



Rep. Donald L. Moffitt

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09700HB3296ham003

LRB097 06765 KMW 53769 a

1 AMENDMENT TO HOUSE BILL 3296

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3296 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Wireless Emergency Telephone Safety Act is  
5 amended by changing Section 17 as follows:

6 (50 ILCS 751/17)

7 (Section scheduled to be repealed on April 1, 2013)

8 Sec. 17. Wireless carrier surcharge.

9 (a) Except as provided in Section 45, each wireless carrier  
10 shall impose a monthly wireless carrier surcharge per CMRS  
11 connection that either has a telephone number within an area  
12 code assigned to Illinois by the North American Numbering Plan  
13 Administrator or has a billing address in this State. In the  
14 case of prepaid wireless telephone service, this surcharge  
15 shall be remitted based upon the address associated with the  
16 point of purchase, the customer billing address, or the

1 location associated with the MTN for each active prepaid  
2 wireless telephone that has a sufficient positive balance as of  
3 the last day of each month, if that information is available.  
4 No wireless carrier shall impose the surcharge authorized by  
5 this Section upon any subscriber who is subject to the  
6 surcharge imposed by a unit of local government pursuant to  
7 Section 45. Prior to January 1, 2008 (the effective date of  
8 Public Act 95-698), the surcharge amount shall be the amount  
9 set by the Wireless Enhanced 9-1-1 Board. Beginning on January  
10 1, 2008 (the effective date of Public Act 95-698), the monthly  
11 surcharge imposed under this Section shall be \$0.73 per CMRS  
12 connection. The wireless carrier that provides wireless  
13 service to the subscriber shall collect the surcharge from the  
14 subscriber. For mobile telecommunications services provided on  
15 and after August 1, 2002, any surcharge imposed under this Act  
16 shall be imposed based upon the municipality or county that  
17 encompasses the customer's place of primary use as defined in  
18 the Mobile Telecommunications Sourcing Conformity Act. The  
19 surcharge shall be stated as a separate item on the  
20 subscriber's monthly bill. The wireless carrier shall begin  
21 collecting the surcharge on bills issued within 90 days after  
22 the Wireless Enhanced 9-1-1 Board sets the monthly wireless  
23 surcharge. State and local taxes shall not apply to the  
24 wireless carrier surcharge.

25 (b) Except as provided in Section 45, a wireless carrier  
26 shall, within 45 days of collection, remit, either by check or

1 by electronic funds transfer, to the State Treasurer the amount  
2 of the wireless carrier surcharge collected from each  
3 subscriber. ~~Of the amounts remitted under this subsection prior~~  
4 ~~to January 1, 2008 (the effective date of Public Act 95-698),~~  
5 ~~and for surcharges imposed before January 1, 2008 (the~~  
6 ~~effective date of Public Act 95-698) but remitted after January~~  
7 ~~1, 2008, the State Treasurer shall deposit one third into the~~  
8 ~~Wireless Carrier Reimbursement Fund and two thirds into the~~  
9 ~~Wireless Service Emergency Fund.~~ For surcharges collected and  
10 remitted on or after the effective date of this amendatory Act  
11 of the 97th General Assembly January 1, 2008 (the effective  
12 date of Public Act 95-698), \$0.73 ~~\$0.1475~~ per surcharge  
13 collected shall be deposited into the Wireless Carrier  
14 Reimbursement Fund, and ~~\$0.5825~~ per surcharge collected shall  
15 be deposited into the Wireless Service Emergency Fund. Of the  
16 amounts deposited into the Wireless Service Emergency ~~Carrier~~  
17 ~~Reimbursement~~ Fund under this subsection, \$0.01 per surcharge  
18 collected may be distributed to the carriers to cover their  
19 administrative costs. Of the amounts deposited into the  
20 Wireless Service Emergency Fund under this subsection, \$0.01  
21 per surcharge collected may be disbursed to the Illinois  
22 Commerce Commission to cover its administrative costs.

23 (c) The first such remittance by wireless carriers shall  
24 include the number of customers by zip code, and the 9-digit  
25 zip code if currently being used or later implemented by the  
26 carrier, that shall be the means by which the Illinois Commerce

1 Commission shall determine distributions from the Wireless  
2 Service Emergency Fund. This information shall be updated no  
3 less often than every year. Wireless carriers are not required  
4 to remit surcharge moneys that are billed to subscribers but  
5 not yet collected. Any carrier that fails to provide the zip  
6 code information required under this subsection (c) or any  
7 prepaid wireless carrier that fails to provide zip code  
8 information based upon the addresses associated with its  
9 customers' points of purchase, customers' billing addresses,  
10 or locations associated with MTNs, as described in subsection  
11 (a) of this Section, shall be subject to the penalty set forth  
12 in subsection (f) of this Section.

13 (d) Within 90 days after August 13, 2007 (the effective  
14 date of Public Act 95-63), each wireless carrier must implement  
15 a mechanism for the collection of the surcharge imposed under  
16 subsection (a) of this Section from its subscribers. If a  
17 wireless carrier does not implement a mechanism for the  
18 collection of the surcharge from its subscribers in accordance  
19 with this subsection (d), then the carrier is required to remit  
20 the surcharge for all subscribers until the carrier is deemed  
21 to be in compliance with this subsection (d) by the Illinois  
22 Commerce Commission.

23 (e) If before midnight on the last day of the third  
24 calendar month after the closing date of the remit period a  
25 wireless carrier does not remit the surcharge or any portion  
26 thereof required under this Section, then the surcharge or

1 portion thereof shall be deemed delinquent until paid in full,  
2 and the Illinois Commerce Commission may impose a penalty  
3 against the carrier in an amount equal to the greater of:

4 (1) \$25 for each month or portion of a month from the  
5 time an amount becomes delinquent until the amount is paid  
6 in full; or

7 (2) an amount equal to the product of 1% and the sum of  
8 all delinquent amounts for each month or portion of a month  
9 that the delinquent amounts remain unpaid.

10 A penalty imposed in accordance with this subsection (e)  
11 for a portion of a month during which the carrier provides the  
12 number of subscribers by zip code as required under subsection  
13 (c) of this Section shall be prorated for each day of that  
14 month during which the carrier had not provided the number of  
15 subscribers by zip code as required under subsection (c) of  
16 this Section. Any penalty imposed under this subsection (e) is  
17 in addition to the amount of the delinquency and is in addition  
18 to any other penalty imposed under this Section.

19 (f) If, before midnight on the last day of the third  
20 calendar month after the closing date of the remit period, a  
21 wireless carrier does not provide the number of subscribers by  
22 zip code as required under subsection (c) of this Section, then  
23 the report is deemed delinquent and the Illinois Commerce  
24 Commission may impose a penalty against the carrier in an  
25 amount equal to the greater of:

26 (1) \$25 for each month or portion of a month that the

1 report is delinquent; or

2 (2) an amount equal to the product of 1/2¢ and the  
3 number of subscribers served by the wireless carrier.

4 A penalty imposed in accordance with this subsection (f)  
5 for a portion of a month during which the carrier pays the  
6 delinquent amount in full shall be prorated for each day of  
7 that month that the delinquent amount was paid in full. Any  
8 penalty imposed under this subsection (f) is in addition to any  
9 other penalty imposed under this Section.

10 (g) The Illinois Commerce Commission may enforce the  
11 collection of any delinquent amount and any penalty due and  
12 unpaid under this Section by legal action or in any other  
13 manner by which the collection of debts due the State of  
14 Illinois may be enforced under the laws of this State. The  
15 Executive Director of the Illinois Commerce Commission, or his  
16 or her designee, may excuse the payment of any penalty imposed  
17 under this Section if the Executive Director, or his or her  
18 designee, determines that the enforcement of this penalty is  
19 unjust.

20 (h) Notwithstanding any provision of law to the contrary,  
21 nothing shall impair the right of wireless carriers to recover  
22 compliance costs for all emergency communications services  
23 that are not reimbursed out of the Wireless Carrier  
24 Reimbursement Fund directly from their customers via line-item  
25 charges on the customer's bill. Those compliance costs include  
26 all costs incurred by wireless carriers in complying with

1 local, State, and federal regulatory or legislative mandates  
2 that require the transmission and receipt of emergency  
3 communications to and from the general public, including, but  
4 not limited to, E-911.

5 (i) The Auditor General shall conduct, on an annual basis,  
6 an audit of the Wireless Service Emergency Fund and the  
7 Wireless Carrier Reimbursement Fund for compliance with the  
8 requirements of this Act. The audit shall include, but not be  
9 limited to, the following determinations:

10 (1) Whether the Commission is maintaining detailed  
11 records of all receipts and disbursements from the Wireless  
12 Carrier Emergency Fund and the Wireless Carrier  
13 Reimbursement Fund.

14 (2) Whether the Commission's administrative costs  
15 charged to the funds are adequately documented and are  
16 reasonable.

17 (3) Whether the Commission's procedures for making  
18 grants and providing reimbursements in accordance with the  
19 Act are adequate.

20 (4) The status of the implementation of wireless 9-1-1  
21 and E9-1-1 services in Illinois.

22 The Commission, the Department of State Police, and any  
23 other entity or person that may have information relevant to  
24 the audit shall cooperate fully and promptly with the Office of  
25 the Auditor General in conducting the audit. The Auditor  
26 General shall commence the audit as soon as possible and

1 distribute the report upon completion in accordance with  
2 Section 3-14 of the Illinois State Auditing Act.

3 (Source: P.A. 95-63, eff. 8-13-07; 95-698, eff. 1-1-08; 95-876,  
4 eff. 8-21-08.)

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law."