

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2969 Session of
2002

INTRODUCED BY SEMMEL, MICHLOVIC, EGOLF, CORRIGAN, PIPPY,
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HERSHEY AND THOMAS, NOVEMBER 12, 2002

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 20, 2002

AN ACT

1 Amending the act of July 9, 1990 (P.L.340, No.78), entitled "An
2 act providing for a Statewide emergency telephone number 911
3 system; providing for contributions from telephone
4 subscribers; providing a penalty; and making a repeal,"
5 further providing for definitions, for local government
6 immunity and for powers and duties of the Pennsylvania
7 Emergency Management Agency; establishing a Statewide
8 integrated wireless E-911 State plan; establishing a wireless
9 E-911 Emergency Services Fund and disbursements therefrom;
10 further providing for collection of an E-911 surcharge from
11 wireless customers and for annual reporting; establishing a
12 wireless E-911 Emergency Services Advisory Committee; and
13 providing for rules and regulations.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 2 of the act of July 9, 1990 (P.L.340,
17 No.78), known as the Public Safety Emergency Telephone Act,
18 amended February 12, 1998 (P.L.64, No.17), is amended to read:
19 Section 2. Definitions.

20 The following words and phrases when used in this act shall
21 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "911 emergency communication system" or "911 system." A
3 system, including enhanced 911 service but excluding a wireless
4 E-911 system, which permits a person dialing 911 by telephone to
5 be connected to a public safety answering point, via normal
6 telephone facilities, for the reporting of police, fire, medical
7 or other emergency situations.

8 "Active prepaid wireless ~~telephone~~ ACCOUNT." A prepaid <—
9 wireless ~~telephone~~ ACCOUNT that has been used by the customer <—
10 during the month to complete a telephone call for which the
11 customer's card or account was reduced.

12 "Advisory committee." The wireless E-911 Emergency Services
13 Advisory Committee established in section 11.3.

14 "Agency." The Pennsylvania Emergency Management Agency.

15 "Associated with _____ ~~(name of jurisdiction)~~ <—
16 PENNSYLVANIA." <—

17 (1) in the case of the mobile telephone number (MTN) the
18 geographical location associated with the first six digits,
19 or NPA/NXX, of the MTN; or

20 (2) in the case of a customer service address the
21 physical location of the address.

22 "Commission." The Pennsylvania Public Utility Commission.

23 "Competitive local exchange carrier." A local exchange
24 carrier that has been certificated as a competitive local
25 exchange carrier by the Pennsylvania Public Utility Commission.

26 "Contribution rate." A fee assessed against a telephone
27 subscriber for the nonrecurring costs, maintenance and operating
28 costs of a 911 system. Counties of the first through second
29 class A may impose a monthly contribution rate in an amount not
30 to exceed \$1 per line on each local exchange access line.

1 Counties of the third through fifth class may impose monthly
2 contribution rates in an amount not to exceed \$1.25 per line on
3 each local exchange access line. Counties of the sixth through
4 eighth class may impose a monthly contribution rate in an amount
5 not to exceed \$1.50 per line on each local exchange access line.
6 The contribution rate may be used by counties for the expenses
7 of implementing, expanding or upgrading a 911 system. Expenses
8 eligible for reimbursement through the contribution rate shall
9 include telephone terminal equipment, trunk line service
10 installation, network changes, building of initial data base and
11 any other nonrecurring costs to establish a 911 system. The
12 contribution rate may also be used to fund recurring costs
13 pursuant to section 8(b). Expenses not eligible for
14 reimbursement through the contribution rate shall include
15 purchase of real estate, cosmetic remodeling, central office
16 upgrades, hiring of dispatchers, ambulances, fire engines or
17 other emergency vehicles, utilities, taxes and other expenses as
18 determined by the Pennsylvania Emergency Management Agency.

19 "Council." The Pennsylvania Emergency Management Council.

20 "County." The term shall include a city of the first class
21 coterminous with a county.

22 "County plan." A document submitted by the county on a
23 triennial basis to the Pennsylvania Emergency Management Agency,
24 outlining its proposed or existing 911 system, including a
25 contribution rate, for the forthcoming three years.

26 "Enhanced 911 service" or "E-911." Emergency telephone
27 service providing for automatic identification of caller
28 location and calling number.

29 "FCC E-911 Order." All orders issued by the Federal
30 Communications Commission pursuant to the proceeding entitled

1 "Revision of the Commissions Rules to Ensure Compatibility with
2 Enhanced 911 Emergency Calling Systems" (CC Docket No. 94-102;
3 RM-8413), any successor proceeding, and any other FCC order that
4 affects the provision of wireless E-911 service to wireless
5 service customers.

6 "Interexchange carrier." A person that is authorized by the
7 Pennsylvania Public Utility Commission to provide long-distance
8 telecommunications service.

9 "Local exchange carrier." A person, including a competitive
10 local exchange carrier, that is authorized by the Pennsylvania
11 Public Utility Commission to provide local exchange
12 telecommunications service or exchange access.

13 "Local exchange telephone service." The provision of
14 telephonic message transmission within an exchange, as such is
15 defined and described in tariffs filed with and approved by the
16 commission.

17 "Mobile telephone number" or "MTN." The telephone number
18 assigned to a wireless telephone at the time of initial
19 activation.

20 "NPA-NXX." The first six digits of a ten-digit telephone
21 number, including a mobile telephone number, representing the
22 area code and exchange of the telephone number.

23 "Person." The term includes a corporation, a partnership, an
24 association, the Federal Government, the State government, a
25 political subdivision, a municipal or other local authority, as
26 well as a natural person.

27 "Prepaid wireless telephone service." A wireless telephone
28 service which is activated in advance by payment of a finite
29 dollar amount or for a finite set of minutes and which, unless
30 an additional finite dollar amount or finite set of minutes is

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

6 "Public agency." The Commonwealth or a political
7 subdivision, public authority, municipal authority or any
8 organization located in whole or in part within this
9 Commonwealth which provides or has the authority to provide
10 firefighting, law enforcement, ambulance, emergency medical or
11 other emergency services.

12 "Public safety answering point" or "PSAP." The first point
13 at which calls for emergency assistance from individuals are
14 answered, operated 24 hours a day.

15 "Sufficient positive balance." A dollar amount greater than
16 or equal to the monthly wireless surcharge amount.

17 "Telephone subscriber." A person other than a wireless
18 service customer who contracts with a [telephone company] local
19 exchange carrier within this Commonwealth for local exchange
20 telephone service, either residential or commercial. When the
21 same person has several telephone dial tone access lines, each
22 dial tone access line shall constitute a separate subscription.
23 For purposes of the contribution rate, the term shall not
24 include pay stations owned or operated by a regulated public
25 utility.

26 "Vendor." A person other than a local exchange carrier or a
27 wireless provider who supplies 911 or wireless E-911 system
28 services or equipment.

29 "Wireless automatic location information" or "(ALI)." The
30 delivery or receipt of the approximate geographic location, as

1 specified in the FCC E-911 Order, of the wireless device being
2 used to place a call to a 911 system or to a wireless E-911
3 system.

4 "Wireless automatic number identification" or "(ANI)." The
5 delivery or receipt of the telephone number assigned to the
6 wireless device being used to place a call to a 911 system or to
7 a wireless E-911 system.

8 "Wireless E-911 service." Service provided by a wireless
9 provider, pursuant to the FCC E-911 Order.

10 "Wireless E-911 State plan." A document to be prepared,
11 maintained and kept current by the Pennsylvania Emergency
12 Management Agency providing for all aspects of the development,
13 implementation, operation and maintenance of a Statewide
14 integrated wireless E-911 system, including the exclusive
15 authority to approve wireless provider service agreements
16 between a county and a wireless provider, formulate technical
17 standards and determine permitted uses of and amounts disbursed
18 from the Wireless E-911 Emergency Services Fund established by
19 section 11.4(a).

20 "Wireless E-911 surcharge." A monthly fee assessed upon each
21 wireless service customer for each wireless two-way
22 communication device for which that customer is charged by a
23 wireless provider for wireless service.

24 "Wireless E-911 system." An E-911 system which permits
25 wireless service customers dialing 911 to be connected to a
26 public safety answering point for the reporting of police, fire,
27 medical or other emergency situations.

28 "Wireless provider." A person engaged in the business of
29 providing wireless service to end-use customers in this
30 Commonwealth, including resellers.

1 "Wireless service." Commercial mobile radio service as
2 defined under section 332(d) of the Communications Act of 1934
3 (47 U.S.C. § 332(d)), and which provides real-time, two-way
4 voice service that is interconnected with the public switched
5 telephone network.

6 "Wireless service customer." A person who is billed by a
7 wireless provider or who receives prepaid wireless telephone
8 service from a wireless provider for wireless service within
9 this Commonwealth.

10 Section 2. Section 3 of the act is amended by adding a
11 subsection to read:

12 Section 3. Telecommunications management.

13 * * *

14 (d) Exemption.--The Pennsylvania State Police
15 telecommunications facilities are exempt from the
16 telecommunications management of the agency, council and the
17 commission.

18 Section 3. Section 4(a) of the act is amended by adding a
19 paragraph to read:

20 Section 4. Counties.

21 (a) Powers and duties.--The board of county commissioners,
22 or, in a home rule county, the appropriate body according to the
23 home rule charter, shall have the following powers and duties in
24 relation to a 911 system:

25 * * *

26 (8) To cooperate with the Pennsylvania State Police, any
27 county/municipality that utilizes ANI/ALI data base services,
28 shall upon request of the Commissioner of the Pennsylvania
29 State Police or his designee, provide authority to access any
30 and all ANI/ALI data base information relative to any and all

911 calls for emergency services, whether the data base is held by the particular county/municipality or by a commercial entity. Counties/municipalities which receive, store or otherwise utilize location data related to 911 emergency calls received via wireless telephone or any other medium, shall likewise provide all available data to the Pennsylvania State Police upon request. PSAPs AND WIRELESS PROVIDERS shall not be liable for errors in any of the data bases, which may be accessed by the Pennsylvania State Police. In order to ensure that the county/municipality does not experience degradation of service or additional equipment costs as a result of providing this information, the Pennsylvania State Police shall provide the necessary means to allow the transfer of this data. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED TO IMPOSE ON WIRELESS PROVIDERS ANY OBLIGATIONS BEYOND THOSE CREATED BY APPLICABLE FEDERAL COMMUNICATIONS COMMISSION ORDERS AND REGULATIONS.

* * *

Section 4. The act is amended by adding a section to read:

Section 4.1. Pennsylvania State Police.

(a) Powers and duties.--The Commissioner of the Pennsylvania State Police, or his designee, shall have the following powers and duties in relation to a Pennsylvania State Police telecommunications facility:

(1) To designate, with specificity, which Pennsylvania State Police facilities shall be considered Pennsylvania State Police telecommunications facilities under this act.

(2) To designate a commander of the Pennsylvania State Police telecommunications facility who shall serve as the point of contact with the agency and the counties and shall

1 oversee the implementation, operation and maintenance of the
2 Pennsylvania State Police telecommunications facility. The
3 Pennsylvania State Police facility shall, where
4 technologically feasible, be adequate to provide service to
5 the designated area of coverage.

6 (3) To request any and all ANI/ALI data base
7 information, as it relates to all 911 calls requesting
8 emergency services, from the designated counties within the
9 Pennsylvania State Police telecommunications facility
10 designated area of coverage. The Pennsylvania State Police
11 shall provide the necessary means to allow the transfer of
12 this data.

13 (4) To provide training and certification for all call-
14 takers/dispatchers and call-taker/dispatcher supervisors that
15 meets or exceeds the training and certification standards
16 that are provided for in 4 Pa. Code Ch. 120c (relating to
17 training and certification standards for 911 emergency
18 communications personnel).

19 (b) Ineligible reimbursement.--The Pennsylvania State Police
20 are not eligible to receive any reimbursement from the moneys
21 collected from the contribution rate or wireless E-911
22 surcharge, nor may the Pennsylvania State Police impose a
23 monthly contribution rate or wireless E-911 surcharge upon the <—
24 telephone subscribers on the local exchange access line OR A <—
25 WIRELESS E-911 SURCHARGE UPON WIRELESS SERVICE CUSTOMERS.

26 Section 5. Sections 9 and 11.1 of the act, amended or added
27 February 12, 1998 (P.L.64, No.17), are amended to read:

28 Section 9. Telephone records.

29 (a) Access.--Each telephone service supplier shall provide
30 customer telephone numbers, names and service addresses to 911

1 systems when required. Although customer numbers, names and
2 service addresses shall be available to 911 systems, such
3 information shall remain the property of the disclosing service
4 supplier. The total cost of the system shall include expenses to
5 reimburse telephone service suppliers for providing and
6 maintaining 911 information. This information shall be used only
7 in providing emergency response services to a 911 call, except
8 as provided in subsection (c). A person who uses or discloses
9 data base information for purposes other than handling a 911
10 call or other than as provided in subsection (c) commits a
11 misdemeanor of the third degree.

12 (b) Privacy waived.--Private listing service customers in a
13 911 service district shall waive the privacy afforded by
14 nonlisted and nonpublished numbers when using the 911 emergency
15 service.

16 (c) Immunity.--No telephone company, wireless communications
17 company or vendor or agent, employee or director of a telephone
18 company, wireless communications company or vendor shall be
19 liable to any person who uses the 911 emergency service
20 established under this act or provides information to 911
21 systems:

22 (1) for release to a public safety answering point of
23 information specified in this section that is not already
24 part of the public records, including nonpublished telephone
25 numbers; [or]

26 (2) for release to the commission, the Federal
27 Communications Commission or any other Federal or
28 Commonwealth agency with the authority to regulate the
29 provision of telecommunications services, of telephone
30 company information specified in this section that is not

already part of public records, including where applicable
information regarding numbers of lines served by an
individual company but excluding nonpublic information
regarding the company's individual customer names, addresses
and telephone numbers; or

[(2)] (3) for interruptions, omissions, defects, errors,
mistakes or delays in transmission occurring in the course of
rendering 911 emergency service under this act, unless such
interruptions, omissions, defects, errors, mistakes or delays
are caused by the willful or wanton misconduct of the
telephone company, wireless communications company or vendor,
their agents, employees or directors: Provided, however, That
nothing herein shall preclude the application of any
commission tariff or regulation pertaining to allowances for
telephone service interruptions.

Section 11.1. Immunity.

All 911 systems and wireless E-911 systems run by county and
local governments shall be local agencies who shall enjoy local
governmental immunity as provided under 42 Pa.C.S. Ch. 85 Subch.
C (relating to actions against local parties).

Section 6. The act is amended by adding sections to read:

Section 11.2. Powers and duties of agency.

(a) Administration.--The agency shall have the following
powers and duties in relation to a wireless E-911 system:

(1) To designate a member of the agency who shall serve
as a point of contact at the agency for all matters involving
wireless E-911 systems in this Commonwealth.

(2) To oversee the development, implementation,
operation and maintenance of a Statewide integrated wireless
E-911 system, including the exclusive authority to approve

1 wireless provider service agreements between a county and a
2 wireless provider, formulate technical standards and
3 determine permitted uses of and amounts disbursed from the
4 wireless E-911 Emergency Services Fund established in section
5 11.4(a).

6 (b) Wireless E-911 State plan.--The agency shall prepare,
7 maintain and keep current, after adequate public notice and
8 opportunity to comment and after consideration of the
9 recommendations of the ~~advisory board~~ WIRELESS ADVISORY

<—

10 SUBCOMMITTEE, a wireless E-911 State plan providing for all
11 aspects of the development, implementation, operation and
12 maintenance of a Statewide integrated wireless E-911 system in
13 accordance with the FCC E-911 Order. Pursuant to such plan, the
14 agency shall:

15 (1) Make arrangements with each wireless provider to
16 provide wireless E-911 service according to the wireless E-
17 911 State plan.

18 (2) Assure execution of all contracts, mutual aid
19 agreements, cross-service agreements and all other necessary
20 documents that may be required in the implementation of the
21 wireless E-911 State plan.

22 (3) Notify counties of wireless service within each
23 county, specifically noting wireless service to more than one
24 county. Such notice also shall be provided at the time
25 wireless service is newly initiated within the county. The
26 agency shall designate the appropriate PSAP for wireless E-
27 911 service for each wireless provider.

28 (4) Forward a copy of the completed plan and any
29 revision thereof to all affected public agencies, wireless
30 providers, local exchange carriers, competitive local

exchange carriers and interexchange carriers.

Section 11.3. Advisory committees.

(a) Establishment of a ~~wireless~~ E-911 Emergency Services <—
Advisory Committee.--There is hereby established an advisory
committee to be known as the ~~wireless~~ E-911 Emergency Services <—
Advisory Committee.

(b) Members.--The advisory committee shall be comprised of
the following persons:

(1) The director of the agency or his designee who shall
act as chairperson.

(2) Two county commissioners.

(3) Four county 911 program managers.

(4) Four wireless providers licensed by the Federal
Communications Commission.

(5) Two landline telephone service provider
representatives.

(6) Two representatives each from the fire service,
emergency medical service and police service.

The Governor, upon recommendation of the applicable Statewide
organizations, associations and industry segments, shall appoint
the committee members, who will each serve a two-year term.

Advisory committee membership shall be limited to one
representative per organization or corporate entity.

(c) Roles and responsibilities.--The advisory committee
shall make recommendations to the agency regarding the
formulation of technical, administrative and operational
standards for use in overseeing 911 programs Statewide.

(d) Reimbursement.--The members of the advisory committee
shall serve without compensation, but shall be reimbursed for
their actual and necessary travel and other expenses in

1 connection with attendance at meetings called by the
2 chairperson.

3 (e) Advisory committee subcommittees.--The chairperson may
4 create, within the committee membership, subcommittees to study
5 and address specific technical and program areas:

6 (1) A wireless subcommittee shall be created as a
7 permanent subcommittee and shall consist of the following
8 persons:

9 (i) The advisory committee chairperson.

10 (ii) Two county commissioners.

11 (iii) Four county 911 program managers.

12 (iv) Four representatives of wireless providers
13 licensed by the Federal Communications Commission.

14 (v) Two landline telephone service provider
15 representatives.

16 (2) Wireless subcommittee roles and responsibilities:

17 (i) To advise the agency regarding the development,
18 implementation, operation and maintenance of a Statewide
19 integrated wireless E-911 system.

20 (ii) To make recommendations to the agency regarding
21 the preparation and periodic revision of a wireless E-911
22 State plan providing for the development, implementation,
23 operation and maintenance of a Statewide integrated
24 wireless E-911 system in accordance with the FCC E-911
25 Order.

26 (iii) To make recommendations to the agency
27 regarding the approval or disapproval of wireless
28 provider service agreements and the formulation of
29 technical standards.

30 (iv) To make recommendations to the agency regarding

1 the development of guidelines, rules and regulations
2 required to address the administration of the Statewide
3 E-911 wireless program and the disbursement of funds from
4 the wireless E-911 Emergency Services Fund.

5 (v) To make recommendations to the agency regarding
6 the development of the annual report required of the
7 agency by this act, including, but not limited to,
8 recommendations concerning adjustments of the wireless E-
9 911 surcharge.

10 Section 11.4. Wireless E-911 Emergency Services Fund.

11 (a) Establishment of fund.--There is hereby established in
12 the State Treasury a nonlapsing restricted interest-bearing
13 account to be known as the wireless E-911 Emergency Services
14 Fund. The fund shall consist of the fees collected under
15 subsection (b), funds appropriated by the General Assembly and
16 of funds from any other source, private or public. Moneys in the
17 fund and the interest it accrues shall be appropriated annually
18 to the Pennsylvania Emergency Management Agency to be disbursed
19 by the agency and shall be used only for the following costs:

20 (1) Public agency and wireless provider costs resulting
21 from compliance with the FCC E-911 Order, including
22 development, implementation and testing, operation and
23 maintenance of a Statewide integrated wireless E-911 system.
24 Costs must be for wireless E-911 service provided in
25 accordance with the FCC E-911 Order.

26 (2) PSAP eligible expenses to the extent they are THE <—
27 approved E-911 expenses in paragraph (1) and have been <—
28 reimbursed and THE ELIGIBLE EXPENSES do not exceed the <—
29 percentage of the actual demonstrated ratio of wireless calls
30 to demonstrated total emergency call volume times the amount

1 of money in the fund, and further:

2 (i) the expenses are limited to 25% of the fund if a
3 majority of wireless providers serving the geographic
4 area covered by the PSAP have been tested and accepted by
5 the PSAP for wireless E-911 Phase I service;

6 (ii) the expenses are limited to 50% of the fund if
7 all of the wireless providers serving the geographic area
8 covered by the PSAP have been tested and accepted by the
9 PSAP for wireless E-911 Phase I service;

10 (iii) the expenses are limited to 75% of the fund if
11 a majority of wireless providers serving the geographic
12 area covered by the PSAP have been tested and accepted by
13 the PSAP for wireless E-911 Phase II service; and

14 (iv) the expenses are limited to 100% of the fund if
15 all of the wireless providers serving the geographic area
16 covered by the PSAP have been tested and accepted by the
17 PSAP for wireless E-911 Phase II service.

18 In the event that, pursuant to an FCC E-911 waiver, a wireless
19 provider is temporarily relieved of its obligation to provide
20 wireless E-911 Phase II service in the geographic area covered
21 by a requesting PSAP, such wireless carrier shall be disregarded
22 in the determinations to be made pursuant to subparagraphs (iii)
23 and (iv) until such time as the wireless carrier's obligation to
24 provide wireless E-911 Phase II service again becomes effective.

25 (b) Wireless E-911 surcharge.--Each wireless service
26 customer shall pay a fee, to be known as a wireless E-911
27 surcharge, in an amount of ~~\$1.00~~ \$1.25 per month per each <—
28 wireless two-way communication device for which that customer is
29 billed by a wireless provider for wireless service or receives
30 prepaid wireless telephone service from a wireless provider.

1 Such fee shall be collected apart from, and in addition to, any
2 fee levied by the wireless provider in whole or in part for the
3 provision of 911 services. TWENTY-FIVE CENTS OF THIS MONTHLY FEE <—
4 SHALL BE PLACED IN A SEPARATE FUND ESTABLISHED IN SUBSECTION
5 (B.1).

6 (1) Wireless providers shall collect the fee on behalf
7 of the agency as part of their billing process and shall have
8 no obligation to take any legal action to enforce the
9 collection of the surcharge. Such action may be brought by or
10 on behalf of the agency. Annually, upon written request of
11 the agency, each wireless provider shall provide a list of
12 the names and addresses of those wireless service customers
13 carrying a balance that have failed to pay the wireless E-911
14 surcharge. The wireless provider shall not be liable for such
15 unpaid amounts.

16 (2) If a wireless provider receives a partial payment
17 for a monthly bill from a wireless service customer, the
18 wireless provider shall apply the payment against the amount
19 the wireless service customer owes the wireless provider
20 first and shall remit to the State Treasurer such lesser
21 amount, if any, as shall result therefrom.

22 (3) The fees collected under this subsection shall not
23 be subject to taxes or charges levied by the Commonwealth or
24 any political subdivision of this Commonwealth, nor shall
25 such fees be considered revenue of the wireless provider for
26 any purpose.

27 (4) In the case of prepaid wireless telephone service,
28 the monthly wireless 911 surcharge imposed by this section
29 shall be remitted based upon each prepaid wireless telephone <—
30 ACCOUNT in any manner consistent with the carrier's <—

1 PROVIDER'S existing operating or technological abilities, <—
2 such as customer address, location associated with the MTN,
3 or reasonable allocation method based upon other comparable
4 relevant data, and associated with Pennsylvania, for each
5 wireless customer with an active prepaid wireless account and
6 has a sufficient positive balance as of the last day of each
7 month, if such information is available.

8 (B.1) EMERGENCY SERVICES FUND.--THERE IS HEREBY ESTABLISHED <—
9 IN THE STATE TREASURY A NONLAPSING RESTRICTED INTEREST-BEARING
10 ACCOUNT TO BE KNOWN AS THE EMERGENCY SERVICES FUND. THIS FUND
11 SHALL CONSIST OF 25¢ FOR EACH FEE COLLECTED UNDER SUBSECTION
12 (B). MONEYS IN THE FUND AND THE INTEREST IT ACCRUES SHALL BE
13 APPROPRIATED ANNUALLY TO THE PENNSYLVANIA EMERGENCY MANAGEMENT
14 AGENCY TO BE DISBURSED BY THE AGENCY FOR GRANTS TO PAID AND
15 VOLUNTEER FIRE AND RESCUE COMPANIES AND AMBULANCE SERVICES.

16 (c) Remittance of fees.--On a quarterly basis, each wireless
17 provider shall remit the fees collected under subsection (b) to
18 the State Treasurer for deposit into the fund.

19 (d) Reimbursement of wireless providers costs.--

20 (1) From every such remittance, the wireless provider
21 shall be entitled to deduct and retain an amount not to
22 exceed 2% of the gross receipts collected as reimbursement
23 for the administrative costs incurred by the wireless
24 provider to bill, collect and remit the surcharge.

25 (2) Upon receipt of a request by a public agency for
26 wireless E-911 service, a wireless provider also shall be
27 entitled:

28 (i) To be reimbursed for any recurring costs
29 approved pursuant to agency rules associated with the
30 development, implementation, operation and maintenance of

1 wireless E-911 service in the geographic area served by
2 the requesting public agency.

3 (ii) To be reimbursed for any nonrecurring costs
4 approved pursuant to agency rules associated with the
5 development, implementation, operation and maintenance of
6 wireless E-911 service in the geographic area served by
7 the requesting public agency. Full reimbursement of the
8 approved costs shall be made by the agency simultaneously
9 with its initial approval of the costs, subject to a
10 completion adjustment by mutual agreement of the agency
11 and the wireless provider.

12 (3) In no event shall any expenditure be reimbursed for
13 payment of costs that are not related to a wireless
14 provider's compliance with requirements established by the
15 wireless E-911 State plan or the FCC E-911 Order.

16 (4) Nothing in this act shall prevent a wireless
17 provider from recovering its costs of implementing and
18 maintaining wireless E-911 service directly from its
19 customers, whether itemized on the customer's bill or by any
20 other lawful method. No wireless provider that levies such a
21 separate fee for provision of E-911 wireless service in the
22 geographic area served by the requesting public agency may
23 receive a reimbursement under this section for the same
24 costs.

25 (e) Reporting by wireless providers.--With each remittance a
26 wireless provider shall supply the following information to the
27 State Treasurer and to the agency:

28 (1) The total fees collected through the wireless E-911
29 surcharge from its wireless service customers during the
30 reporting period.

1 (2) The total amount retained by it as reimbursement for
2 administrative costs to cover its expenses of billing,
3 collecting and remitting the fees collected from the wireless
4 E-911 surcharge during the reporting period.

5 (3) Until all nonrecurring costs have been recovered by
6 a wireless provider, the total amount it has been reimbursed
7 by the agency for nonrecurring costs associated with the
8 development, implementation, operation and maintenance of
9 wireless E-911 service during the reporting period.

10 (f) Information to be supplied by wireless providers.--All
11 wireless providers shall provide the agency with such
12 information as it shall request in writing in order to discharge
13 its obligations under this section, including, but not limited
14 to, the collection, ~~deposit and adjustment~~ AND DEPOSIT of the <—
15 wireless E-911 surcharge and its administration of the fund.
16 Information supplied by wireless service providers pursuant to
17 this section shall remain confidential and release of such
18 information shall be governed by section 11.7.

19 (g) Prohibition.--No part of the fund, including any excess
20 amount under section 11.6(a), shall be used for any purpose
21 unless authorized by this act.

22 (H) SURCHARGE SUNSET.--THE WIRELESS E-911 SURCHARGE FEE <—
23 ESTABLISHED IN SUBSECTION (B) SHALL TERMINATE ON JUNE 30, 2007,
24 UNLESS EXTENDED BY AN ACT OF THE GENERAL ASSEMBLY.

25 Section 11.5. Disbursement of fund amounts by agency.

26 (a) Expenditures for wireless E-911 systems.--During each
27 fiscal year, the agency may, only in furtherance of the wireless
28 E-911 State plan, disburse moneys from the wireless E-911
29 Emergency Services Fund to agency-approved public agencies and
30 wireless providers for the following purposes:

1 (1) To provide for recurring and nonrecurring costs for
2 the development, implementation, operation and maintenance of
3 a Statewide integrated wireless E-911 system in accordance
4 with the FCC E-911 Order.

5 (2) To train emergency service personnel regarding
6 receipt and use of wireless E-911 service information.

7 (3) To educate consumers regarding the operations,
8 limitations, role and responsible use of wireless E-911
9 service.

10 (4) To provide for a wireless provider's agency-approved
11 recurring and nonrecurring costs associated with the
12 establishment, operation, administration and maintenance of
13 the wireless E-911 system, including the costs of designing,
14 developing, acquiring, constructing, maintaining and
15 operating network or other equipment, hardware and data
16 bases.

17 (5) PSAP eligible expenses to the extent:

18 (i) all eligible and approved expenses in section
19 11.4(a)(1) have been reimbursed; and

20 (ii) they do not exceed the percentage of the actual
21 demonstrated ratio of wireless calls to demonstrated
22 total emergency call volume times the amount of money in
23 the fund, and further:

24 (I) the expenses are limited to 25% of the fund
25 if a majority of wireless providers serving the
26 geographic area covered by the PSAP have been tested
27 and accepted by the PSAP for wireless E-911 Phase I
28 service;

29 (II) the expenses are limited to 50% of the fund
30 if all of the wireless providers serving the

1 geographic area covered by the PSAP have been tested
2 and accepted by the PSAP for wireless E-911 Phase I
3 service;

4 (III) the expenses are limited to 75% of the
5 fund if a majority of wireless providers serving the
6 geographic area covered by the PSAP have been tested
7 and accepted by the PSAP for wireless E-911 Phase II
8 service;

9 (IV) the expenses are limited to 100% of the
10 fund if all of the wireless providers serving the
11 geographic area covered by the PSAP have been tested
12 and accepted by the PSAP for wireless E-911 Phase II
13 service.

14 (6) In the event that, pursuant to an FCC E-911 waiver,
15 a wireless provider is temporarily relieved of its obligation
16 to provide wireless E-911 Phase II service in the geographic
17 area covered by a requesting PSAP, such wireless carrier
18 shall be disregarded in the determinations to be made
19 pursuant to paragraph (5)(III) and (IV) until such time as
20 the wireless carrier's obligation to provide wireless E-911
21 Phase II service again becomes effective.

22 (b) Limitations on use of fund amounts by public agencies.--
23 No public agency shall receive a disbursement from the fund for
24 any cost necessary to house the wireless E-911 system or for the
25 purchase of real estate, cosmetic remodeling, ambulances, fire
26 engines or other emergency vehicles, utilities, taxes and other
27 expenses as determined by the agency. No more than 70% of the
28 disbursements which a public agency receives from the fund
29 during the agency's fiscal year may be utilized to fund
30 personnel training, salary and benefit costs.

1 (c) Pro rata sharing of fund amounts.--Should the total
2 amount of funds in the fund in any quarter be insufficient to
3 pay for both agency-approved public agency costs and agency-
4 approved wireless provider costs, each wireless provider and the
5 requesting public agency shall receive a pro rata share of the
6 total funds in the account. The pro rata share for any public
7 agency or wireless provider shall be computed based upon the
8 total dollar amount of funds in the fund multiplied by the ratio
9 of the total dollar amount of agency-approved but unpaid
10 invoices of that public agency or wireless provider to the total
11 dollar amount of all agency-approved but unpaid invoices. Any
12 remaining unpaid agency-approved public agency costs or wireless
13 provider costs shall be carried forward for payment during the
14 next fiscal quarter. Such carryforward process shall continue
15 each fiscal quarter until all agency-approved public agency
16 costs and wireless provider costs have been paid.

17 (d) Triennial financial audit.--The agency shall require a
18 triennial financial audit of each public agency's use of the
19 disbursements it has received from the fund and of a wireless
20 provider's collection, deduction, retention, remittance and use
21 of the amounts collected by the wireless provider under the
22 wireless E-911 surcharge or the disbursements it received from
23 the fund. These triennial financial audits shall be consistent
24 with guidelines established by the agency and the cost of each
25 audit shall be paid from the fund.

26 Section 11.6. Reporting.

27 (a) Annual report by agency.--Not later than March 1 of each
28 year, the agency, after consideration of the recommendations of
29 the advisory board, shall submit an annual report, which may be
30 combined with that required by section 3(a)(5), to the Governor

1 and the General Assembly. Subject to the provisions of section
2 11.7(b), the report shall include at least the following:

3 (1) The extent to which wireless E-911 systems currently
4 exist in this Commonwealth.

5 (2) Those public agencies which completed installation
6 of wireless E-911 systems pursuant to the wireless E-911
7 State plan and the costs and expenses for installation.

8 (3) An itemization by a public agency or wireless
9 provider, project and description and expenditure for each
10 wireless E-911 Emergency Services Fund disbursement made in
11 the fiscal year just concluded. The itemization shall include
12 an explanation of how each project contributed to the
13 fulfillment of the existing wireless E-911 State plan.

14 (4) The planned expenditures for the next fiscal year
15 for installation of wireless E-911 systems pursuant to the
16 wireless E-911 State plan.

17 (5) The total aggregate fees collected from all wireless
18 providers in the fiscal year just concluded based upon the
19 reports of such providers submitted under section 11.4(e) and
20 any other funds received by the fund.

21 (6) The amount of any unexpended funds carried forward
22 in the fund.

23 (7) The amount of any remaining unpaid agency-approved
24 public agency costs or wireless provider costs being carried
25 forward for payment during the next fiscal quarter.

26 (b) Study of wireless E-911 emergency services
27 implementation and operation.--The agency, after consideration
28 of the recommendations of the advisory ~~board~~ COMMITTEE, shall
29 report to the Governor and the General Assembly no less than
30 triennially its recommendations concerning wireless E-911

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implementation and operation, including, but not limited to,
necessary or required actions which must be undertaken in
response to the Federal Communication Commission's directive in
the FCC E-911 Order. The report shall recommend measures to be
taken by the General Assembly.

Section 11.7. Public disclosure and confidentiality of
information.

(a) Annual report of the agency.--The annual report of the
agency shall be a public document.

(b) Prohibition against release of information.--Neither the
State Treasurer, the agency, nor any employee, agent or
representative of a PSAP or public agency shall divulge any
information acquired by it or him with respect to any wireless
provider, its customers, revenues or expenses, trade secrets,
commercial information and such other proprietary information
while acting or claiming to act as such employee, agent or
representative, and all such information is hereby required to
be kept confidential, except that aggregations of information
which do not identify or effectively identify numbers of
customers, revenues or expenses, trade secrets, commercial
information and such other proprietary information attributable
to any individual wireless provider may be made public.

Section 11.8. Wireless provider records.

(a) Access.--Upon request from and pursuant to agreement
with a PSAP, each wireless provider shall provide E-911 Service
data base information as permitted under the law to the
requesting PSAP. Such information shall remain the property of
the disclosing wireless provider and, except as otherwise
provided by applicable Federal or State law, shall be used by
the PSAP only in connection with providing emergency response

1 services to a call to a 911 system or to a wireless E-911
2 system.

3 (b) Violations.--A person commits a misdemeanor of the third
4 degree who:

5 (1) Uses or discloses wireless E-911 service data base
6 information for purposes other than handling a call to a 911
7 system or to a wireless E-911 system without the consent of
8 the wireless service customer, or as otherwise provided by
9 applicable Federal or State law.

10 (2) Knowingly uses the telephone number of a 911 system
11 or wireless E-911 system to avoid any charges for the
12 services of a local exchange carrier, competitive local
13 exchange carrier, interexchange carrier or wireless provider.

14 (c) Privacy waived.--The provisions of 66 Pa.C.S. § 2906
15 (relating to dissemination of telephone numbers and other
16 identifying information) shall have no application to wireless
17 providers engaged in providing wireless E-911 service or related
18 services.

19 Section 11.9. Immunity.

20 (a) Generally.--No wireless provider or its officers,
21 directors, employees, agents or vendors shall be liable to any
22 person for criminal penalties or civil damages resulting from,
23 or caused by, such wireless provider's, its officers',
24 directors', employees', agents' or suppliers' participation in
25 or acts, failure or omissions in connection with that
26 participation in the development, design, installation,
27 operation, maintenance, performance or provision of wireless E-
28 911 service, except for willful or wanton misconduct.

29 (b) Parity of liability.--A wireless provider shall have the
30 same immunity from liability for transmission errors or

1 failures, network outages or other technical problems that arise
2 in the course of handling emergency calls or providing emergency
3 services (including wireless E-911 service) as a local exchange
4 carrier enjoys in the course of handling such calls or providing
5 such services.

6 (c) Release of information.--No wireless provider or its
7 employees or agents shall be liable to any person for releasing
8 wireless service customer information to the agency or to any
9 911 system or wireless E-911 system, public agency or PSAP as
10 required by this act.

11 Section 11.10. Agency funding for wireless E-911 support.

12 The agency is authorized to retain up to one-half of one
13 percent of the annual wireless E-911 surcharge proceeds to pay
14 for agency expenses directly related to administering the
15 wireless E-911 provisions of this act. This will include, but
16 will not be limited to, personnel, travel, administrative and
17 printing costs.

18 Section 11.11. Rate regulation.

19 Nothing in this act shall be construed to constitute the
20 regulation of the rates charged by wireless providers for any
21 service or feature which they provide to their wireless service
22 customers, or to prohibit a wireless provider from charging a
23 wireless service customer for any service or feature provided to
24 such customer.

25 Section 11.12. Rules and regulations.

26 The agency shall have the power and authority to issue
27 guidelines and to promulgate, adopt, publish, use and enforce
28 rules and regulations for the implementation of this act and
29 shall within one year of the effective date of this act, after
30 consideration of the recommendations of the advisory board,

promulgate such guidelines and rules and regulations as may be necessary to implement this act. Guidelines and rules and regulations proposed under the authority of this section shall be subject to review by the General Counsel and the Attorney General in the manner provided for the review of proposed rules and regulations pursuant to the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, and the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

Section 11.13. Enforcement of provisions of act.

In addition to any powers expressly enumerated in this act, the agency shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its rules and regulations, or otherwise, all and singular, the provisions of this act, and the agency may institute injunction, mandamus or other appropriate legal proceedings to enforce the provisions of this act and regulations promulgated under it.

Section 7. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 8. This act shall take effect as follows:

(1) The wireless E-911 subscriber surcharge provided in section 11.4 of the act shall take effect upon the first billing cycle of a wireless provider occurring 90 days after the effective date of this act.

(2) The remainder of this act shall take effect in 90 days.