor General shall audit expenditures from the fund
19 triannually. Copies of the audit shall be sent to the Governor
20 and chairman of the Appropriations Committee of the Senate and
21 the chairman of the Appropriations Committee of the House of
22 Representatives.

23 Section 9. E 911 State plan.

24 The agency shall on an annual basis develop and update an E
25 911 State plan. The plan shall provide for the development,
26 implementation, operation and maintenance of an integrated E 911
27 system. The agency shall have the authority to:

28 (1) Approve technical standards, with the advice of the
29 advisory committee.

30 (2) Determine permitted uses of moneys dispersed from

1 the fund.

2 (3) Prepare, maintain and keep current adequate public
3 notice and opportunity to comment on the development,
4 implementation, operation and maintenance of an integrated E
5 911 system in accordance with the FCC and State plans.

6 (4) Make arrangements with each E 911 provider to
7 provide E 911 service according to the State plan.

8 (5) Notify counties of wireless service providers within
9 each county, specifically noting providers servicing more
10 than one county. Notice shall be provided at the time
11 wireless service is newly initiated within the county. The
12 agency shall designate the appropriate PSAP for wireless E
13 911 service for each wireless provider.

14 (6) Forward a copy of the completed plan and any
15 revisions to all affected agencies, wireless providers, local
16 exchange carriers, competitive local exchange carriers and
17 interchange carriers.

18 (7) Promulgate regulations covering the design,
19 implementation, operation and maintenance of a Statewide E
20 911 telecommunications system.

21 Section 10. Disbursement of funds.

22 Funding shall cover the following:

23 (1) Recurring and nonrecurring costs for the
24 development, implementation, operation and maintenance of a
25 Statewide integrated wireless E 911 system in accordance with
26 the FCC order.

27 (2) Training of emergency service personnel regarding
28 receipt and use of wireless E 911 service.

29 (3) Purchase by local municipalities of emergency
30 response telecommunications equipment.

1 (4) Education of consumers regarding the operations,
2 limitations, role and responsible use of wireless E 911
3 service.

4 (5) To the extent that a wireless provider has not
5 recovered its 911 wireless costs through deductions and
6 reimbursement mechanisms, reimbursement of the wireless
7 provider's agency-approved recurring and nonrecurring costs
8 associated with the establishment, operation, administration
9 and maintenance of the wireless 911 system, including costs
10 associated with the design, development, acquisition,
11 construction, maintenance and operation of the system.

12 Section 11. Inadequate funding.

13 If the total amount of the funds in any fiscal year is
14 inadequate to pay for agency-approved costs, each wireless
15 provider shall receive a pro-rata share of the total funds in
16 the account. Unpaid balances shall be carried forward to the
17 next fiscal year.

18 Section 12. Annual audit.

19 An annual audit shall be conducted on each public agency's
20 use of funds disbursed by the agency.

21 Section 13. Annual report.

22 (a) General rule.--The agency shall submit to the Governor
23 and the General Assembly an annual report regarding the
24 following:

25 (1) The extent of the wireless system in this
26 Commonwealth.

27 (2) A list of public agencies that have completed E 911
28 systems under the State plan.

29 (3) Itemization of public agency or wireless provider
30 expenditures for each project fund expenditure.

1 (4) Planned expenditures for the next fiscal year.

2 (5) Total aggregate fees provided from all wireless
3 providers in the last fiscal year and the amount of any funds
4 carried forward.

5 (6) The amount of any remaining unpaid agency-approved
6 public agency costs or wireless provider costs carried
7 forward for payment during the next fiscal year.

8 (b) Public document.--The annual report of the agency shall
9 be a public document, except that no public agency or PSAP or
10 its employees or the State Treasurer shall release information
11 considered to be proprietary in respect to any wireless
12 provider, its customers, revenues or expenses.

13 Section 14. Liability.

14 (a) General rule.--No wireless provider or its officers,
15 agents or vendors shall be held liable for civil or criminal
16 damages resulting from the provider's participation or failure
17 or omission in connection with the development, design,
18 installation, operation, maintenance or performance of the E 911
19 system, except for willful or wanton misconduct.

20 (b) Emergency.--An E 911 carrier shall have the same
21 immunity from liability as a landline carrier for transmission
22 errors or other failures or technical errors in the course of
23 handling an emergency.

24 Section 15. General powers of agency.

25 (a) Regulations.--The agency shall have the power to
26 promulgate regulations necessary to carry out the purpose of
27 this act.

28 (b) Enforcement.--The agency shall also have the full power
29 and authority to enforce and execute the provisions of this act.

30 Section 16. Effective date.

1 This act shall take effect in 90 days.