

CHAPTER 148

SENATE Substitute for HOUSE BILL No. 2582

AN ACT concerning emergency communications service; relating to fees, charges, collection and distribution; amending K.S.A. 12-5301 and 12-5304 and K.S.A. 2009 Supp. 12-5322, 12-5330, 12-5338 and 12-5361 and repealing the existing sections.

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) “Emergency telephone service” means a telephone system utilizing a single three digit number “911” for reporting police, fire, medical or other emergency situations;

(b) “emergency telephone tax” means a tax to finance the operation of emergency telephone service;

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

(d) “local collection point administrator (LCPA)” means the statewide association of cities established by K.S.A. 12-1610e, and amendments thereto, and the statewide association of counties established by K.S.A. 19-2690, and amendments thereto;

~~(e)~~ (e) “tariff rate” means the rate or rates billed by a service supplier and as stated in the service supplier’s tariffs, approved by the state corporation commission which represent the service supplier’s recurring charges for exchange access facilities or their equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever;

~~(f)~~ (f) “public agency” means any city, county, municipal corporation, public district or public authority located in whole or in part within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical or other emergency services;

~~(g)~~ (g) “governing body” means the board of county commissioners of a county or the governing body of a city;

~~(h)~~ (h) “person” means any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy or any other service user;

~~(i)~~ (i) “service supplier” means any person providing exchange telephone services or wireless service to any service user in this state;

~~(j)~~ (j) “service user” means any person who is provided exchange telephone service or wireless in this state;

(k) “subscriber radio equipment” means mobile and portable radio equipment installed in vehicles or carried by persons for voice communication with a radio system;

~~(l)~~ (l) “wireless carrier” means any common, private or other radio carrier licensed by the federal communications commission to provide two-way voice or text radio service in this state which provides interconnection to the public switched telephone network and access to a 24-hour answering point;

~~(m)~~ (m) “wireless service” means a two-way voice or text radio service provided by a wireless carrier; and

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

Sec. 2. K.S.A. 12-5304 is hereby amended to read as follows: 12-5304. (a) Any governing body imposing the tax authorized by K.S.A. 12-5302, and amendments thereto, may contract directly with the provider of the emergency telephone service or may contract and cooperate with any public agency or with other states or their political subdivisions or with any association or corporation for their political subdivisions or with any association or corporation for the administration of emergency telephone service as provided by law.

(b) Funds collected from tax imposed pursuant to K.S.A. 12-5302, and amendments thereto, shall be spent solely to pay for any or all of the following: (1) The monthly recurring charges billed by the service supplier for the emergency telephone service; (2) initial installation, service establishment; nonrecurring start-up charges billed by the service supplier for

the emergency telephone service; (3) charges for capital improvements and equipment or other physical enhancements to the emergency telephone system, *not to include subscriber radio equipment*; or (4) the acquisition and installation of road signs designed to aid in the delivery of emergency service.

(c) *Prior to January 10, 2011, every PSAP shall provide to the LCPA an accounting of all PSAP's receipts from the governing body during the 2010 calendar year.*

Sec. 3. K.S.A. 2009 Supp. 12-5322 is hereby amended to read as follows: 12-5322. As used in the wireless enhanced 911 act, unless the context otherwise requires:

(a) "Advisory board" means the wireless enhanced 911 advisory board established under K.S.A. 2009 Supp. 12-5326, and amendments thereto.

(b) "Automatic number identification" means a feature by which a person calling a public safety answering point has such person's 10-digit telephone number simultaneously forwarded to the public safety answering point and to the public safety answering point's display and transfer.

(c) "Eligible municipality" means: (1) Any county having a population of less than 75,000 or any city located within such a county; or (2) any two or more such counties or cities.

(d) "Emergency telephone service" means a telephone system utilizing a single three digit number "911" for reporting police, fire, medical or other emergency situations.

(e) "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.

(f) "Exchange access facilities" means all facilities provided by the service supplier for the facility which provides local telephone exchange access to a service user.

(g) "Fund" means the wireless enhanced 911 grant fund established by this act.

(h) "Governing body" means the board of county commissioners of a county or the governing body of a city.

(i) "Local collection point administrator" means the statewide association of cities as established by K.S.A. 12-1610e, and amendments thereto, and the statewide association of counties as established by K.S.A. 19-2690, and amendments thereto.

(j) "Mobile telephone number" means the telephone number assigned to a wireless telephone at the time of initial activation.

(k) "Person" means any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy or any other legal entity.

(l) "Prepaid wireless telephone service" means wireless telephone service that is activated in advance by payment for a finite dollar amount of service or for a finite set of minutes that terminate either upon use by a customer and delivery by the wireless provider of an agreed-upon amount of service corresponding to the total dollar amount paid in advance or within a certain period of time following the initial purchase or activation, unless additional payments are made.

(m) "Primary place of use" has the meaning provided in the mobile telecommunications act (4 U.S.C. 116, et seq., as in effect on the effective date of this act).

(n) "Project" means the development and acquisition of the necessary improvements in order to facilitate the establishment of wireless enhanced 911 service.

(o) "Project costs" means all costs or expenses which are necessary or incident to a project and which are directly attributable thereto.

(p) "PSAP" means public safety answering point.

(q) "Pseudo-automatic number identification" means a feature by which automatic number identification is provided to a public safety answering point of the 10-digit telephone number of the specific cell site or cell site sector from which a wireless call originated.

(r) "Public agency" means any city, county, municipal corporation,

public district or public authority located in whole or in part within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical or other emergency services.

(s) "Secretary" means the secretary of administration.

(t) "Service supplier" means any person providing exchange telephone service to any service user in this state.

(u) "Service user" means any person who is provided exchange telephone service or wireless service in this state.

(v) "Subscriber account" means the 10-digit access number assigned to a wireless service customer regardless of whether more than one such number is aggregated for the purpose of billing a service user.

(w) "*Subscriber radio equipment*" means mobile and portable radio equipment installed in vehicles or carried by persons for voice communication with a radio system.

~~(w)~~(x) "Tariff rate" means the rate or rates billed by a service supplier and as stated in the service supplier's tariffs, approved by the state corporation commission which represent the service supplier's recurring charges for exchange access facilities or their equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever.

~~(x)~~(y) "Valid request" means a request to a wireless carrier for wireless enhanced 911 service, made by a PSAP which is capable of receiving and utilizing the data elements associated with wireless enhanced 911 service as determined in accordance with 47 CFR 20.18 (October 1, 2002).

~~(y)~~(z) "Wholesaler of prepaid wireless service" means a person who purchases at wholesale wireless service from a wireless carrier for resale as prepaid wireless service.

~~(z)~~(aa) "Wireless automatic location identification information" means a feature by which information is provided to a public safety answering point identifying the location of a 911 caller within the parameters established by the federal communications commission.

~~(aa)~~(bb) "Wireless carrier" means any common, private or other radio carrier licensed by the federal communications commission to provide two-way voice service in this state which provides interconnection to the public switched telephone network and access to a 24-hour answering point.

~~(bb)~~(cc) "Wireless enhanced 911 grant fee" means the fee imposed under K.S.A. 2009 Supp. 12-5324, and amendments thereto.

~~(cc)~~(dd) "Wireless enhanced 911 local fee" means the fee imposed under K.S.A. 2009 Supp. 12-5330, and amendments thereto.

~~(dd)~~(ee) "Wireless enhanced 911 service" means a communication service by which wireless carriers can provide automatic number identification, pseudo-automatic number identification and wireless automatic location identification information to a requesting PSAP, as defined in FCC docket 94-102, which is capable of receiving and utilizing the data elements associated with wireless enhanced 911 service.

~~(ee)~~(ff) "Wireless service" means a two-way voice service provided by a wireless carrier.

Sec. 4. K.S.A. 2009 Supp. 12-5330 is hereby amended to read as follows: 12-5330. (a) Effective July 1, 2004, there is hereby imposed a wireless enhanced 911 local fee. Subject to the provisions of K.S.A. 2009 Supp. 12-5338, and amendments thereto, the amount of such fee shall be \$.25 per month per wireless subscriber with primary place of use in the state of Kansas. Such fee shall not be imposed on prepaid wireless service.

(b) Subject to the provisions of K.S.A. 2009 Supp. 12-5338, and amendments thereto, the proceeds of the wireless enhanced 911 local fee, and any interest earned on revenue derived from such fee, shall be used only for necessary and reasonable costs incurred or to be incurred by PSAP's for: (1) Implementation of wireless enhanced 911 service and VoIP enhanced 911 service; (2) purchase of equipment and upgrades and modification to equipment used solely to process the data elements of wireless enhanced 911 service and VoIP enhanced 911 service; and (3) maintenance and license fees for such equipment and training of personnel to operate such equipment, including costs of training PSAP personnel to provide effective service to all users of the emergency telephone system who have communications disabilities. Such costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities or

for other capital outlay, *subscriber radio equipment*, or *other* equipment not expressly authorized by this act.

(c) Each PSAP shall submit to the secretary an annual report accounting for the money received by the PSAP from the wireless enhanced 911 local fee. Such report shall be submitted on a form provided by the secretary.

(d) (1) Subject to the provisions of subsection (d)(3), each PSAP shall submit to wireless carriers a valid request for wireless enhanced 911 service by July 1, 2007.

(2) Subject to the provisions of subsection (d)(3), if a PSAP has not submitted to wireless carriers a valid request for wireless enhanced 911 service by July 1, 2007: (A) Such PSAP shall pay to the secretary all moneys from the wireless enhanced 911 local fee which have been or are received by such PSAP; (B) the secretary shall notify the local collection point administrator that the PSAP has not made a valid request when required and that distributions of moneys from the wireless enhanced 911 local fee to the PSAP shall be stopped and that such moneys shall be instead remitted to the secretary until the secretary notifies the local collection point administrator that the PSAP has made a valid request; (C) the PSAP thereafter shall not be eligible to receive moneys from the fund or from distributions by the local collection point administrator until the PSAP has submitted to the secretary evidence satisfactory to the secretary that the PSAP has submitted to wireless carriers a valid request for wireless enhanced 911 service. The secretary shall remit any moneys received from the repayment by the PSAP or from distributions by the local collection point administrator to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the wireless enhanced 911 grant fund.

(3) If a PSAP is unable to make a valid request by July 1, 2007, the advisory board may approve not to exceed two one-year extensions of such date to not later than July 1, 2008, if the advisory board determines that: (A) Equipment necessary to receive and utilize the data elements associated with wireless enhanced 911 service has been ordered by the PSAP but is unavailable; or (B) there is other just cause to extend the date.

Sec. 5. K.S.A. 2009 Supp. 12-5338 is hereby amended to read as follows: 12-5338. (a) On July 1, ~~2010~~ 2011:

(1) The wireless enhanced 911 grant fee shall be discontinued, the advisory board shall be abolished, any unobligated balance of the wireless enhanced 911 grant fund shall be paid to the local collection point administrator for distribution to PSAP's based on the population of the municipality or municipalities served by the respective PSAP and the fund shall be abolished.

(2) Within any county which has a population of 125,000 or more, the amount of the tax imposed pursuant to K.S.A. 12-5302, and amendments thereto, shall not exceed \$.25 per month per access line or its equivalent and the amount of the wireless enhanced 911 local fee within such jurisdiction shall be an equal amount per month per wireless subscriber account.

(3) Within any county which has a population of less than 125,000 the amount of the tax imposed to K.S.A. 12-5302, and amendments thereto, shall not exceed \$.50 per month per access line or its equivalent and the amount of the wireless enhanced 911 local fee shall be an equal amount per month per wireless subscriber account.

(4) The provisions of K.S.A. 2009 Supp. 12-5323 through 12-5329, and amendments thereto, shall expire.

(b) On and after July 1, ~~2010~~ 2011, the proceeds of the wireless enhanced 911 local fee shall be used only to pay for costs of emergency telephone service described in K.S.A. 12-5304, and amendments thereto, and expenditures authorized by K.S.A. 2009 Supp. 12-5330, and amendments thereto.

Sec. 6. K.S.A. 2009 Supp. 12-5361 is hereby amended to read as follows: 12-5361. (a) On July 1, ~~2010~~ 2011:

(1) The VoIP enhanced 911 grant fee shall be discontinued.

(2) The amount of the tax per access line or its equivalent imposed within a jurisdiction pursuant to K.S.A. 12-5302, and amendments thereto, and the amount of the VoIP enhanced 911 local fee per VoIP subscriber whose primary residence is within such jurisdiction shall be an

equal amount per month.

(3) The provisions of K.S.A. 2009 Supp. 12-5354 and 12-5355, and amendments thereto, shall expire.

(b) On and after July 1, ~~2010~~ 2011, the proceeds of the VoIP local fee shall be used only to pay for costs of emergency telephone service described in K.S.A. 12-5304, and amendments thereto, and expenditures authorized by K.S.A. 2009 Supp. 12-5330, and amendments thereto.

Sec. 7. K.S.A. 12-5301 and 12-5304 and K.S.A. 2009 Supp. 12-5322, 12-5330, 12-5338 and 12-5361 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 17, 2010.

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