



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3296

Introduced 2/24/2011, by Rep. Donald L. Moffitt

SYNOPSIS AS INTRODUCED:

50 ILCS 751/10
50 ILCS 751/15
50 ILCS 751/17
50 ILCS 751/20
50 ILCS 751/70 rep.

Amends the Wireless Emergency Telephone Safety Act. Provides that the definition of "wireless telephone service" includes wireless enhanced 911 service, wireline enhanced 911 service, interconnected VoIP provider service as defined by the regulations set forth by the Federal Communications Commission, IP-enabled service, and prepaid wireless service. Requires that beginning on July 1, 2013, all public safety answering points must provide Phase II wireless services for at least 50% of their carriers. Further provides that surcharges collected and remitted on or after the effective date of the amendatory Act, shall be deposited into the Wireless Service Emergency Fund, totalling \$0.73 per surcharge. Provides that the Wireless Service Emergency Fund is not subject to sweeps that would in any way transfer any funds into any other fund of the State. Removes a provision repealing the Wireless Emergency Telephone Safety Act on April 1, 2013. Effective immediately.

LRB097 06765 KMW 46854 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Wireless Emergency Telephone Safety Act is
5 amended by changing Sections 10, 15, 17, and 20 as follows:

6 (50 ILCS 751/10)

7 (Section scheduled to be repealed on April 1, 2013)

8 Sec. 10. Definitions. In this Act:

9 "Active prepaid wireless telephone" means a prepaid
10 wireless telephone that has been used or activated by the
11 customer during the month to complete a telephone call for
12 which the customer's card or account was decremented.

13 "Emergency telephone system board" means a board appointed
14 by the corporate authorities of any county or municipality that
15 provides for the management and operation of a 9-1-1 system
16 within the scope of the duties and powers prescribed by the
17 Emergency Telephone System Act.

18 "Master street address guide" means the computerized
19 geographical database that consists of all street and address
20 data within a 9-1-1 system.

21 "Mobile telephone number" or "MTN" shall mean the telephone
22 number assigned to a wireless telephone at the time of initial
23 activation.

1 "Prepaid wireless telephone service" means wireless
2 telephone service which is activated by payment in advance of a
3 finite dollar amount or for a finite set of minutes and which,
4 unless an additional finite dollar amount or finite set of
5 minutes is paid in advance, terminates either (i) upon use by a
6 customer and delivery by the wireless carrier of an agreed-upon
7 amount of service corresponding to the total dollar amount paid
8 in advance, or within a certain period of time following
9 initial purchase or activation.

10 "Public safety agency" means a functional division of a
11 public agency that provides fire fighting, police, medical, or
12 other emergency services. For the purpose of providing wireless
13 service to users of 9-1-1 emergency services, as expressly
14 provided for in this Act, the Department of State Police may be
15 considered a public safety agency.

16 "Qualified governmental entity" means a unit of local
17 government authorized to provide 9-1-1 services pursuant to the
18 Emergency Telephone System Act where no emergency telephone
19 system board exists.

20 "Remit period" means the billing period, one month in
21 duration, for which a wireless carrier, other than a prepaid
22 wireless carrier that provides zip code information based upon
23 the addresses associated with its customers' points of
24 purchase, customers' billing addresses, or locations
25 associated with MTNs, as described in subsection (a) of Section
26 17, remits a surcharge and provides subscriber information by

1 zip code to the Illinois Commerce Commission, in accordance
2 with Section 17 of this Act.

3 "Statewide wireless emergency 9-1-1 system" means all
4 areas of the State where an emergency telephone system board
5 or, in the absence of an emergency telephone system board, a
6 qualified governmental entity has not declared its intention
7 for one or more of its public safety answering points to serve
8 as a primary wireless 9-1-1 public safety answering point for
9 its jurisdiction. The operator of the statewide wireless
10 emergency 9-1-1 system shall be the Department of State Police.

11 "Sufficient positive balance" means a dollar amount
12 greater than or equal to the monthly wireless 9-1-1 surcharge
13 amount.

14 "Wireless carrier" means a provider of two-way cellular,
15 broadband PCS, geographic area 800 MHZ and 900 MHZ Commercial
16 Mobile Radio Service (CMRS), Wireless Communications Service
17 (WCS), or other Commercial Mobile Radio Service (CMRS), as
18 defined by the Federal Communications Commission, offering
19 radio communications that may provide fixed, mobile, radio
20 location, or satellite communication services to individuals
21 or businesses within its assigned spectrum block and
22 geographical area or that offers real-time, two-way voice
23 service that is interconnected with the public switched
24 network, including a reseller of such service.

25 "Wireless enhanced 9-1-1" means the ability to relay the
26 telephone number of the originator of a 9-1-1 call and location

1 information from any mobile handset or text telephone device
2 accessing the wireless system to the designated wireless public
3 safety answering point as set forth in the order of the Federal
4 Communications Commission, FCC Docket No. 94-102, adopted June
5 12, 1996, with an effective date of October 1, 1996, and any
6 subsequent amendment thereto.

7 "Wireless public safety answering point" means the
8 functional division of an emergency telephone system board,
9 qualified governmental entity, or the Department of State
10 Police accepting wireless 9-1-1 calls.

11 "Wireless subscriber" means an individual or entity to whom
12 a wireless service account or number has been assigned by a
13 wireless carrier.

14 "Wireless telephone service" includes prepaid wireless
15 telephone service and means all "commercial mobile service", as
16 that term is defined in 47 CFR 20.3, including all personal
17 communications services, wireless radio telephone services,
18 geographic area specialized and enhanced specialized mobile
19 radio services, ~~and~~ incumbent wide area specialized mobile
20 radio licensees that offer real time, two-way service that is
21 interconnected with the public switched telephone network,
22 wireless enhanced 911 service, wireline enhanced 911 service,
23 interconnected VoIP provider service as defined by the
24 regulations set forth by the Federal Communications
25 Commission, IP-enabled service, and prepaid wireless service.

26 (Source: P.A. 95-63, eff. 8-13-07.)

1 (50 ILCS 751/15)

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

3 Sec. 15. Wireless emergency 9-1-1 service. The digits
4 "9-1-1" shall be the designated emergency telephone number
5 within the wireless system.

6 (a) Standards. The Illinois Commerce Commission may set
7 non-discriminatory, uniform technical and operational
8 standards consistent with the rules of the Federal
9 Communications Commission for directing calls to authorized
10 public safety answering points. These standards shall not in
11 any way prescribe the technology or manner a wireless carrier
12 shall use to deliver wireless 9-1-1 or wireless E9-1-1 calls
13 and these standards shall not exceed the requirements set by
14 the Federal Communications Commission. However, standards for
15 directing calls to the authorized public safety answering point
16 shall be included. The authority given to the Illinois Commerce
17 Commission in this Section is limited to setting standards as
18 set forth herein and does not constitute authority to regulate
19 wireless carriers.

20 (b) Wireless public safety answering points. For the
21 purpose of providing wireless 9-1-1 emergency services, an
22 emergency telephone system board or, in the absence of an
23 emergency telephone system board, a qualified governmental
24 entity may declare its intention for one or more of its public
25 safety answering points to serve as a primary wireless 9-1-1

1 public safety answering point for its jurisdiction by notifying
2 the Chief Clerk of the Illinois Commerce Commission and the
3 Director of State Police in writing within 6 months after the
4 effective date of this Act or within 6 months after receiving
5 its authority to operate a 9-1-1 system under the Emergency
6 Telephone System Act, whichever is later. In addition, 2 or
7 more emergency telephone system boards or qualified units of
8 local government may, by virtue of an intergovernmental
9 agreement, provide wireless 9-1-1 service. The Department of
10 State Police shall be the primary wireless 9-1-1 public safety
11 answering point for any jurisdiction not providing notice to
12 the Commission and the Department of State Police. Nothing in
13 this Act shall require the provision of wireless enhanced 9-1-1
14 services.

15 The Illinois Commerce Commission, upon a request from a
16 qualified governmental entity or an emergency telephone system
17 board, may grant authority to the emergency telephone system
18 board or a qualified governmental entity to provide wireless
19 9-1-1 service in areas for which the Department of State Police
20 has accepted wireless 9-1-1 responsibility. The Illinois
21 Commerce Commission shall maintain a current list of all 9-1-1
22 systems and qualified governmental entities providing wireless
23 9-1-1 service under this Act.

24 Any emergency telephone system board or qualified
25 governmental entity providing wireless 9-1-1 service prior to
26 the effective date of this Act may continue to operate upon

1 notification as previously described in this Section. An
2 emergency telephone system board or a qualified governmental
3 entity shall submit, with its notification, the date upon which
4 it commenced operating.

5 Beginning on July 1, 2013, all public safety answering
6 points must provide Phase II wireless services, as required by
7 the Federal Communications Commission, for at least 50% of
8 their carriers.

9 (c) Wireless Enhanced 9-1-1 Board. The Wireless Enhanced
10 9-1-1 Board is created. The Board consists of 7 members
11 appointed by the Governor with the advice and consent of the
12 Senate. It is recommended that the Governor appoint members
13 from the following: the Illinois Chapter of the National
14 Emergency Numbers Association, the Illinois State Police, law
15 enforcement agencies, the wireless telecommunications
16 industry, an emergency telephone system board in Cook County
17 (outside the City of Chicago), an emergency telephone system
18 board in the Metro-east area, and an emergency telephone system
19 board in the collar counties (Lake, McHenry, DuPage, Kane, and
20 Will counties). Members of the Board may not receive any
21 compensation but may, however, be reimbursed for any necessary
22 expenditure in connection with their duties.

23 Except as provided in Section 45, the Wireless Enhanced
24 9-1-1 Board shall set the amount of the monthly wireless
25 surcharge required to be imposed under Section 17 on all
26 wireless subscribers in this State. Prior to the Wireless

1 Enhanced 9-1-1 Board setting any surcharge, the Board shall
2 publish the proposed surcharge in the Illinois Register, hold
3 hearings on the surcharge and the requirements for an efficient
4 wireless emergency number system, and elicit public comment.
5 The Board shall determine the minimum cost necessary for
6 implementation of this system and the amount of revenue
7 produced based upon the number of wireless telephones in use.
8 The Board shall set the surcharge at the minimum amount
9 necessary to achieve the goals of the Act and shall, by July 1,
10 2000, file this information with the Governor, the Clerk of the
11 House, and the Secretary of the Senate. The surcharge may not
12 be more than \$0.75 per month per CMRS connection.

13 The Wireless Enhanced 9-1-1 Board shall report to the
14 General Assembly by July 1, 2000 on implementing wireless
15 non-emergency services for the purpose of public safety using
16 the digits 3-1-1. The Board shall consider the delivery of
17 3-1-1 services in a 6 county area, including rural Cook County
18 (outside of the City of Chicago), and DuPage, Lake, McHenry,
19 Will, and Kane Counties, as well as counties outside of this
20 area by an emergency telephone system board, a qualified
21 governmental entity, or private industry. The Board, upon
22 completion of all its duties required under this Act, is
23 dissolved.

24 (Source: P.A. 95-698, eff. 1-1-08.)

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

2 Sec. 17. Wireless carrier surcharge.

3 (a) Except as provided in Section 45, each wireless carrier
4 shall impose a monthly wireless carrier surcharge per CMRS
5 connection that either has a telephone number within an area
6 code assigned to Illinois by the North American Numbering Plan
7 Administrator or has a billing address in this State. In the
8 case of prepaid wireless telephone service, this surcharge
9 shall be remitted based upon the address associated with the
10 point of purchase, the customer billing address, or the
11 location associated with the MTN for each active prepaid
12 wireless telephone that has a sufficient positive balance as of
13 the last day of each month, if that information is available.
14 No wireless carrier shall impose the surcharge authorized by
15 this Section upon any subscriber who is subject to the
16 surcharge imposed by a unit of local government pursuant to
17 Section 45. Prior to January 1, 2008 (the effective date of
18 Public Act 95-698), the surcharge amount shall be the amount
19 set by the Wireless Enhanced 9-1-1 Board. Beginning on January
20 1, 2008 (the effective date of Public Act 95-698), the monthly
21 surcharge imposed under this Section shall be \$0.73 per CMRS
22 connection. The wireless carrier that provides wireless
23 service to the subscriber shall collect the surcharge from the
24 subscriber. For mobile telecommunications services provided on
25 and after August 1, 2002, any surcharge imposed under this Act
26 shall be imposed based upon the municipality or county that

1 encompasses the customer's place of primary use as defined in
2 the Mobile Telecommunications Sourcing Conformity Act. The
3 surcharge shall be stated as a separate item on the
4 subscriber's monthly bill. The wireless carrier shall begin
5 collecting the surcharge on bills issued within 90 days after
6 the Wireless Enhanced 9-1-1 Board sets the monthly wireless
7 surcharge. State and local taxes shall not apply to the
8 wireless carrier surcharge.

9 (b) Except as provided in Section 45, a wireless carrier
10 shall, within 45 days of collection, remit, either by check or
11 by electronic funds transfer, to the State Treasurer the amount
12 of the wireless carrier surcharge collected from each
13 subscriber. ~~Of the amounts remitted under this subsection prior~~
14 ~~to January 1, 2008 (the effective date of Public Act 95-698),~~
15 ~~and for surcharges imposed before January 1, 2008 (the~~
16 ~~effective date of Public Act 95-698) but remitted after January~~
17 ~~1, 2008, the State Treasurer shall deposit one third into the~~
18 ~~Wireless Carrier Reimbursement Fund and two thirds into the~~
19 ~~Wireless Service Emergency Fund.~~ For surcharges collected and
20 remitted on or after the effective date of this amendatory Act
21 of the 97th General Assembly January 1, 2008 (the effective
22 date of Public Act 95-698), \$0.73 ~~\$0.1475~~ per surcharge
23 ~~collected shall be deposited into the Wireless Carrier~~
24 ~~Reimbursement Fund, and \$0.5825~~ per surcharge collected shall
25 be deposited into the Wireless Service Emergency Fund. Of the
26 amounts deposited into the Wireless Service Emergency Carrier

1 ~~Reimbursement~~ Fund under this subsection, \$0.01 per surcharge
2 collected may be distributed to the carriers to cover their
3 administrative costs. Of the amounts deposited into the
4 Wireless Service Emergency Fund under this subsection, \$0.01
5 per surcharge collected may be disbursed to the Illinois
6 Commerce Commission to cover its administrative costs.

7 (c) The first such remittance by wireless carriers shall
8 include the number of customers by zip code, and the 9-digit
9 zip code if currently being used or later implemented by the
10 carrier, that shall be the means by which the Illinois Commerce
11 Commission shall determine distributions from the Wireless
12 Service Emergency Fund. This information shall be updated no
13 less often than every year. Wireless carriers are not required
14 to remit surcharge moneys that are billed to subscribers but
15 not yet collected. Any carrier that fails to provide the zip
16 code information required under this subsection (c) or any
17 prepaid wireless carrier that fails to provide zip code
18 information based upon the addresses associated with its
19 customers' points of purchase, customers' billing addresses,
20 or locations associated with MTNs, as described in subsection
21 (a) of this Section, shall be subject to the penalty set forth
22 in subsection (f) of this Section.

23 (d) Within 90 days after August 13, 2007 (the effective
24 date of Public Act 95-63), each wireless carrier must implement
25 a mechanism for the collection of the surcharge imposed under
26 subsection (a) of this Section from its subscribers. If a

1 wireless carrier does not implement a mechanism for the
2 collection of the surcharge from its subscribers in accordance
3 with this subsection (d), then the carrier is required to remit
4 the surcharge for all subscribers until the carrier is deemed
5 to be in compliance with this subsection (d) by the Illinois
6 Commerce Commission.

7 (e) If before midnight on the last day of the third
8 calendar month after the closing date of the remit period a
9 wireless carrier does not remit the surcharge or any portion
10 thereof required under this Section, then the surcharge or
11 portion thereof shall be deemed delinquent until paid in full,
12 and the Illinois Commerce Commission may impose a penalty
13 against the carrier in an amount equal to the greater of:

14 (1) \$25 for each month or portion of a month from the
15 time an amount becomes delinquent until the amount is paid
16 in full; or

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

20 A penalty imposed in accordance with this subsection (e)
21 for a portion of a month during which the carrier provides the
22 number of subscribers by zip code as required under subsection
23 (c) of this Section shall be prorated for each day of that
24 month during which the carrier had not provided the number of
25 subscribers by zip code as required under subsection (c) of
26 this Section. Any penalty imposed under this subsection (e) is

1 in addition to the amount of the delinquency and is in addition
2 to any other penalty imposed under this Section.

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

10 (1) \$25 for each month or portion of a month that the
11 report is delinquent; or

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

14 A penalty imposed in accordance with this subsection (f)
15 for a portion of a month during which the carrier pays the
16 delinquent amount in full shall be prorated for each day of
17 that month that the delinquent amount was paid in full. Any
18 penalty imposed under this subsection (f) is in addition to any
19 other penalty imposed under this Section.

20 (g) The Illinois Commerce Commission may enforce the
21 collection of any delinquent amount and any penalty due and
22 unpaid under this Section by legal action or in any other
23 manner by which the collection of debts due the State of
24 Illinois may be enforced under the laws of this State. The
25 Executive Director of the Illinois Commerce Commission, or his
26 or her designee, may excuse the payment of any penalty imposed

1 under this Section if the Executive Director, or his or her
2 designee, determines that the enforcement of this penalty is
3 unjust.

4 (h) Notwithstanding any provision of law to the contrary,
5 nothing shall impair the right of wireless carriers to recover
6 compliance costs for all emergency communications services
7 that are not reimbursed out of the Wireless Carrier
8 Reimbursement Fund directly from their customers via line-item
9 charges on the customer's bill. Those compliance costs include
10 all costs incurred by wireless carriers in complying with
11 local, State, and federal regulatory or legislative mandates
12 that require the transmission and receipt of emergency
13 communications to and from the general public, including, but
14 not limited to, E-911.

15 (i) The Auditor General shall conduct, on an annual basis,
16 an audit of the Wireless Service Emergency Fund and the
17 Wireless Carrier Reimbursement Fund for compliance with the
18 requirements of this Act. The audit shall include, but not be
19 limited to, the following determinations:

20 (1) Whether the Commission is maintaining detailed
21 records of all receipts and disbursements from the Wireless
22 Carrier Emergency Fund and the Wireless Carrier
23 Reimbursement Fund.

24 (2) Whether the Commission's administrative costs
25 charged to the funds are adequately documented and are
26 reasonable.

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

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

6 The Commission, the Department of State Police, and any
7 other entity or person that may have information relevant to
8 the audit shall cooperate fully and promptly with the Office of
9 the Auditor General in conducting the audit. The Auditor
10 General shall commence the audit as soon as possible and
11 distribute the report upon completion in accordance with
12 Section 3-14 of the Illinois State Auditing Act.

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

15 (50 ILCS 751/20)

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

17 Sec. 20. Wireless Service Emergency Fund; uses. The
18 Wireless Service Emergency Fund is created as a special fund in
19 the State treasury. Subject to appropriation, moneys in the
20 Wireless Service Emergency Fund may only be used for grants for
21 emergency telephone system boards, qualified government
22 entities, or the Department of State Police. These grants may
23 be used only for the design, implementation, operation,
24 maintenance, or upgrade of wireless 9-1-1 or E9-1-1 emergency
25 services and public safety answering points, and for no other

1 purposes.

2 The moneys received by the Department of State Police from
3 the Wireless Service Emergency Fund, in any year, may be used
4 for any costs relating to the leasing, modification, or
5 maintenance of any building or facility used to house personnel
6 or equipment associated with the operation of wireless 9-1-1 or
7 wireless E9-1-1 emergency services, to ensure service in those
8 areas where service is not otherwise provided.

9 Moneys from the Wireless Service Emergency Fund may not be
10 used to pay for or recover any costs associated with public
11 safety agency equipment or personnel dispatched in response to
12 wireless 9-1-1 or wireless E9-1-1 emergency calls.

13 The Wireless Service Emergency Fund is not subject to
14 sweeps, administrative charges or chargebacks, including but
15 not limited to any fiscal or budgetary maneuver that would in
16 any way transfer any funds from the Wireless Service Emergency
17 Fund into any other fund of the State.

18 (Source: P.A. 91-660, eff. 12-22-99.)

19 (50 ILCS 751/70 rep.)

20 Section 10. The Wireless Emergency Telephone Safety Act is
21 amended by repealing Section 70.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.