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An Act To Simplify the Assessment of E-9-1-1 Surcharges on Prepaid Wireless Telecommunications Service

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 25 MRSA §2921, sub-§3-A is enacted to read:

3-A. Consumer. "Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

Sec. 2. 25 MRSA §2921, sub-§13, as enacted by PL 2007, c. 68, §3, is amended to read:

13. Prepaid wireless telecommunications service. "Prepaid wireless telephonetelecommunications service" means a cellular or wireless telecommunications service that the customer pays for prior to activation of the serviceallows a caller to dial 9-1-1 to access the E-9-1-1 system, which service must be paid for in advance and is sold in predetermined units or dollars that declines with use in a known amount.

Sec. 3. 25 MRSA §2921, sub-§14, as enacted by PL 2007, c. 68, §4, is amended to read:

14. Prepaid wireless telecommunications service provider. "Prepaid wireless telephonetelecommunications service provider" means a cellular orperson that provides prepaid wireless telecommunications service provider that sells prepaid wireless telephone service at wholesale or retailpursuant to a license issued by the Federal Communications Commission.

Sec. 4. 25 MRSA §2921, sub-§15 is enacted to read:

15. Retail transaction. "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

Sec. 5. 25 MRSA §2921, sub-§16 is enacted to read:

16. Seller. "Seller" means a person who sells prepaid wireless telecommunications service to another person.

Sec. 6. 25 MRSA §2927, sub-§1-B, as amended by PL 2007, c. 637, §1, is further amended to read:

1-B. Statewide E-9-1-1 surcharge. The activities authorized under this chapter are funded through a special statewide E-9-1-1 surcharge levied on each residential and business telephone exchange line, including private branch exchange lines and Centrex lines, cellular or wireless telecommunications service customers, including ~~prepaid wireless telephone service customers~~, interconnected voice over Internet protocol service customers and semipublic coin and public access lines. The statewide E-9-1-1 surcharge may not be imposed on more than 25 lines or numbers per customer billing account, ~~except that this limitation does not apply to prepaid wireless telephone services.~~ In the case of cellular or wireless

telecommunications service customers, the place of residence of those customers must be determined according to the sourcing rules for mobile telecommunications services as set forth in Title 36, section 2556. The statewide E-9-1-1 surcharge is 30¢ per month per line or number ~~or, in the case of prepaid wireless telephone services, 30¢ per month or 30-day increment of service per customer.~~ The statewide E-9-1-1 surcharge must be collected from the customer on a monthly basis by each local exchange telephone utility, cellular or wireless telecommunications service provider and interconnected voice over Internet protocol service provider and be shown separately as a statewide E-9-1-1 surcharge on the customer's bill, ~~except that in the case of prepaid wireless telephone service, the collection of the statewide E-9-1-1 surcharge is governed by subsection 1-C.~~ Consumers of prepaid wireless telecommunications service are subject to the surcharge established in subsection 1-D, not the surcharge imposed by this subsection.

Sec. 7. 25 MRSA §2927, sub-§1-C, as enacted by PL 2007, c. 68, §6, is repealed.

Sec. 8. 25 MRSA §2927, sub-§1-D is enacted to read:

1-D. Statewide prepaid wireless telecommunications service E-9-1-1 surcharge.

The statewide prepaid wireless telecommunications service E-9-1-1 surcharge, referred to in this subsection as "the prepaid wireless E-9-1-1 surcharge," is governed by this subsection.

A. The prepaid wireless E-9-1-1 surcharge is 15¢ per retail transaction or, on or after the date of an adjusted amount per retail transaction that is established under paragraph F, that adjusted amount.

B. The prepaid wireless E-9-1-1 surcharge must be collected by the seller from the consumer with respect to each retail transaction occurring in this State. The amount of the prepaid wireless E-9-1-1 surcharge must be either separately stated on an invoice, receipt or similar document that is provided to the consumer by the seller or otherwise disclosed to the consumer.

C. For purposes of paragraph B, a retail transaction that is effected in person by a consumer at the business location of the seller is treated as occurring in this State if that business location is in this State. Any other retail transaction must be treated as occurring in this State if the retail transaction is treated as occurring in this State for the purposes of Title 36, section 1752, subsection 8-B.

D. The prepaid wireless E-9-1-1 surcharge is the liability of the consumer and not of the seller or of any prepaid wireless telecommunications service provider, except that the seller is liable to remit all prepaid wireless E-9-1-1 surcharges that the seller collects from consumers as provided in this subsection, including all such charges that the seller is deemed to collect when the amount of the surcharge has not been separately stated on an invoice, receipt or other similar document provided by the consumer to the seller.

E. The amount of the prepaid wireless E-9-1-1 surcharge that is collected by a seller from a consumer, whether or not such amount is separately stated on an invoice, receipt or other similar document provided to the consumer by the seller, may not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by this State, any political subdivision of this State or any intergovernmental agency.

F. The prepaid wireless E-9-1-1 surcharge must be proportionately increased or reduced, as applicable, upon any change in the surcharge imposed by subsection 1-B. The increase or reduction is effective on the effective date of the change to the surcharge imposed by subsection 1-B or, if later, the first day of the calendar month to occur at least 60 days after enactment of the change to the surcharge imposed by subsection 1-B. The bureau shall provide not less than 30 days advance notice of the increase or reduction on the bureau's publicly accessible website.

G. Prepaid wireless E-9-1-1 surcharges collected by sellers must be remitted to the Treasurer of State at the times and in the manner provided by Title 36, section 1951-A. The State Tax Assessor shall establish registration and payment procedures that substantially coincide with registration and payment procedures as provided in Title 36, section 1754-B and related provisions.

H. A seller may deduct and retain 3% of prepaid wireless E-9-1-1 surcharges that are collected by the seller from consumers.

I. The Public Utilities Commission shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction, which procedures must substantially coincide with the procedures for documenting a sale for retail transaction as provided in Title 36, section 1754-B.

J. The State Tax Assessor shall ensure that all remitted prepaid wireless E-9-1-1 surcharges are deposited in the E-9-1-1 fund under subsection 2-B within 30 days of receipt after deducting an amount not to exceed 2% of remitted charges to reimburse the direct costs of the assessor for administering the collection and remittance of the prepaid wireless E-9-1-1 surcharges.

K. A prepaid wireless telecommunications service provider or seller is not liable for damages to any person resulting from or incurred in connection with the provision of, or failure to provide, 9-1-1 or E-9-1-1 service, or for identifying, or failing to identify, the telephone number, address, location or name associated with any person or device that is accessing or attempting to access 9-1-1 or E-9-1-1 service.

L. A prepaid wireless telecommunications service provider or seller is not liable for damages to any person resulting from or incurred in connection with the provision of any lawful assistance to any investigative or law enforcement officer of the United States, this or any other state, or any political subdivision of this or any other state, in connection with any lawful investigation or other law enforcement activity by such investigative or law enforcement officer.

M. The prepaid wireless E-9-1-1 surcharge imposed by this subsection is the only E-9-1-1 funding obligation imposed with respect to prepaid wireless telecommunications service in this State, and another tax, fee, surcharge or other charge may not be imposed by this State, any political subdivision of this State or any intergovernmental agency for funding E-9-1-1 purposes on any prepaid wireless telecommunications service provider, seller or consumer with respect to the sale, purchase, use or provision of prepaid wireless telecommunications service.

Sec. 9. 25 MRSA §2927, sub-§2-B, as amended by PL 2007, c. 68, §7, is further amended to read:

2-B. Surcharge remittance. Each local exchange telephone utility, cellular or wireless telecommunications service provider, ~~including other than~~ a prepaid wireless ~~telephone~~ telecommunications service provider or seller, and interconnected voice over Internet protocol service provider shall remit the statewide E-9-1-1 surcharge revenues collected from its customers pursuant to this section on a monthly basis and within one month of the month collected to the Treasurer of State for deposit in a separate account known as the E-9-1-1 fund. Each telephone utility or service provider required to remit statewide E-9-1-1 surcharge revenues shall provide, on a form approved by the bureau, supporting data, including but not limited to the following:

- A. The calculation used to arrive at the surcharge remittance amount;
- B. The calculation used to arrive at the uncollectible amount of surcharge;
- C. The total surcharge;
- D. The month and year for which surcharge is remitted;
- E. The legal name of company and telephone number and, if applicable, the parent company name, address and telephone number; and
- F. The preparer's name and telephone number.

Sec. 10. Effective date. This Act takes effect January 1, 2010.

SUMMARY

This bill modifies the current method for collecting E-9-1-1 surcharges to require retailers of prepaid wireless services to collect the surcharge from purchasers at the point of sale in a manner similar to sales tax collections on those services.