

2016 Regular Session

HOUSE BILL NO. 678

BY REPRESENTATIVES CARMODY AND AMEDEE

1 AN ACT

2 To amend and reenact R.S. 33:9109.1(A) through (D), (F), and (G), to enact R.S. 33:9109.2,
3 and to repeal R.S. 33:9109.1(B)(9), relative to charges imposed on prepaid 911
4 services; to provide for and modify definitions; to increase the amount of the prepaid
5 911 charge; to provide for administration of prepaid 911 charges; to restrict use of
6 certain funds; to provide for effectiveness; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 33:9109.1(A) through (D), (F), and (G) are hereby amended and
9 reenacted and R.S. 33:9109.2 is hereby enacted to read as follows:

10 §9109.1. Prepaid ~~wireless telecommunications~~ 911 ~~service~~ charge; intent;
11 definitions; collection and remittance; administration; distribution of funds;
12 liability; exclusivity

13 A. Intent. (1) The legislature finds that maintaining effective and efficient
14 911 systems across the state benefits all citizens.

15 (2) ~~Service charges~~ Charges imposed upon the consumers of
16 ~~telecommunication services~~ services that have the ability to ~~dia~~ access 911 are an
17 important funding mechanism to assist state and local governments with the
18 deployment of ~~enhanced~~ 911 services to the citizens of this state.

19 (3) Prepaid ~~wireless telecommunication~~ services that provide access to 911
20 are an important segment of the ~~telecommunications~~ industry and have proven
21 particularly attractive to low-volume consumers.

22 (4) Unlike traditional telecommunication services, prepaid ~~wireless~~
23 ~~telecommunications~~ services that provide access to 911 are not sold or used pursuant

1 to term contracts or subscriptions, and monthly bills are not sent to consumers by
 2 prepaid ~~wireless telecommunication~~ service providers or retail vendors.

3 (5) Prepaid ~~wireless~~ service consumers have ~~the same~~ access to emergency
 4 911 services from their ~~wireless~~ devices ~~as wireless consumers on term contracts,~~
 5 and prepaid ~~wireless~~ service consumers benefit from the ability to access the 911
 6 system ~~by dialing 911~~. Therefore, prepaid ~~wireless~~ service consumers should ~~begin~~
 7 ~~contributing~~ contribute to funding of the 911 emergency communications system.

8 (6) Consumers purchase prepaid ~~wireless telecommunication~~ services that
 9 provide access to 911 at a wide variety of general retail locations and other
 10 distribution channels, not just through service providers. Such purchases are made
 11 on a "cash-and-carry" or "pay-as-you-go" basis from retailers.

12 (7) To ensure equitable contributions to the funding of 911 systems from
 13 consumers of prepaid ~~wireless telecommunication~~ services, the collection and
 14 payment obligation of charges to support ~~E911~~ 911 should be imposed upon the
 15 consumer's retail purchase of the prepaid ~~wireless telecommunication~~ service and
 16 should be in the form of a single, statewide charge that is collected once at the time
 17 of purchase directly from the consumer, remitted to the state, and distributed to
 18 communications districts.

19 B. Definitions. As used in this Section, the following words and terms ~~shall~~
 20 have the following meanings, unless the context clearly indicates otherwise:

21 (1) "Consumer" means a person who purchases a prepaid ~~wireless~~
 22 ~~telecommunications~~ service that provides access to 911 in a retail transaction.

23 (2) "Department" means the Department of Revenue.

24 (3) ~~"E911"~~ "911" means an emergency telephone system that provides the
 25 caller with emergency 911 system service, that directs 911 calls to appropriate public
 26 safety answering points by selective routing based on the geographical location from
 27 which the call originated, and that provides the capability for automatic number
 28 identification and other features that the Federal Communications Commission may
 29 require in the future.

1 (4) "Prepaid ~~wireless~~ 911 ~~service~~ charge" means the charge that is required
2 to be collected by a seller from a consumer in the amount established under
3 Subsection C of this Section.

4 (5) "Prepaid ~~wireless telecommunications~~ service" means a ~~wireless~~
5 ~~telecommunications service that allows a caller to dial 911 to access the 911 system,~~
6 commercial mobile radio service as defined by 47 C.F.R. 20.3 in addition to any
7 other service capable of accessing 911 through the use of voice, text, video, image,
8 data, or any other means, which service shall be paid for in advance and is sold in
9 predetermined units or dollars of which the number declines with use in a known
10 amount.

11 (6) "Provider" means a person that provides a prepaid ~~wireless~~
12 ~~telecommunications~~ service ~~pursuant to a license issued by the Federal~~
13 ~~Communications Commission.~~

14 (7) "Retail transaction" means each individual purchase of a prepaid ~~wireless~~
15 ~~telecommunications~~ service that provides access to 911 from a seller for any purpose
16 other than resale.

17 (8) "Seller" means a person who sells a prepaid ~~wireless telecommunications~~
18 service that provides access to 911 to another person.

19 C. Collection and remittance of prepaid ~~wireless telecommunications~~ 911
20 ~~service~~ charge. (1) There is hereby imposed a prepaid ~~wireless telecommunications~~
21 911 ~~service~~ charge of ~~two~~ four percent of the amount of the per retail transaction.

22 (2) The prepaid ~~wireless~~ 911 ~~service~~ charge shall be collected by the seller
23 from the consumer with respect to each retail transaction occurring in this state. The
24 amount of the prepaid ~~wireless~~ 911 ~~service~~ charge shall be either separately stated
25 on an invoice, receipt, or other similar document that is provided to the consumer by
26 the seller, or otherwise disclosed to the consumer.

27 (3) For purposes of Paragraph (2) of this Subsection, a retail transaction that
28 is effected in person by a consumer at a business location of the seller shall be
29 treated as occurring in this state if that business location is in this state, and any other

1 retail transaction shall be treated as occurring in this state if the retail transaction is
2 treated as occurring in this state for purposes of R.S. 47:301(16)(d).

3 (4) The prepaid ~~wireless~~ 911 ~~service~~ charge shall be the liability of the
4 consumer and not of the seller or of any provider, except that the seller shall be liable
5 to remit all prepaid ~~wireless~~ 911 ~~service~~ charges that the seller collects from
6 consumers as provided in Subsection D of this Section, including all such charges
7 that the seller is deemed to collect where the amount of the charge has not been
8 separately stated on an invoice, receipt, or other similar document provided to the
9 consumer by the seller.

10 (5) The amount of the prepaid ~~wireless~~ 911 ~~service~~ charge that is collected
11 by a seller from a consumer, whether or not such amount is separately stated on an
12 invoice, receipt, or other similar document provided to the consumer by the seller,
13 shall not be included in the base for measuring any tax, fee, surcharge, or other
14 charge that is imposed by this state, any political subdivision of this state, or any
15 intergovernmental agency.

16 D. Administration of prepaid ~~wireless~~ 911 ~~service~~ charge. (1) Prepaid
17 ~~wireless~~ 911 ~~service~~ charges collected by sellers shall be remitted to the department
18 quarterly by the seller and the return for the quarter shall be filed on or before the
19 twentieth day of the first month of the next succeeding quarter. The department shall
20 establish electronic registration procedures to enable sellers to file and pay the
21 prepaid ~~wireless~~ 911 ~~service~~ charges electronically in accordance with R.S.
22 47:1520(A), which authorizes the secretary of the department to mandate electronic
23 filing when the report is required for dedicated fund distribution. Sellers shall be
24 required to file their prepaid ~~wireless~~ 911 ~~service~~ charge reports and to remit the
25 prepaid ~~wireless~~ 911 ~~service~~ charge collection electronically using the electronic
26 format prescribed by the department.

27 (2) A seller shall be permitted to deduct and retain ~~the entirety~~ half of the
28 ~~2010~~ 2016 ~~first~~ fourth quarter's fees. Thereafter, a seller shall be permitted to deduct
29 and retain ~~four~~ two percent of prepaid ~~wireless~~ 911 ~~service~~ charges that are collected
30 by the seller from consumers.

1 (3) The audit and appeal procedures applicable under Chapter 2 of Subtitle
2 I of Title 47 of the Louisiana Revised Statutes of 1950 with respect to the state sales
3 tax shall apply to prepaid ~~wireless~~ 911 ~~service~~ charges and prescription shall be
4 governed by Article VII, Section 16 of the Constitution of Louisiana.

5 (4) The department shall establish procedures by which a seller of prepaid
6 ~~wireless telecommunications~~ 911 service may document that a sale is not a retail
7 transaction, which procedures shall substantially coincide with the procedures for
8 documenting sale for resale transactions under Chapter 2 of Subtitle I of Title 47 of
9 the Louisiana Revised Statutes of 1950 with respect to the state sales tax.

10 (5) The department shall pay all remitted prepaid ~~wireless~~ 911 ~~service~~
11 charges over to eligible communications districts in accordance with Subsection E
12 of this Section. The department may retain up to two percent of remitted ~~service~~
13 charges to reimburse its direct costs of administering the collection and remittance
14 of prepaid ~~wireless~~ 911 ~~service~~ charges.

15 * * *

16 F. Liability. (1) No provider or seller of prepaid ~~wireless~~
17 ~~telecommunications~~ service shall be liable for damages to any person resulting from
18 or incurred in connection with the provision of, or failure to provide, 911 or E911
19 service, or for identifying, or failing to identify, the telephone number, address,
20 location, or name associated with any person or device that is accessing or
21 attempting to access 911 or E911 service.

22 (2) No provider or seller of prepaid ~~wireless telecommunications~~ service
23 shall be liable for damages to any person resulting from or incurred in connection
24 with the provision of any lawful assistance to any investigation or activity by a law
25 enforcement officer of the United States, this or any other state, or any political
26 subdivision of this or any other state, in connection with any lawful investigation or
27 other law enforcement activity by such law enforcement officer.

28 G. Exclusivity of charge. The prepaid ~~wireless E911~~ 911 charge shall be the
29 only ~~E911~~ 911 funding obligation imposed with respect to prepaid ~~wireless~~
30 ~~telecommunications~~ service in this state, and no tax, fee, surcharge, or other charge

1 shall be imposed by this state, any political subdivision of this state, or any
 2 intergovernmental agency, for ~~E911~~911 funding purposes, upon any provider, seller,
 3 or consumer with respect to the sale, purchase, use, or provision of prepaid ~~wireless~~
 4 ~~telecommunications~~ 911 service.

5 §9109.2. Restrictions imposed on use of certain funds

6 A. Notwithstanding any provision of law to the contrary, all revenues
 7 collected from the assessment of 911 surcharge fees in a parishwide communications
 8 district, as provided in this Chapter, shall be used for the express purpose of
 9 providing 911 emergency response communications services and operations. The
 10 funds shall not be diverted for use by any other entity or for any purpose other than
 11 those outlined within the Chapter.

12 B. The financial records of each district shall be audited pursuant to the
 13 provisions of R.S. 24:513. In addition, each district shall submit an annual report to
 14 the legislative auditor which includes information on the revenues derived from the
 15 service charge authorized by this Section and a detailed accounting of such revenues.
 16 Such report shall include a report on the status of implementation of wireless E911
 17 service.

18 C.(1) No later than the first of May of each year, the 911 districts shall
 19 submit a consolidated report of statewide 911 communication activity to both the
 20 House Committee on Commerce and the Senate Committee on Commerce,
 21 Consumer Protection and International Affairs of the Louisiana Legislature.

22 (2) The report shall include, at a minimum, all of the following from the
 23 previous calendar year:

24 (a)(i) All 911 fees and revenues received by each district and all 911 fees and
 25 revenues received statewide.

26 (ii) The fees and revenues described in Item (i) of this Subparagraph shall
 27 also be categorized in the annual report in the amounts that are collected pursuant to
 28 land-line services, billed wireless services, and prepaid wireless services.

29 (b) All expenditures for each 911 district and all expenditures statewide.

1 (c) All projects, either planned or underway including expected completion
2 dates, that are included in the development of next generation wireless 911
3 capability.

4 (d) Any opportunities for neighboring parishes to either cooperate in joint
5 projects or to share resources in next generation 911 development, which are
6 intended to enhance both the efficiency and the effectiveness of the public safety
7 benefits of 911 services for the local and traveling public in Louisiana.

8 Section 2. R.S. 33:9109.1(B)(9) is hereby repealed in its entirety.

9 Section 3. The effective date of this Act shall be October 1, 2016.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____