

A bill for an act

relating to public safety; 911 telephone service; providing for collection of 911 fees from prepaid wireless telecommunications services; amending Minnesota Statutes 2010, sections 403.02, by adding a subdivision; 403.11, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 403.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 403.02, is amended by adding a subdivision to read:

Subd. 17b. **Prepaid wireless telecommunications service or PWTS.** "Prepaid wireless telecommunications service" or "PWTS" means prepaid wireless calling service as that term is defined in section 297A.669, subdivision 14a.

Sec. 2. Minnesota Statutes 2010, section 403.11, subdivision 1, is amended to read:

Subdivision 1. **Emergency telecommunications service fee; account.** (a) Each customer of a wireless or wire-line switched or packet-based telecommunications service provider connected to the public switched telephone network that furnishes service capable of originating a 911 emergency telephone call is assessed a fee based upon the number of wired or wireless telephone lines, or their equivalent, to cover the costs of ongoing maintenance and related improvements for trunking and central office switching equipment for 911 emergency telecommunications service, to offset administrative and staffing costs of the commissioner related to managing the 911 emergency telecommunications service program, to make distributions provided for in section 403.113, and to offset the costs, including administrative and staffing costs, incurred by the State Patrol Division of the Department of Public Safety in handling 911 emergency calls made from wireless phones.

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(b) Money remaining in the 911 emergency telecommunications service account after all other obligations are paid must not cancel and is carried forward to subsequent years and may be appropriated from time to time to the commissioner to provide financial assistance to counties for the improvement of local emergency telecommunications services. The improvements may include providing access to 911 service for telecommunications service subscribers currently without access and upgrading existing 911 service to include automatic number identification, local location identification, automatic location identification, and other improvements specified in revised county 911 plans approved by the commissioner.

(c) The fee may not be less than eight cents nor more than 65 cents a month until June 30, 2008, not less than eight cents nor more than 75 cents a month until June 30, 2009, not less than eight cents nor more than 85 cents a month until June 30, 2010, and not less than eight cents nor more than 95 cents a month on or after July 1, 2010, for each customer access line or other basic access service, including trunk equivalents as designated by the Public Utilities Commission for access charge purposes and including wireless telecommunications services. With the approval of the commissioner of management and budget, the commissioner of public safety shall establish the amount of the fee within the limits specified and inform the companies and carriers of the amount to be collected. When the revenue bonds authorized under section 403.27, subdivision 1, have been fully paid or defeased, the commissioner shall reduce the fee to reflect that debt service on the bonds is no longer needed. The commissioner shall provide companies and carriers a minimum of 45 days' notice of each fee change. The fee must be the same for all customers.

(d) The fee must be collected by each wireless or wire-line telecommunications service provider subject to the fee. Fees are payable to and must be submitted to the commissioner monthly before the 25th of each month following the month of collection, except that fees may be submitted quarterly if less than \$250 a month is due, or annually if less than \$25 a month is due. Receipts must be deposited in the state treasury and credited to a 911 emergency telecommunications service account in the special revenue fund. The money in the account may only be used for 911 telecommunications services.

(e) This subdivision does not apply to customers of interexchange carriers.

(f) The installation and recurring charges for integrating wireless 911 calls into enhanced 911 systems are eligible for payment by the commissioner if the 911 service provider is included in the statewide design plan and the charges are made pursuant to contract.

(g) Competitive local exchanges carriers holding certificates of authority from the Public Utilities Commission are eligible to receive payment for recurring 911 services.

(h) The fee imposed by this subdivision does not apply to prepaid wireless telecommunications service, which is subject to the fee imposed under section 403.161, subdivision 2.

Sec. 3. [403.16] PREPAID WIRELESS 911 SERVICE; DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 403.16 to 403.164, the terms defined in this section have the meanings given them.

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

Subd. 3. **Department.** "Department" means the Department of Revenue.

Subd. 4. **Prepaid wireless E911 fee.** "Prepaid wireless E911 fee" means the fee that is required to be collected by a seller from a consumer as established in section 403.161.

Subd. 5. **Provider.** "Provider" means a person that provides prepaid wireless telecommunications service under a license issued by the Federal Communications Commission.

Subd. 6. **Retail transaction.** "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

Subd. 7. **Seller.** "Seller" means a person who sells prepaid wireless telecommunications service to another person.

Subd. 8. **Wireless telecommunications service.** "Wireless telecommunications service" means commercial mobile radio service as defined by Code of Federal Regulations, title 47, section 20.3, as amended.

Sec. 4. [403.161] PREPAID WIRELESS E911 FEE IMPOSED; COLLECTION, REMITTANCE.

Subdivision 1. **Fee imposed.** A prepaid wireless E911 fee of 38 cents per transaction is imposed until the fee is adjusted as an amount per retail transaction under subdivision 6.

Subd. 2. **Fee collected.** The prepaid wireless E911 fee must be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless E911 fee must be either separately stated on an invoice, receipt, or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

Subd. 3. **Sales and use tax treatment.** For purposes of this section, a retail transaction that is effected in person by a consumer at a business location of the seller must be treated as occurring in this state if that business location is in this state, and any other retail transaction must be treated as occurring in this state if the retail transaction

is treated as occurring in this state for purposes of the sales and use tax as specified in section 297A.669, subdivision 3, paragraph (c).

Subd. 4. Remittance. The prepaid wireless E911 fee is the liability of the consumer and not of the seller or of any provider, except that the seller is liable to remit all fees that the seller collects from consumers as provided in section 403.162, including all fees that the seller is deemed to collect in which the amount of the fee has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

Subd. 5. Exclusion for calculating other charges. The amount of the prepaid wireless E911 fee that is collected by a seller from a consumer, if the amount is separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, must not be included in the base for measuring any tax, fee, surcharge, or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency.

Subd. 6. Fee changes. The prepaid wireless E911 fee must be proportionately increased or reduced, as applicable, upon any change to the fee imposed under section 403.11, subdivision 1, paragraph (c). The increase or reduction is effective on the effective date of the change to the fee imposed under section 403.11, subdivision 1, paragraph (c), or, if later, the first day of the first calendar month to occur at least 60 days after the change to the fee imposed under section 403.11, subdivision 1, paragraph (c). The department shall provide not less than 30 days of advance notice to the increase or reduction on the department's Web site.

Sec. 5. [403.162] ADMINISTRATION OF PREPAID WIRELESS E911 FEE.

Subdivision 1. Remittance. Prepaid wireless E911 fees collected by sellers must be remitted to the department at the times and in the manner provided by chapter 297A with respect to the general sales and use tax. The department shall establish registration and payment procedures that substantially coincide with the registration and payment procedures that apply in chapter 297A.

Subd. 2. Deduction for collection. A seller may deduct and retain three percent of prepaid wireless E911 fees that are collected by the seller from consumers.

Subd. 3. Audit and appeal. The audit and appeal procedures applicable under chapter 297A apply to any fee imposed under this section.

Subd. 4. Procedures for resale transactions. The department shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction. These procedures must substantially

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coincide with the procedures for documenting sale for resale transactions as provided in chapter 297A.

Subd. 5. **Fees deposited.** The department shall deposit all remitted prepaid wireless E911 fees in the state treasury, to be credited to the 911 emergency telecommunication service account in the special revenue fund, within 30 days of receipt. The department may deduct an amount, not to exceed two percent of collected fees, to be retained by the department to reimburse its direct costs of administering the collection and remittance of prepaid wireless E911 fees. Funds deposited into the 911 emergency telecommunications service account from the fee imposed in this section may only be used for the purposes specified under section 403.113.

Sec. 6. [403.163] LIABILITY OF SELLERS AND PROVIDERS OF PWTS.

(a) A provider or seller of prepaid wireless telecommunications service is not liable for damages to any person resulting from or incurred in connection with providing, or failing to provide, 911 or E911 service, or for identifying, or failing to identify, the telephone number, address, location, or name associated with any person or device that is accessing or attempting to access 911 or E911 service.

(b) A provider or seller of prepaid wireless telecommunications service is not liable for damages to any person resulting from or incurred in connection with providing any lawful assistance to any investigative or law enforcement officer of the United States, this or any other state, or any political subdivision of this or any other state, in connection with any lawful investigation or other law enforcement activity by the law enforcement officer.

(c) In addition to the protection from liability provided by paragraphs (a) and (b), section 403.08, subdivision 11, applies to sellers and providers.

Sec. 7. [403.164] EXCLUSIVITY OF PREPAID WIRELESS 911 FEE.

The prepaid wireless E911 fee imposed by section 403.161 is the only E911 funding obligation imposed with respect to prepaid wireless telecommunications service in this state, and no tax, fee, surcharge, or other charge may be imposed by this state, any political subdivision of this state, or any intergovernmental agency, for E911 funding purposes, upon any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service.

Sec. 8. EFFECTIVE DATE.

Sections 1 to 7 are effective January 1, 2012.