



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 2063

2 AMENDMENT NO. _____. Amend Senate Bill 2063 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Prepaid Wireless 9-1-1 Surcharge Act.

6 Section 5. Purpose. The General Assembly finds and declares
7 that maintaining effective and efficient 9-1-1 systems across
8 the State benefits all citizens. The fees imposed upon the
9 consumers of telecommunication services that have the ability
10 to dial 9-1-1 are an important funding mechanism to assist the
11 State and units of local government with the deployment of
12 enhanced 9-1-1 services to the citizens of this State.

13 Prepaid wireless telecommunication services are an
14 important segment of the telecommunications industry and have
15 proven particularly attractive to low-income and low-volume
16 consumers. Unlike traditional telecommunication services,

1 prepaid wireless telecommunications services are not sold or
2 used pursuant to term contracts or subscriptions and monthly
3 bills are not sent to consumers by prepaid wireless
4 telecommunication service providers or retail vendors.

5 Prepaid wireless consumers have the same access to
6 emergency 9-1-1 services from their wireless devices as
7 wireless consumers on term contracts. Prepaid wireless
8 consumers benefit from the ability to access the 9-1-1 system
9 by dialing 9-1-1.

10 Consumers purchase prepaid wireless telecommunication
11 services at a wide variety of general retail locations and
12 other distribution channels. Such purchases are made on a
13 cash-and-carry or pay-as-you-go basis from retailers.

14 It is the intent of the General Assembly to:

15 (1) ensure equitable contributions to the funding of
16 9-1-1 systems from consumers of prepaid wireless
17 telecommunication services;

18 (2) collect 9-1-1 surcharges from purchasers of
19 prepaid wireless telecommunications service at the point
20 of sale;

21 (3) impose the collection and remittance obligation
22 for 9-1-1 surcharges on sellers of prepaid wireless
23 telecommunications service;

24 (4) impose a statewide administered 9-1-1 surcharge on
25 point of sale transactions in order to minimize
26 administrative costs on retailers.

1 Section 10. Definitions. In this Act:

2 "Consumer" means a person who purchases prepaid wireless
3 telecommunications service in a retail transaction.

4 "Department" means the Department of Revenue.

5 "Prepaid wireless E911 surcharge" means the charge that is
6 required to be collected by a seller from a consumer in the
7 amount established under Section 15 of this Act.

8 "Prepaid wireless telecommunications service" means a
9 wireless telecommunications service that allows a caller to
10 dial 9-1-1 to access the 9-1-1 system, which service must be
11 paid for in advance and is sold in predetermined units or
12 dollars of which the amount declines with use in a known
13 amount.

14 "Provider" means a person that provides prepaid wireless
15 telecommunications service pursuant to a license issued by the
16 Federal Communications Commission.

17 "Retail transaction" means the purchase of prepaid
18 wireless telecommunications service from a seller for any
19 purpose other than resale.

20 "Seller" means a person who sells prepaid wireless
21 telecommunications service to another person.

22 "Wireless telecommunications service" means commercial
23 mobile radio service as defined by 47 C.F.R. 20.3.

24 Section 15. Prepaid wireless 9-1-1 surcharge.

1 (a) There is hereby imposed on consumers a prepaid wireless
2 9-1-1 surcharge of 1.5% per retail transaction. The surcharge
3 authorized by this subsection (a) does not apply in a home rule
4 municipality having a population in excess of 500,000. The
5 amount of the surcharge may be reduced or increased pursuant to
6 subsection (e).

7 (a-5) A home rule municipality having a population in
8 excess of 500,000 on of the effective date of this Act may only
9 impose a prepaid wireless 9-1-1 surcharge not to exceed 7% per
10 retail transaction sourced to that jurisdiction and collected
11 and remitted in accordance with the provisions of subsection
12 (b-5).

13 (b) The prepaid wireless 9-1-1 surcharge shall be collected
14 by the seller from the consumer with respect to each retail
15 transaction occurring in this State and shall be remitted to
16 the Department by the seller as provided in this Act. The
17 amount of the prepaid wireless 9-1-1 surcharge shall be
18 separately stated as a distinct item apart from the charge for
19 the prepaid wireless telecommunications service on an invoice,
20 receipt, or other similar document that is provided to the
21 consumer by the seller or shall be otherwise disclosed to the
22 consumer. If the seller does not separately state the surcharge
23 as a distinct item to the consumer as provided in this Section,
24 then the seller shall maintain books and records as required by
25 this Act which clearly identify the amount of the 9-1-1
26 surcharge for retail transactions.

1 For purposes of this subsection (b), a retail transaction
2 occurs in this State if (i) the retail transaction is made in
3 person by a consumer at the seller's business location and the
4 business is located within the State; (ii) the seller is a
5 provider and sells prepaid wireless telecommunications service
6 to a consumer located in Illinois; (iii) the retail transaction
7 is treated as occurring in this State for purposes of the
8 Retailers' Occupation Tax Act; or (iv) a seller that is
9 included within the definition of a "retailer maintaining a
10 place of business in this State" under Section 2 of the Use Tax
11 Act makes a sale of prepaid wireless telecommunications service
12 to a consumer located in Illinois. In the case of a retail
13 transaction which does not occur in person at a seller's
14 business location, if a consumer uses a credit card to purchase
15 prepaid wireless telecommunications service on-line or over
16 the telephone, and no product is shipped to the consumer, the
17 transaction occurs in this State if the billing address for the
18 consumer's credit card is in this State.

19 (b-5) The prepaid wireless 9-1-1 surcharge imposed under
20 subsection (a-5) of this Section shall be collected by the
21 seller from the consumer with respect to each retail
22 transaction occurring in the municipality imposing the
23 surcharge. The amount of the prepaid wireless 9-1-1 surcharge
24 shall be separately stated on an invoice, receipt, or other
25 similar document that is provided to the consumer by the seller
26 or shall be otherwise disclosed to the consumer. If the seller

1 does not separately state the surcharge as a distinct item to
2 the consumer as provided in this Section, then the seller shall
3 maintain books and records as required by this Act which
4 clearly identify the amount of the 9-1-1 surcharge for retail
5 transactions.

6 For purposes of this subsection (b-5), a retail transaction
7 occurs in the municipality if (i) the retail transaction is
8 made in person by a consumer at the seller's business location
9 and the business is located within the municipality; (ii) the
10 seller is a provider and sells prepaid wireless
11 telecommunications service to a consumer located in the
12 municipality; (iii) the retail transaction is treated as
13 occurring in the municipality for purposes of the Retailers'
14 Occupation Tax Act; or (iv) a seller that is included within
15 the definition of a "retailer maintaining a place of business
16 in this State" under Section 2 of the Use Tax Act makes a sale
17 of prepaid wireless telecommunications service to a consumer
18 located in the municipality. In the case of a retail
19 transaction which does not occur in person at a seller's
20 business location, if a consumer uses a credit card to purchase
21 prepaid wireless telecommunications service on-line or over
22 the telephone, and no product is shipped to the consumer, the
23 transaction occurs in the municipality if the billing address
24 for the consumer's credit card is in the municipality.

25 (c) The prepaid wireless 9-1-1 surcharge is imposed on the
26 consumer and not on any provider. The seller shall be liable to

1 remit all prepaid wireless 9-1-1 surcharges that the seller
2 collects from consumers as provided in Section 20, including
3 all such surcharges that the seller is deemed to collect where
4 the amount of the surcharge has not been separately stated on
5 an invoice, receipt, or other similar document provided to the
6 consumer by the seller. The surcharge collected or deemed
7 collected by a seller shall constitute a debt owed by the
8 seller to this State, and any such surcharge actually collected
9 shall be held in trust for the benefit of the Department.

10 For purposes of this subsection (c), the surcharge shall
11 not be imposed or collected from entities that are tax exempt
12 under the Retailers' Occupation Tax Act.

13 (d) The amount of the prepaid wireless 9-1-1 surcharge that
14 is collected by a seller from a consumer, if such amount is
15 separately stated on an invoice, receipt, or other similar
16 document provided to the consumer by the seller, shall not be
17 included in the base for measuring any tax, fee, surcharge, or
18 other charge that is imposed by this State, any political
19 subdivision of this State, or any intergovernmental agency.

20 (e) The prepaid wireless 9-1-1 charge imposed under
21 subsection (a) of this Section shall be proportionately
22 increased or reduced, as applicable, upon any change to the
23 surcharge imposed under Section 17 of the Wireless Emergency
24 Telephone Safety Act. The adjusted rate shall be determined by
25 dividing the amount of the surcharge imposed under Section 17
26 of the Wireless Emergency Telephone Safety Act by \$50. Such

1 increase or reduction shall be effective on the first day of
2 the first calendar month to occur at least 60 days after the
3 enactment of the change to the surcharge imposed under Section
4 17 of the Wireless Emergency Telephone Safety Act. The
5 Department shall provide not less than 30 days' notice of an
6 increase or reduction in the amount of the surcharge on the
7 Department's website.

8 (e-5) Any changes in the rate of the surcharge imposed by a
9 municipality under the authority granted in subsection (a-5) of
10 this Section shall be effective on the first day of the first
11 calendar month to occur at least 60 days after the enactment of
12 the change. The Department shall provide not less than 30 days'
13 notice of the increase or reductions in the rate of such
14 surcharge on the Department's website.

15 (f) When prepaid wireless telecommunications service is
16 sold with one or more other products or services for a single,
17 non-itemized price, then the percentage specified in
18 subsection (a) or (a-5) of this Section 15 shall be applied to
19 the entire non-itemized price unless the seller elects to apply
20 the percentage to (i) the dollar amount of the prepaid wireless
21 telecommunications service if that dollar amount is disclosed
22 to the consumer or (ii) the portion of the price that is
23 attributable to the prepaid wireless telecommunications
24 service if the retailer can identify that portion by reasonable
25 and verifiable standards from its books and records that are
26 kept in the regular course of business for other purposes,

1 including, but not limited to, books and records that are kept
2 for non-tax purposes. However, if a minimal amount of prepaid
3 wireless telecommunications service is sold with a prepaid
4 wireless device for a single, non-itemized price, then the
5 seller may elect not to apply the percentage specified in
6 subsection (a) or (a-5) of this Section 15 to such transaction.
7 For purposes of this subsection, an amount of service
8 denominated as 10 minutes or less or \$5 or less is considered
9 minimal.

10 Section 20. Administration of prepaid wireless 9-1-1
11 surcharge.

12 (a) In the administration and enforcement of this Act, the
13 provisions of Sections 2a, 2b, 2c, 3, 4, 5, 5a, 5b, 5c, 5d, 5e,
14 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, and 12 of the
15 Retailers' Occupation Tax Act that are not inconsistent with
16 this Act, and Section 3-7 of the Uniform Penalty and Interest
17 Act shall apply as far as practicable, to the subject matter of
18 this Act to the same extent as if those provisions were
19 included in this Act. References to "taxes" in these
20 incorporated Sections shall be construed to apply to the
21 administration, payment, and remittance of all surcharges
22 under this Act. The Department shall establish registration and
23 payment procedures that substantially coincide with the
24 registration and payment procedures that apply to the
25 Retailers' Occupation Tax Act.

1 (b) For the first 12 months after the effective date of
2 this Act, a seller shall be permitted to deduct and retain 5%
3 of prepaid wireless 9-1-1 surcharges that are collected by the
4 seller from consumers and that are remitted and timely filed
5 with the Department. After the first 12 months, a seller shall
6 be permitted to deduct and retain 3% of prepaid wireless 9-1-1
7 surcharges that are collected by the seller from consumers and
8 that are remitted and timely filed with the Department.

9 (c) The Department shall pay all remitted prepaid wireless
10 E911 charges over to the State Treasurer for deposit into the
11 Wireless Service Emergency Fund within 30 days after receipt.
12 The Illinois Commerce Commission shall distribute such funds in
13 the same proportion as they are distributed under the Wireless
14 Emergency Telephone Safety Act and such funds may only be used
15 in accordance with the provisions of the Wireless Emergency
16 Telephone Safety Act. The Department may deduct an amount, not
17 to exceed 3% during the first year following the effective date
18 of this Act and not to exceed 2% during every year thereafter
19 of remitted charges, to be retained by the Department to
20 reimburse its direct costs of administering the collection and
21 remittance of prepaid wireless 9-1-1 surcharges.

22 (d) The Department shall administer the collection of all
23 9-1-1 surcharges and may adopt and enforce reasonable rules
24 relating to the administration and enforcement of the
25 provisions of this Act as may be deemed expedient. The
26 Department shall require all surcharges collected under this

1 Act to be reported on existing forms or combined forms,
2 including, but not limited to, Form ST-1.

3 Section 25. Liability of sellers and providers. The
4 provisions of Section 50 of the Wireless Emergency Telephone
5 Safety Act shall apply to sellers and providers of prepaid
6 wireless telecommunications service.

7 Section 27. Home rule. A home rule unit may not impose a
8 separate surcharge on wireless 9-1-1 service in addition to the
9 surcharge imposed on wireless 9-1-1 service under this Act.
10 This Section is a denial and limitation of home rule powers and
11 functions under subsection (h) of Section 6 of Article VII of
12 the Illinois Constitution.

13 Section 30. Exclusivity of prepaid wireless 9-1-1
14 surcharge. The prepaid wireless 9-1-1 surcharge imposed by this
15 Act shall be the only 9-1-1 funding obligation imposed with
16 respect to prepaid wireless telecommunications service in this
17 State. No tax, fee, surcharge, or other charge shall be imposed
18 by this State, any political subdivision of this State, or any
19 intergovernmental agency, for 9-1-1 funding purposes, upon any
20 provider, seller, or consumer with respect to the sale,
21 purchase, use, or provision of prepaid wireless
22 telecommunications service.

1 Section 95. The Wireless Emergency Telephone Safety Act is
2 amended by changing Sections 10 and 17 and by adding Section 80
3 as follows:

4 (50 ILCS 751/10)

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

6 Sec. 10. Definitions. In this Act:

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

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

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

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

22 "Prepaid wireless telecommunications ~~telephone~~ service"
23 means wireless telecommunications ~~telephone~~ service that
24 allows a caller to dial 9-1-1 to access the 9-1-1 system, which
25 service must be paid for in advance and is sold in

1 predetermined units or dollars which the amount declines with
2 use in a known amount. ~~which is activated by payment in advance~~
3 ~~of a finite dollar amount or for a finite set of minutes and~~
4 ~~which, unless an additional finite dollar amount or finite set~~
5 ~~of minutes is paid in advance, terminates either (i) upon use~~
6 ~~by a customer and delivery by the wireless carrier of an~~
7 ~~agreed upon amount of service corresponding to the total dollar~~
8 ~~amount paid in advance, or within a certain period of time~~
9 ~~following 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, other than an account or number associated
14 with prepaid wireless telecommunication service.

15 ~~"Wireless telephone service" includes prepaid wireless~~
16 ~~telephone service and means all "commercial mobile service", as~~
17 ~~that term is defined in 47 CFR 20.3, including all personal~~
18 ~~communications services, wireless radio telephone services,~~
19 ~~geographic area specialized and enhanced specialized mobile~~
20 ~~radio services, and incumbent wide area specialized mobile~~
21 ~~radio licenses that offer real time, two-way service that is~~
22 ~~interconnected with the public switched telephone network.~~

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

24 (50 ILCS 751/17)

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

1 Sec. 17. Wireless carrier surcharge.

2 (a) Except as provided in Sections ~~Section~~ 45 and 80, each
3 wireless carrier shall impose a monthly wireless carrier
4 surcharge per CMRS connection that either has a telephone
5 number within an area code assigned to Illinois by the North
6 American Numbering Plan Administrator or has a billing address
7 in this State. ~~In the case of prepaid wireless telephone~~
8 ~~service, this surcharge shall be remitted based upon the~~
9 ~~address associated with the point of purchase, the customer~~
10 ~~billing address, or the location associated with the MTN for~~
11 ~~each active prepaid wireless telephone that has a sufficient~~
12 ~~positive balance as of the last day of each month, if that~~
13 ~~information is available.~~ No wireless carrier shall impose the
14 surcharge authorized by this Section upon any subscriber who is
15 subject to the surcharge imposed by a unit of local government
16 pursuant to Section 45. Prior to January 1, 2008 (the effective
17 date of Public Act 95-698), the surcharge amount shall be the
18 amount set by the Wireless Enhanced 9-1-1 Board. Beginning on
19 January 1, 2008 (the effective date of Public Act 95-698), the
20 monthly surcharge imposed under this Section shall be \$0.73 per
21 CMRS connection. The wireless carrier that provides wireless
22 service to the subscriber shall collect the surcharge from the
23 subscriber. For mobile telecommunications services provided on
24 and after August 1, 2002, any surcharge imposed under this Act
25 shall be imposed based upon the municipality or county that
26 encompasses the customer's place of primary use as defined in

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

8 (b) Except as provided in Sections ~~Section~~ 45 and 80, a
9 wireless carrier shall, within 45 days of collection, remit,
10 either by check or by electronic funds transfer, to the State
11 Treasurer the amount of the wireless carrier surcharge
12 collected from each subscriber. Of the amounts remitted under
13 this subsection prior to January 1, 2008 (the effective date of
14 Public Act 95-698), and for surcharges imposed before January
15 1, 2008 (the effective date of Public Act 95-698) but remitted
16 after January 1, 2008, the State Treasurer shall deposit
17 one-third into the Wireless Carrier Reimbursement Fund and
18 two-thirds into the Wireless Service Emergency Fund. For
19 surcharges collected and remitted on or after January 1, 2008
20 (the effective date of Public Act 95-698), \$0.1475 per
21 surcharge collected shall be deposited into the Wireless
22 Carrier Reimbursement Fund, and \$0.5825 per surcharge
23 collected shall be deposited into the Wireless Service
24 Emergency Fund. Of the amounts deposited into the Wireless
25 Carrier Reimbursement Fund under this subsection, \$0.01 per
26 surcharge collected may be distributed to the carriers to cover

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

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

21 (d) Any funds collected under the Prepaid Wireless 9-1-1
22 Surcharge Act shall be distributed using a prorated method
23 based upon zip code information collected from post-paid
24 wireless carriers under subsection (c) of this Section. ~~Within~~
25 ~~90 days after August 13, 2007 (the effective date of Public Act~~
26 ~~95-63), each wireless carrier must implement a mechanism for~~

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

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

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

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

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

1 this Section. Any penalty imposed under this subsection (e) is
2 in addition to the amount of the delinquency and is in addition
3 to any other penalty imposed under this Section.

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

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

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

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

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

1 or her designee, may excuse the payment of any penalty imposed
2 under this Section if the Executive Director, or his or her
3 designee, determines that the enforcement of this penalty is
4 unjust.

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

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

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

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

1 reasonable.

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

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

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

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

16 (50 ILCS 751/80 new)

17 Sec. 80. Prepaid wireless telecommunications service;
18 surcharge. The wireless carrier surcharge and any other
19 requirements imposed by Section 17 or authorized by Section 45
20 shall not apply to prepaid wireless telecommunications
21 service. The provisions of the Prepaid Wireless 9-1-1 Surcharge
22 Act shall apply to prepaid wireless telecommunications
23 service.

24 Section 97. The Public Utilities Act is amended by changing

1 Section 13-230 as follows:

2 (220 ILCS 5/13-230)

3 (Section scheduled to be repealed on July 1, 2013)

4 Sec. 13-230. Prepaid calling service. "Prepaid calling
5 service" means telecommunications service that must be paid for
6 in advance by an end user, enables the end user to originate
7 calls using an access number or authorization code, whether
8 manually or electronically dialed, and is sold in predetermined
9 units or dollars of which the number declines with use in a
10 known amount. A prepaid calling service call is a call made by
11 an end user using prepaid calling service. "Prepaid calling
12 service" does not include prepaid wireless telecommunications
13 ~~telephone~~ service as defined in Section 10 of the Wireless
14 Emergency Telephone Safety Act.

15 (Source: P.A. 93-1002, eff. 1-1-05.)

16 Section 997. Severability. The provisions of this Act are
17 severable under Section 1.31 of the Statute on Statutes.

18 Section 999. Effective date. This Act takes effect January
19 1, 2012."