§7104-C. Collection of fees related to prepaid wireless telecommunications services

1. Prepaid wireless fee. This section governs the fees and surcharges related to prepaid wireless telecommunications services, referred to in this section as "the prepaid wireless fee." The amount of the prepaid wireless fee is the sum of the following fees:

A. The amount of the fee that is required to be contributed to the state universal service fund as determined pursuant to section 7104, subsection 3-A; [PL 2011, c. 600, §7 (NEW); PL 2011, c. 600, §10 (AFF).]

B. The amount of the fee that is required to be contributed to the telecommunications education access fund as determined pursuant to section 7104-B, subsection 2-A; and [PL 2011, c. 600, §7 (NEW); PL 2011, c. 600, §10 (AFF).]

C. The statewide prepaid wireless telecommunications service 9-1-1 surcharge levied on prepaid wireless telecommunications service consumers pursuant to Title 25, section 2927-A, subsection 3. [PL 2025, c. 167, §45 (AMD).]

[PL 2025, c. 167, §45 (AMD).]

2. Collection of fees and surcharges related to prepaid wireless telecommunications services. The collection of the prepaid wireless fee is governed by this subsection.

A. A seller of prepaid wireless telecommunications services shall collect the prepaid wireless fee from the prepaid wireless consumer for each retail transaction occurring in this State. The amount of the prepaid wireless fee must be separately stated on an invoice, receipt or similar document that is provided to the prepaid wireless consumer by the seller, when practicable. In circumstances in which disclosure of the prepaid wireless fee on an invoice, receipt or similar document is not practicable, the seller must make the information regarding the amount of the prepaid wireless fee available to the prepaid wireless consumer in another manner. [PL 2011, c. 600, §7 (NEW); PL 2011, c. 600, §10 (AFF).]

B. For purposes of paragraph A, a retail transaction that is effected in person by a prepaid wireless 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. [PL 2011, c. 600, §7 (NEW); PL 2011, c. 600, §10 (AFF).]

C. The prepaid wireless fee is the liability of the prepaid wireless 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 fees that the seller collects from prepaid wireless consumers as provided in this subsection, including all such charges that the seller is deemed to collect when the amount of the prepaid wireless fee has not been separately stated on an invoice, receipt or similar document provided to the prepaid wireless consumer by the seller. [PL 2011, c. 600, §7 (NEW); PL 2011, c. 600, §10 (AFF).]

D. The amount of the prepaid wireless fee that is collected by a seller from a prepaid wireless consumer, whether or not such amount is separately stated on an invoice, receipt or similar document provided to the prepaid wireless 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. [PL 2011, c. 600, §7 (NEW); PL 2011, c. 600, §10 (AFF).]

E. If the prepaid wireless fee is amended by rule or law, the new amount of the prepaid wireless fee must take effect at the beginning of the next calendar quarter that is at least 60 days after adoption or enactment of the change. The commission and the State Tax Assessor shall provide not less than 30 days' advance notice of the adoption or enactment of any change to the prepaid wireless

fee amount on both the commission's publicly accessible website and the State Tax Assessor's publicly accessible website. [PL 2011, c. 600, §7 (NEW); PL 2011, c. 600, §10 (AFF).]

F. Prepaid wireless fees collected by sellers must be remitted to the State Tax Assessor. Prepaid wireless fees must be remitted at the times and in the manner provided for the remittance of sales tax under Title 36, section 1951-A and rules adopted pursuant to that section for the remittance of sales tax on an other than monthly basis. 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. [PL 2011, c. 600, §7 (NEW); PL 2011, c. 600, §10 (AFF).]

G. A seller who is not a prepaid wireless telecommunications service provider may deduct and retain 3% of the prepaid wireless fee that is collected by the seller from a prepaid wireless consumer. [PL 2011, c. 600, §7 (NEW); PL 2011, c. 600, §10 (AFF).]

H. The State Tax Assessor shall establish procedures by which a seller may document that a sale is not a retail transaction. Procedures established under this paragraph must substantially coincide with the procedures for documenting a sale as a retail transaction as provided in Title 36, section 1754-B. [PL 2011, c. 600, §7 (NEW); PL 2011, c. 600, §10 (AFF).]

I. The State Tax Assessor shall remit the total prepaid wireless fees collected pursuant to this subsection to the commission. The commission shall deposit the total fees into the prepaid wireless fee fund established in subsection 3 and shall ensure that, within 30 days of receipt:

(1) The portion of the remitted prepaid wireless fees attributable to the 9-1-1 surcharge imposed by Title 25, section 2927-A, subsection 3 is deposited in a separate account;

(2) The portion of the remitted prepaid wireless fees attributable to the fee imposed under section 7104, subsection 3-A is deposited in the state universal service fund established pursuant to section 7104, subsection 3; and

(3) The portion of the remitted prepaid wireless fees attributable to the fee imposed under section 7104-B, subsection 2-A is deposited in the telecommunications education access fund established under section 7104-B, subsection 2. [PL 2025, c. 167, §46 (AMD).]

[PL 2025, c. 167, §46 (AMD).]

3. Fund established. The prepaid wireless fee fund is established within the commission for the purposes of collecting and distributing funds pursuant to subsection 2, paragraph I.
[PL 2011, c. 600, §7 (NEW); PL 2011, c. 600, §10 (AFF).]

SECTION HISTORY

PL 2011, c. 600, §7 (NEW). PL 2011, c. 600, §10 (AFF). PL 2017, c. 475, Pt. A, §59 (AMD). PL 2025, c. 167, §§45, 46 (AMD).

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