

AN ACT

To enact R.S. 33:9109.1, relative to communications districts; to provide for intent; to provide for definitions; to provide for collection and remittance of prepaid wireless telecommunications service charge; to provide for the administration of the prepaid wireless service charge; to provide for distribution of funds to communications districts; to provide for issues of liability; to provide for exclusivity of the service charge; to provide an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:9109.1 is hereby enacted to read as follows:

Section 9109.1 Prepaid wireless telecommunications 911 service charge; intent; definitions; collection and remittance; administration; distribution of funds; liability; exclusivity

A. Intent. (1) The legislature finds that maintaining effective and efficient 911 systems across the state benefits all citizens.

(2) Service charges imposed upon the consumers of telecommunication services that have the ability to dial 911 are an important funding mechanism to assist state and local governments with the deployment of enhanced 911 services to the citizens of this state.

(3) Prepaid wireless telecommunication services are an important segment of the telecommunications industry and have proven particularly attractive to low-volume consumers.

(4) Unlike traditional telecommunication services, prepaid wireless telecommunications services are not sold or used pursuant to term contracts or subscriptions, and monthly bills are not sent to consumers by prepaid wireless telecommunication service providers or retail vendors.

(5) Prepaid wireless consumers have the same access to emergency 911 services from their wireless devices as wireless consumers on term contracts, and prepaid wireless consumers benefit from the ability to access the 911 system by dialing 911. Therefore, prepaid wireless consumers should begin contributing to funding of the 911 emergency communications system.

(6) Consumers purchase prepaid wireless telecommunication services at a wide variety of general retail locations and other distribution channels, not just through service providers. Such purchases are made on a "cash-and-carry" or "pay-as-you-go" basis from retailers.

(7) To ensure equitable contributions to the funding of 911 systems from consumers of prepaid wireless telecommunication services, the collection and payment obligation of charges to support E911 should be imposed upon the consumer's retail purchase of the prepaid wireless telecommunication service and should be in the form of a single, statewide charge that is collected once at the time of purchase directly from the consumer, remitted to the state, and distributed to communications districts.

B. Definitions. As used in this Section, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

(2) "Department" means the Department of Revenue.

(3) "Prepaid wireless 911 service charge" means the charge that is required to be collected by a seller from a consumer in the amount established under Subsection C of this Section.

(4) "Prepaid wireless telecommunications service" means a wireless telecommunications service that allows a caller to dial 911 to access the 911 system, which service shall be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.

(5) "Provider" means a person that provides prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission.

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

(7) "Seller" means a person who sells prepaid wireless telecommunications service to another person.

(8) "Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. 20.3, as amended.

C. Collection and remittance of prepaid wireless telecommunications 911 service charge. (1) There is hereby imposed a prepaid wireless telecommunications 911 service charge of fifty cents per retail transaction.

(2) The prepaid wireless 911 service charge shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless 911 service charge shall 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.

(3) For purposes of Paragraph (2) of this Subsection, a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for purposes of R. S. 47:301(16)(d).

(4) The prepaid wireless 911 service charge shall be the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless 911 service charges that the seller collects from consumers as provided in Subsection D of this Section, including all such charges that the seller is deemed to collect where the amount of the charge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

(5) The amount of the prepaid wireless 911 service charge that is collected by a seller from a consumer, whether or not such amount is separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, shall 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.

D. Administration of prepaid wireless 911 service charge. (1) Prepaid wireless 911 service charges collected by sellers shall be remitted to the department at the times and in accordance with Chapter 2 of Title 47 of the Louisiana Revised Statutes of 1950, with respect to the state sales tax. The department shall establish registration and payment procedures that substantially coincide with the registration and payment procedures that apply under Chapter 2 of Title 47 of the Louisiana Revised Statutes of 1950, with respect to the state sales tax.

(2) A seller shall be permitted to deduct and retain three percent of prepaid wireless 911 service charges that are collected by the seller from consumers.

(3) The audit and appeal procedures applicable under Chapter 2 of Title 47 of the Louisiana Revised Statutes of 1950 with respect to the state sales tax shall apply to prepaid wireless 911 service charges.

(4) The department shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions under Chapter 2 of Title 47 of the Louisiana Revised Statutes of 1950 with respect to the state sales tax.

(5) The department shall pay all remitted prepaid wireless 911 service charges over to eligible communications districts in accordance with Subsection E of this Section. The department may retain up to two percent of remitted service charges to reimburse its direct costs of administering the collection and remittance of prepaid wireless 911 service charges.

E. Distribution of Funds to Communications Districts. (1) Each communications district shall receive a distribution within thirty days of the end of each calendar quarter of a portion of the revenues remitted to the department under Subsection D of this Section.

(2) The amount of the distribution shall be determined by dividing the population of the communications district by the state population, and then multiplying that quotient times the total revenues remitted to the department after deducting the amount authorized in Paragraph (D)(5) of this Section.

F. Liability. (1) No provider or seller of prepaid wireless telecommunications service shall be liable for damages to any person resulting from or incurred in connection with the provision of, or failure 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.

(2) No provider or seller of prepaid wireless telecommunications service shall be liable for damages to any person resulting from or incurred in connection with the provision of any lawful assistance to any investigation or activity by a 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 such law enforcement officer.

G. Exclusivity of charge. The prepaid wireless E911 charge shall be the only E911 funding obligation imposed with respect to prepaid wireless telecommunications service in this state, and no tax, fee, surcharge, or other charge shall 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.

Section 2. This Act shall take effect on January 1, 2010