

SENATE BILL No. 180

By Committee on Commerce

2-10

AN ACT concerning emergency telephone systems relating to extension of such systems to include wireless service and cable telephony service; providing for financing thereof; establishing a wireless enhanced 911 advisory board; amending K.S.A. 12-5301 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 12-5301 is hereby amended to read as follows: 12-5301. As used in this act, unless the context otherwise requires:

(a) “Administrator” means the person appointed by the governor and employed by or contracted with the Kansas highway patrol to administer the enhanced wireless 911 fund.

(b) “Automatic number identification (ANI)” means a telecommunication signaling parameter which refers to the number transmitted through a network identifying the number associated with the originator of a call. With respect to wireless 911 services, “ANI” means a feature by which the pseudo-automatic number identification is automatically forwarded to the 911 selective routing switch and to the PSAP customer premise equipment (CPE) for display.

(c) “Advisory board” means the enhanced wireless 911 advisory board.

(d) “Enhanced 911 service” means an emergency telephone service that generally may provide, but is not limited to, selective routing, automatic number identification and automatic location identification features.

(e) “Enhanced wireless 911 service” means a communication service by which wireless telecommunication carriers can provide automatic number identification, pseudo-automatic number identification or wireless automatic location identification information to a requesting public safety answering point as defined in FCC docket 94-102 which is capable of receiving and utilizing the data elements associated with enhanced wireless 911 service, and has a mechanism for covering its costs of receiving and utilizing the enhanced wireless 911 data elements in place.

~~(a)~~ (f) “Emergency 911 telephone service” means a telephone system utilizing a single three digit number “911” for reporting police, fire, med-

1 ical or other emergency situations;

2 ~~(b)~~ (g) “Emergency telephone tax” means a tax to finance the oper-
3 ation of *an* emergency telephone ~~service system~~;

4 ~~(c)~~ (h) “~~exchange~~ Access facilities” means all facilities provided by the
5 service supplier for the facility which provides local telephone exchange
6 access to a service user;

7 ~~(d)~~ (i) “Tariff rate” means the rate or rates billed by ~~a~~ *an exchange*
8 *telephone* service supplier and as stated in the service supplier’s tariffs,
9 approved by the state corporation commission which represent the serv-
10 ice supplier’s recurring charges for exchange access facilities or their
11 equivalent, exclusive of all taxes, fees, licenses or similar charges
12 whatsoever;

13 ~~(e)~~ (j) “Public agency” means any city, county, municipal corporation,
14 public district or public authority located in whole or in part within this
15 state which provides or has authority to provide fire fighting, law enforce-
16 ment, ambulance, emergency medical or other emergency services;

17 ~~(f)~~ (k) “Governing body” means the board of county commissioners
18 of a county or the governing body of a city;

19 ~~(g)~~ (l) “Person” means any individual, firm, partnership, copartner-
20 ship, joint venture, association, cooperative organization, corporation,
21 municipal or private, ~~and~~ whether organized for profit or not, ~~state,~~
22 ~~county, political subdivision, state department, commission, board, bu-~~
23 ~~reau or fraternal organization, nonprofit organization, estate, trust, busi-~~
24 ~~ness or common law trust, receiver, assignee for the benefit of creditors,~~
25 ~~trustee or trustee in bankruptcy or any other service user;~~

26 (m) “Pseudo-automatic number identification” means a 10-digit num-
27 ber used to support routing of wireless 911 calls.

28 ~~(h)~~ (n) “Service supplier” means any person providing exchange tel-
29 ephone services or wireless service to any service user in this state;

30 ~~(i)~~ (o) “Service user” means any person who is provided exchange
31 telephone service or wireless *service* in this state;

32 (p) “Subscriber account” means the 10-digit access number assigned
33 to a customer regardless of whether more than one such number is ag-
34 gregated for the purpose of billing a service user.

35 (q) “Wireless automatic location information” means information
36 provided to a public safety answering point identifying the location of the
37 wireless unit originating a 911 call according to the requirements and
38 standards in the 94-102 FCC order and subsequent amendments.

39 ~~(j)~~ (r) “Wireless carrier” means any common, private or other radio
40 carrier licensed by the federal communications commission to provide
41 two-way voice or text radio service in this state which provides intercon-
42 nection to the public switched telephone network and access to a 24-hour
43 answering point;

1 ~~(s)~~ “Wireless service” means a two-way voice or text radio service
2 provided by a wireless carrier; ~~and~~.

3 ~~(t)~~ “PSAP” means public safety answering point.

4 (u) “*Emergency telephone system*” means a 911 telephone service and
5 the system for processing reports made by use of such service and for
6 dispatching responders in response to such reports.

7 New Sec. 2. On and after July 1, 2003, each wireless carrier who has
8 a subscriber with primary place of use as defined in the mobile telecom-
9 munications sourcing act in the state of Kansas shall collect from each
10 subscriber a surcharge of \$.50 per month per subscriber telephone num-
11 ber in the state. The surcharge imposed hereunder shall ensure, over a
12 reasonable period of time, the full recovery by PSAPs and wireless carriers
13 of costs associated with developing and maintaining an enhanced wireless
14 911 telecommunications system on a technologically and competitively
15 neutral basis. The wireless carrier shall add the surcharge to each sub-
16 scriber’s telephone bill. The wireless carrier shall have no obligation to
17 take any legal action to enforce the collection of any surcharge imposed
18 under authority of this act.

19 Any surcharge imposed under authority of this act shall be collected
20 insofar as practicable at the same time as, and along with, other charges
21 owed by the subscriber in accordance with the regular billing practice of
22 the wireless carrier. The surcharge shall appear as a separate line item
23 charge on the subscriber’s billing statement and shall be labeled as “en-
24 hanced wireless 911 surcharge” or a similar description. No surcharge
25 shall be imposed pursuant to this section on a wireless connection used
26 for remote control purpose and capable of accessing only one number.

27 New Sec. 3. (a) Each wireless carrier shall remit to the administrator
28 50% of the amount of the surcharge collected monthly together with
29 forms required by the administrator.

30 (b) Each wireless carrier shall maintain surcharge and remittance re-
31 cords for a period of two years after the date of the billing of the surcharge
32 to the subscriber. The administrator shall remit the funds to the state
33 treasurer for credit to the enhanced wireless 911 fund. The administrator
34 may require an audit of any wireless carrier’s books and records concern-
35 ing the collection and remittance of the surcharge pursuant to this act.
36 Any such audit shall be conducted at the administrator’s expense.

37 (c) Carriers shall retain 50% of the collected surcharge as a partial
38 off set of its costs for providing the PSAP requested services related to
39 enhanced wireless 911 implementation and maintenance.

40 New Sec. 4. (a) The enhanced wireless 911 advisory board is estab-
41 lished to advise the administrator concerning the implementation, devel-
42 opment, administration, coordination, evaluation and maintenance of en-
43 hanced wireless 911 service. The advisory board shall be composed of six

1 individuals including:

2 (1) One representative of local law enforcement appointed by the
3 governor;

4 (2) one representative of the Kansas highway patrol appointed by the
5 governor;

6 (3) one county official or county employee appointed by the governor;

7 (4) one municipal official or municipal employee appointed by the
8 governor;

9 (5) one member shall be a person with a communication disability
10 recommended by the Kansas commission for the deaf and hard of hear-
11 ing; and

12 (6) one legislator, appointed by the legislative coordinating council.

13 (b) The board shall meet as often as necessary to carry out its duties.
14 Members of the board shall be reimbursed for their actual and necessary
15 expenses. The provisions of this section and section 5, and amendments
16 thereto, shall expire on July 1, 2007. The board shall prepare a report
17 concerning the extent to which the purposes of this act have been
18 achieved including the extent to which enhanced wireless 911 service has
19 been deployed throughout the state and the costs incurred during such
20 deployment. The board shall deliver the report to the house committee
21 on utilities and the senate committee on commerce during the 2005 and
22 2007 sessions of the legislature. The administrator retains final authority
23 to approve and implement any and all recommendations made by the
24 advisory board. The administrator, in consultation with the advisory
25 board, shall determine and encourage use of the most efficient methods
26 by PSAPs for providing enhanced wireless 911 service.

27 New Sec. 5. The enhanced wireless 911 fund is hereby created. The
28 fund shall consist of the surcharges credited to the fund, any money ap-
29 propriated by the legislature to the fund, any federal funds received for
30 wireless emergency communication and any other funds designated for
31 credit to the fund. Money in the fund shall be used for the costs of
32 administering the fund and for the purposes specified in section 6, and
33 amendments thereto, unless otherwise directed by federal law, with re-
34 spect to federal funds received. The costs of administering the fund shall
35 be kept to a minimum. The money in the fund shall not be subject to any
36 fiscal-year limitation or lapse provision of an unexpended balance at the
37 end of any fiscal year or biennium.

38 New Sec. 6. (a) The administrator, in consultation with the advisory
39 board, shall:

40 (1) Promote collaboration between public safety answering points
41 and encourage economies of scale;

42 (2) determine the level of funding available for disbursements to be
43 made pursuant to the act;

1 (3) determine the percentage of the funds that shall be allocated to
2 each funding purpose, including the percentage that shall be designated
3 for funding 911 service under subsection (b) of this section; and

4 (4) adopt rules and regulations as may be necessary to implement the
5 provisions of this act.

6 (b) The administrator, in consultation with the advisory board, shall
7 establish standards and criteria to determine the eligibility of applications
8 for disbursements from the fund and the level of disbursement for each
9 application. In establishing such criteria and standards, the administrator
10 shall include applications submitted for the following purposes as eligible
11 for funding:

12 (1) Necessary and reasonable costs incurred or to be incurred by pub-
13 lic safety answering points to implement enhanced wireless 911 service
14 including, but not limited to, purchases of equipment and upgrades and
15 modification to equipment used solely to process the data elements of
16 enhanced wireless 911 service, maintenance costs and license fees for
17 such equipment and the training of personnel to operate such equipment
18 including costs of training PSAP personnel to provide effective service to
19 all users of the emergency telephone system who have communications
20 disabilities;

21 (2) necessary and reasonable costs incurred or to be incurred by pub-
22 lic safety answering points for the purchase, installation, maintenance and
23 operation of telecommunications equipment and telecommunications
24 services required for the provision of 911 service, or enhanced 911 ser-
25 vice, if the costs are necessary to prepare the public safety answering point
26 for the capability of providing enhanced wireless 911 service. Such costs
27 shall not include expenditures for new or expanded buildings or similar
28 facilities or to construct other capital improvements not expressly au-
29 thorized by this act;

30 (3) in addition to other duties, the superintendent of the highway
31 patrol shall provide budgeting, purchasing and related management func-
32 tions for the administrator and the enhanced wireless 911 advisory board
33 as may be provided by law and perform other functions and duties per-
34 taining to enhanced wireless 911 service as may be specified by law;

35 (4) actual and necessary expenses incurred by members of the advi-
36 sory board while performing duties required by this act; and

37 (5) administrative expenses shall not exceed 5% of revenue in the
38 fund.

39 (c) None of the provisions of this act shall be deemed to require the
40 deployment of a state-wide centralized system of dispatch.

41 New Sec. 7. (a) Public safety answering points may apply for dis-
42 bursement from the enhanced wireless 911 fund by submitting a written
43 application to the administrator. The administrator shall receive and re-

1 view applications, including supporting documentation. The administra-
2 tor shall notify the public safety answering points as to the determination
3 of the administrator regarding the application.

4 (b) Each entity that receives disbursements from the fund shall make
5 a full accounting of the money in a manner and form prescribed by the
6 administrator.

7 New Sec. 8. Information provided by wireless carriers to the advisory
8 board or to the administrator pursuant to this act will be treated as pro-
9 prietary records which will be withheld from the public upon request of
10 the party submitting such records.

11 New Sec. 9. The enhanced wireless 911 service described in this act
12 is within the governmental power and authority of the administrator, gov-
13 erning bodies and public safety agencies. Except as provided by the Kan-
14 sas tort claims act, in contracting for such service and in providing such
15 service, and except for failure to use ordinary care, or for intentional acts,
16 the administrator, each governing body, each public agency, each wireless
17 carrier and their employees and agents shall not be liable for the payment
18 of damages resulting from the performance of installing, maintaining or
19 providing enhanced wireless 911 service.

20 Sec. 10. K.S.A. 12-5301 is hereby repealed.

21 Sec. 11. This act shall take effect and be in force from and after its
22 publication in the statute book.

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