

151.10

**ARTICLE 9**

151.11

**TELECOMMUNICATIONS POLICY**

151.12 Section 1. Minnesota Statutes 2016, section 237.01, is amended by adding a subdivision  
151.13 to read:

151.14 Subd. 10. **Voice-over-Internet protocol service.** "Voice-over-Internet protocol service"  
151.15 or "VoIP service" means any service that (1) enables real-time two-way voice  
151.16 communications that originate from or terminate at the user's location in Internet protocol  
151.17 or any successor protocol, and (2) permits users generally to receive calls that originate on  
151.18 the public switched telephone network and terminate calls to the public switched telephone  
151.19 network.

151.20 Sec. 2. Minnesota Statutes 2016, section 237.01, is amended by adding a subdivision to  
151.21 read:

151.22 Subd. 11. **Internet protocol-enabled service.** "Internet protocol-enabled service" or  
151.23 "IP-enabled service" means any service, capability, functionality, or application provided  
151.24 using Internet protocol, or any successor protocol, that enables an end user to send or receive  
151.25 a communication in Internet protocol format or any successor format, regardless of whether  
151.26 that communication is voice, data, or video.

151.27 Sec. 3. **[237.037] VOICE-OVER-INTERNET PROTOCOL SERVICE AND**  
151.28 **INTERNET PROTOCOL-ENABLED SERVICE.**

151.29 Subdivision 1. **Regulation prohibited.** Except as provided in this section, no state  
151.30 agency, including the commission and the Department of Commerce, or political subdivision  
151.31 of this state shall by rule, order, or other means directly or indirectly regulate the entry,  
152.1 rates, terms, quality of service, availability, classification, or any other aspect of VoIP service  
152.2 or IP-enabled service.

152.3 Subd. 2. **VoIP regulation.** (a) To the extent permitted by federal law, VoIP service is  
152.4 subject to the requirements of sections 237.49, 237.52, 237.70, and 403.11 with regard to  
152.5 the collection and remittance of the surcharges governed by those sections.

152.6 (b) A provider of VoIP service must comply with the requirements of chapter 403  
152.7 applicable to the provision of access to 911 service by service providers, except to the extent  
152.8 those requirements conflict with federal requirements for the provision of 911 service by  
152.9 VoIP providers under Code of Federal Regulations, title 47, part 9. A VoIP provider is  
152.10 entitled to the benefit of the limitation of liability provisions of section 403.07, subdivision  
152.11 5. Beginning June 1, 2017, and continuing each June 1 thereafter, each VoIP provider shall  
152.12 file a plan with the commission describing how it will comply with the requirements of this

31.20

**ARTICLE 2**

31.21

**COMMERCE**

39.15 Sec. 17. Minnesota Statutes 2016, section 237.01, is amended by adding a subdivision to  
39.16 read:

39.17 Subd. 10. **Voice-over-Internet protocol service.** "Voice-over-Internet protocol service"  
39.18 or "VoIP service" means any service that (1) enables real-time two-way voice  
39.19 communications that originate from or terminate at the user's location in Internet protocol  
39.20 or any successor protocol, and (2) permits users generally to receive calls that originate on  
39.21 the public switched telephone network and terminate calls to the public switched telephone  
39.22 network.

39.23 Sec. 18. Minnesota Statutes 2016, section 237.01, is amended by adding a subdivision to  
39.24 read:

39.25 Subd. 11. **Internet protocol-enabled service.** "Internet protocol-enabled service" or  
39.26 "IP-enabled service" means any service, capability, functionality, or application provided  
39.27 using Internet protocol, or any successor protocol, that enables an end user to send or receive  
39.28 a communication in Internet protocol format or any successor format, regardless of whether  
39.29 that communication is voice, data, or video.

40.1 Sec. 19. **[237.037] VOICE-OVER-INTERNET PROTOCOL SERVICE AND**  
40.2 **INTERNET PROTOCOL-ENABLED SERVICE.**

40.3 Subdivision 1. **Regulation prohibited.** Except as provided in this section, no state  
40.4 agency, including the commission and the Department of Commerce, or political subdivision  
40.5 of this state shall by rule, order, or other means directly or indirectly regulate the entry,  
40.6 rates, terms, quality of service, availability, classification, or any other aspect of VoIP service  
40.7 or IP-enabled service.

40.8 Subd. 2. **VoIP regulation.** (a) To the extent permitted by federal law, VoIP service is  
40.9 subject to the requirements of sections 237.49, 237.52, 237.70, and 403.11 with regard to  
40.10 the collection and remittance of the surcharges governed by those sections.

40.11 (b) A provider of VoIP service must comply with the requirements of chapter 403  
40.12 applicable to the provision of access to 911 service by service providers, except to the extent  
40.13 those requirements conflict with federal requirements for the provision of 911 service by  
40.14 VoIP providers under Code of Federal Regulations, title 47, part 9. A VoIP provider is  
40.15 entitled to the benefit of the limitation of liability provisions of section 403.07, subdivision  
40.16 5. Beginning June 1, 2017, and continuing each June 1 thereafter, each VoIP provider shall  
40.17 file a plan with the commission describing how it will comply with the requirements of this

- 152.13 paragraph. After its initial filing under this paragraph, a VoIP provider shall file with the  
 152.14 commission either an update of the plan or a statement certifying that the plan and personnel  
 152.15 contact information previously filed is still current.
- 152.16 Subd. 3. **Relation to other law.** Nothing in this section restricts, creates, expands, or  
 152.17 otherwise affects or modifies:
- 152.18 (1) the commission's authority under the Federal Communications Act of 1934, United  
 152.19 States Code, title 47, sections 251 and 252;
- 152.20 (2) any applicable wholesale tariff or any commission authority related to wholesale  
 152.21 services;
- 152.22 (3) any commission jurisdiction over (i) intrastate switched access rates, terms, and  
 152.23 conditions, including the implementation of federal law with respect to intercarrier  
 152.24 compensation, or (ii) existing commission authority to address or affect the resolution of  
 152.25 disputes regarding intercarrier compensation;
- 152.26 (4) the rights of any entity, or the authority of the commission and local government  
 152.27 authorities, with respect to the use and regulation of public rights-of-way under sections  
 152.28 237.162 and 237.163;
- 152.29 (5) the establishment or enforcement of standards, requirements or procedures in  
 152.30 procurement policies, internal operational policies, or work rules of any state agency or  
 152.31 political subdivision of the state relating to the protection of intellectual property; or
- 153.1 (6) the authority of the attorney general to apply and enforce chapters 325C to 325G,  
 153.2 325K to 325M, and other laws of general applicability governing consumer protection and  
 153.3 trade practices.
- 153.4 Subd. 4. **Exemption.** The following services delivered by IP-enabled service are not  
 153.5 regulated under this chapter:
- 153.6 (1) video services provided by a cable communications system, as defined in section  
 153.7 238.02, subdivision 3;
- 153.8 (2) cable service, as defined in United States Code, title 47, section 522, clause (6); or
- 153.9 (3) any other IP-enabled video service.
- 153.10 Subd. 5. **Preservation of existing landline telephone service.** Nothing in this section  
 153.11 restricts, creates, expands, or otherwise affects or modifies the obligations of a telephone

- 40.18 paragraph. After its initial filing under this paragraph, a VoIP provider shall file with the  
 40.19 commission either an update of the plan or a statement certifying that the plan and personnel  
 40.20 contact information previously filed is still current.
- 40.21 Subd. 3. **Relation to other law.** Nothing in this section restricts, creates, expands, or  
 40.22 otherwise affects or modifies:
- 40.23 (1) the commission's authority under the Federal Communications Act of 1934, United  
 40.24 States Code, title 47, sections 251 and 252;
- 40.25 (2) any applicable wholesale tariff or any commission authority related to wholesale  
 40.26 services;
- 40.27 (3) any commission jurisdiction over (i) intrastate switched access rates, terms, and  
 40.28 conditions, including the implementation of federal law with respect to intercarrier  
 40.29 compensation, or (ii) existing commission authority to address or affect the resolution of  
 40.30 disputes regarding intercarrier compensation;
- 40.31 (4) the rights of any entity, or the authority of the commission and local government  
 40.32 authorities, with respect to the use and regulation of public rights-of-way under sections  
 40.33 237.162 and 237.163;
- 41.1 (5) the establishment or enforcement of standards, requirements or procedures in  
 41.2 procurement policies, internal operational policies, or work rules of any state agency or  
 41.3 political subdivision of the state relating to the protection of intellectual property; or
- 41.4 (6) the authority of the attorney general to apply and enforce chapters 325C to 325G  
 41.5 and 325K to 325M or other laws of general applicability governing consumer protection  
 41.6 and trade practices.
- 41.7 Subd. 4. **Exemption.** The following services delivered by IP-enabled service are not  
 41.8 regulated under this chapter:
- 41.9 (1) video services provided by a cable communications system, as defined in section  
 41.10 238.02, subdivision 3;
- 41.11 (2) cable service, as defined in United States Code, title 47, section 522, clause (6); or
- 41.12 (3) any other IP-enabled video service.
- 41.13 Subd. 5. **Preservation of existing landline telephone service.** Nothing in this section  
 41.14 restricts, creates, expands, or otherwise affects or modifies the obligations of a telephone

153.12 company under this chapter to offer landline telephone service that is not Voice-over-Internet  
 153.13 protocol service.

153.14 Sec. 4. **[237.417] PERSONAL INFORMATION; PROHIBITION.**

153.15 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have  
 153.16 the meanings given them.

153.17 (b) "Covered entity" means an entity, including a search engine service, social media,  
 153.18 or other Web-based application, that collects personally identifiable information from a  
 153.19 consumer by means of the Internet.

153.20 (c) "Express approval" means an affirmative act of the consumer provided in writing or  
 153.21 by electronic means. The affirmative act providing express approval must be made in a  
 153.22 separate document or form that contains no approval by a consumer of any other contractual  
 153.23 provision.

153.24 (d) "Internet service provider" has the meaning given in section 325M.01, subdivision  
 153.25 3.

153.26 (e) "Minnesota facilities" means the facilities of a telecommunications or Internet service  
 153.27 provider covered by or subject to a franchise agreement, right-of-way agreement, or other  
 153.28 contract with the state of Minnesota or a political subdivision.

153.29 (f) "Personally identifiable information" means information that identifies:

153.30 (1) a consumer by physical or electronic address or telephone number;

41.15 company under this chapter to offer landline telephone service that is not Voice-over-Internet  
 41.16 protocol service.

41.17 Sec. 20. Minnesota Statutes 2016, section 237.295, is amended by adding a subdivision  
 41.18 to read:

41.19 Subd. 2a. Assessment of costs related to providers of Voice-over-Internet protocol  
 41.20 service. The department and the commission may assess their actual regulatory costs directly  
 41.21 related to implementation of section 237.037 with respect to providers of Voice-over-Internet  
 41.22 protocol service. The total amount that may be assessed to all providers of  
 41.23 Voice-over-Internet protocol service under this subdivision shall not exceed the lesser of  
 41.24 either the department and commission's actual regulatory costs directly related to  
 41.25 implementation of this section in calendar years 2019, 2020, and 2021, or \$625,000 in  
 41.26 calendar year 2019, \$925,000 in calendar year 2020, and \$1,200,000 in calendar year 2021,  
 41.27 respectively.

41.28 Sec. 21. **[237.417] PERSONAL INFORMATION; PROHIBITION.**

154.1 (2) a consumer as having requested or obtained specific materials or services from an  
 154.2 Internet service provider;

154.3 (3) Internet or online sites visited by a consumer; or

154.4 (4) any of the contents of a consumer's data-storage devices.

154.5 (g) "Telecommunications service provider" has the meaning given in section 237.01,  
 154.6 subdivision 6b.

154.7 Subd. 2. **Service provider; prohibition.** A telecommunications or Internet service  
 154.8 provider that has entered into a franchise agreement, right-of-way agreement, or other  
 154.9 contract with the state of Minnesota or a political subdivision may not sell, share, or otherwise  
 154.10 distribute personally identifiable information from a consumer, or use such information for  
 154.11 direct advertising or other content, without express approval from the consumer.

154.12 Subd. 3. **Covered entity; prohibition.** A covered entity may not sell, share, or otherwise  
 154.13 distribute personally identifiable information from any Minnesota consumer, or use such  
 154.14 information for direct advertising, without express approval of the consumer if the covered  
 154.15 entity used Minnesota facilities to obtain personally identifiable information from any  
 154.16 Minnesota consumer, even if the covered entity was not a party to a contract with the state  
 154.17 of Minnesota at the time the personally identifiable information was obtained. This provision  
 154.18 applies to personally identifiable information obtained from any Minnesota consumer, even  
 154.19 if the personally identifiable information was not obtained through the use of Minnesota  
 154.20 facilities.

154.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

154.22 Sec. 5. **[237.418] DIGITAL DEVICE MICROPHONE; CONDITIONS FOR REMOTE**  
 154.23 **ACCESS.**

154.24 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this  
 154.25 subdivision have the meanings given them.

154.26 (b) "Digital device" means a smartphone, tablet, television, computer, car, toy, home  
 154.27 appliance, or any other device that contains a microphone that can be activated remotely  
 154.28 by a private entity without the knowledge of the user and can transmit sound from the  
 154.29 location of the digital device to a remote location where it can be recorded and stored.

41.29 No telecommunications or Internet service provider that has entered into a franchise  
 41.30 agreement, right-of-way agreement, or other contract with the state of Minnesota or a  
 41.31 political subdivision, or that uses facilities that are subject to such agreements, even if it is  
 41.32 not a party to the agreement, may collect personal information from a customer resulting  
 42.1 from the customer's use of the telecommunications or Internet service provider without  
 42.2 express written approval from the customer. No such telecommunication or Internet service  
 42.3 provider shall refuse to provide its services to a customer on the grounds that the customer  
 42.4 has not approved collection of the customer's personal information.

42.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

- 154.30 (c) "Private entity" means any individual, partnership, corporation, limited liability  
154.31 company, association, or other group, however organized. "Private entity" does not include  
154.32 a state or local government agency.
- 155.1 (d) "User" means a person who purchases, leases, or otherwise regularly uses a digital  
155.2 device.
- 155.3 Subd. 2. **Digital device microphone; requirements for access.** No private entity may  
155.4 activate or enable, cause to be activated or enabled, or otherwise use a digital device's  
155.5 microphone to listen to, transmit, store, or disclose information unless it first:
- 155.6 (1) informs the user in writing that the microphone in the user's digital device will be  
155.7 activated, enabled, or used by the private entity;
- 155.8 (2) informs the user in writing of the frequency and length of time the microphone will  
155.9 be activated, enabled, or used by the private entity;
- 155.10 (3) informs the user in writing of the specific categories of information the microphone  
155.11 will be listening for, transmitting, and storing;
- 155.12 (4) informs the user in writing of the specific purpose for which the information will be  
155.13 collected, used, or stored, and to whom it may be disclosed; and
- 155.14 (5) receives the informed, written consent of the user, including through electronic  
155.15 means, or the user's authorized agent, representative, or guardian, that:
- 155.16 (i) is in a form distinct and separate from any form setting forth other legal or financial  
155.17 obligations of the user;
- 155.18 (ii) is given in advance of the time the microphone is activated, enabled, or used; and
- 155.19 (iii) runs for a specified period of time or until consent is withdrawn by the user,  
155.20 whichever is sooner.
- 155.21 Subd. 3. **Prohibitions.** The provisions of this section may not be waived by a user or  
155.22 private entity. Any agreement that does not comply with the applicable provisions of this  
155.23 section is void and unenforceable.
- 155.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.