

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 385 Session of
2007

INTRODUCED BY CORMAN, WONDERLING, COSTA, C. WILLIAMS, TOMLINSON,
KITCHEN, PUNT, TARTAGLIONE, M. WHITE, WOZNIAK, WASHINGTON,
FERLO AND FONTANA, MARCH 13, 2007

AS AMENDED ON THIRD CONSIDERATION, JUNE 11, 2007

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 providing for interconnected Voice over Internet Protocol
6 service; and establishing the VoIP 911 Emergency Services
7 Fund.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 2 of the act of July 9, 1990 (P.L.340,
11 No.78), known as the Public Safety Emergency Telephone Act, is
12 amended by adding definitions to read:

13 Section 2. Definitions.

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

17 * * *

18 "Interconnected Voice over Internet Protocol service
19 customer" or "VoIP service customer." A person who is billed by
20 an interconnected Voice over Internet Protocol provider, is the

1 end user of VoIP service and who has designated a primary place
2 of use within the Commonwealth of Pennsylvania.

3 "Interconnected Voice over Internet Protocol provider" or
4 "VoIP provider." A person engaged in the business of providing
5 VoIP service to end-use customers in this Commonwealth,
6 including resellers.

7 "Interconnected Voice over Internet Protocol service" or
8 "VoIP service." Service as defined by all orders issued by the
9 Federal Communications Commission pursuant to the proceeding
10 entitled "IP-Enabled Services", (WC Docket No. 04-36; FCC 05-
11 116), codified at 47 CFR Part 9 (relating to interconnected
12 Voice over Internet Protocol services), any successor proceeding
13 and any other FCC order that affects the provision of E-911
14 service to VoIP service customers or further defines
15 interconnected Voice over Internet Protocol service.

16 * * *

17 "Primary place of use." The street address representative of
18 where the customer's use of the VoIP service primarily occurs.
19 For the purpose of VoIP 911 fees, primary place of use is the
20 customer's registered location on the date the customer is
21 billed.

22 * * *

23 Telecommunications carrier." Any provider of
24 telecommunications services as defined by the Telecommunications
25 Act of 1996 (Public Law 104-104, 110 Stat. 56).

26 * * *

27 Section 2. Sections 11.7, 11.8 and 11.9 of the act, added
28 December 30, 2003 (P.L.384, No.56), are amended to read:
29 Section 11.7. Public disclosure and confidentiality of
30 information.

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

3 (b) Prohibition against release of information.--Neither the
4 State Treasurer, the agency, nor any employee, agent or
5 representative of a PSAP or public agency shall divulge any
6 information acquired with respect to any wireless provider or
7 VoIP provider, its customers, revenues or expenses, trade
8 secrets, commercial information and such other proprietary
9 information while acting or claiming to act as such employee,
10 agent or representative, and all such information is hereby
11 required to be kept confidential except that aggregations of
12 information which do not identify or effectively identify
13 numbers of customers, revenues or expenses, trade secrets,
14 commercial information and such other proprietary information
15 attributable to any individual wireless provider or VoIP
16 provider may be made public.

17 Section 11.8. Wireless provider and VoIP provider records.

18 (a) Access.--Upon request from and pursuant to agreement
19 with a PSAP, each wireless provider shall provide E-911 service
20 data base information and each VoIP provider shall provide VoIP
21 service data base information as permitted under the law to the
22 requesting PSAP. Such information shall remain the property of
23 the disclosing wireless provider or VoIP provider and, except as
24 otherwise provided by applicable Federal or State law, shall be
25 used by the PSAP only in connection with providing emergency
26 response services to a call to a 911 system or to a wireless E-
27 911 system.

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

30 (1) Uses or discloses wireless E-911 service data base

1 information or VoIP service data base information for
2 purposes other than handling a call to a 911 system or to a
3 wireless E-911 system without the consent of the wireless
4 service customer or VoIP service customer, or as otherwise
5 provided by applicable Federal or State law.

6 (2) Knowingly uses the telephone number of a 911 system
7 [or], wireless E-911 system or VoIP service data base
8 information to avoid any charges for the services of a local
9 exchange carrier, competitive local exchange carrier,
10 interexchange carrier [or], wireless provider or VoIP
11 provider.

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

18 Section 11.9. Immunity.

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

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

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

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

12 Section 3. The act is amended by adding a section to read:
13 Section 11.14. Collection and disbursement of VoIP 911 fee.

14 (a) VoIP service customer 911 contribution.--

15 (1) Each VoIP provider or telecommunications carrier, on
16 the first monthly billing cycle after the effective date of
17 this section, shall collect a \$1 fee per month for each
18 telephone number or successor dialing protocol assigned by a
19 VoIP provider to a VoIP service customer number that has
20 outbound calling capability and remit the collection
21 quarterly less the actual uncollectibles experienced by the
22 VoIP provider to the State Treasurer. This fee shall be
23 stated separately in the VoIP service customer's paper or
24 electronic billing and the fee shall be collected apart from
25 and in addition to any fee levied by the VoIP provider in
26 whole or in part for the provision of 911 services or E-911
27 services.

28 (2) In the case of VoIP service customers purchasing
29 multiple dial tone telephone access lines from a VoIP
30 provider, the following multipliers shall be applied to

determine the contribution rate of each customer:

(i) For the first 25 lines, each line shall be billed at the approved contribution rate.

(ii) For lines 26 through 100, each line shall be billed at 0.75 of the approved contribution rate.

(iii) For lines 101 through 250, each line shall be billed at 0.50 of the approved contribution rate.

(iv) For lines 251 through 500, each line shall be billed at 0.20 of the approved contribution rate.

(v) For lines 501 or more, each line shall be billed at 0.172 of the approved contribution rate.

(3) If a VoIP provider receives a partial payment for a monthly bill from a VoIP service customer, the VoIP provider may apply the payment against the amount the VoIP service customer owes the VoIP provider first and then shall remit to the State Treasurer the lesser amount, if any, as shall result therefrom.

(4) The fees collected and remitted under this subsection shall not be subject to taxes or charges levied by the Commonwealth or any political subdivision of this Commonwealth, nor shall the fees be considered revenue of the VoIP provider for any purpose.

(5) As reimbursement for administrative costs to cover its expenses of billing, collecting and remitting the fees during the reporting period, the VoIP provider is allowed to retain for reimbursement up to 2% of the total fees collected under this subsection.

(6) To the extent that a VoIP provider obtains connections to the public switched telephone network from a telecommunications carrier, that telecommunications carrier

1 shall not be required to assess or make contributions to any
2 911 or E-911 fund in connection with the customers or the
3 telephone numbers for which the VoIP provider is responsible
4 for collecting and making contributions under this section.
5 If, however, the telecommunications carrier is, by agreement
6 with the VoIP provider, required to make 911 or E-911
7 contributions on behalf of the VoIP provider customer, the
8 VoIP provider will not be responsible for collecting and
9 making contributions under this section.

10 (b) Reporting by VoIP providers.--With each remittance a
11 VoIP provider and telecommunications carrier shall supply the
12 following information to the State Treasurer and to the agency:

13 (1) The total fees collected under subsection (a)(1)
14 from its VoIP service customers during the reporting period.
15 If the telecommunications carrier has remitted the fees to
16 the agency pursuant to an agreement with the VoIP provider,
17 the VoIP provider must provide notification of such reporting
18 agreement along with the telecommunications carrier's name
19 and 911 or E-911 account number.

20 (2) All VoIP providers and telecommunications carriers
21 shall provide the agency with such information as it shall
22 request, including the primary place of use of each
23 interconnected VoIP service customer, in writing in order to
24 discharge its obligations under this section, including, but
25 not limited to, the collection and deposit of the VoIP fee
26 and its administration of the fund. Information supplied by
27 VoIP providers pursuant to this section shall remain
28 confidential and release of such information shall be
29 governed by section 11.7.

30 (c) Collection enforcement.--A VoIP provider has no

1 obligation to take any legal action to enforce the collection of
2 any fee imposed pursuant to this section.

3 (d) Establishment of fund.--There is hereby established in
4 the State Treasury a nonlapsing restricted interest-bearing
5 account to be known as the VoIP 911 Emergency Services Fund. The
6 fund shall consist of the fees collected pursuant to this
7 section.

8 (e) Distribution of fees.--Moneys in the fund established by
9 this section and the interest it accrues are hereby appropriated
10 on a continuing basis to the agency to be disbursed by the
11 agency. The agency shall make ~~an annual disbursement~~ SEMIANNUAL <—
12 DISBURSEMENTS from the account to each county BY MARCH 1 AND <—
13 SEPTEMBER 1 OF EACH YEAR in an amount equal to the amount of
14 fees collected from VoIP service customers located in that
15 county and for the purpose of assisting counties with the
16 implementation of an agency-approved plan adopted under section
17 5.

18 Section 4. This act shall take effect in 120 days.