

Act No. 260
Public Acts of 2012
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Reps. Nesbitt, Horn, Price and Roy Schmidt

ENROLLED HOUSE BILL No. 5468

AN ACT to amend 1986 PA 32, entitled “An act to provide for the establishment of emergency 9-1-1 districts; to provide for the installation, operation, modification, and maintenance of universal emergency 9-1-1 service systems; to provide for the imposition and collection of certain charges; to provide the powers and duties of certain state agencies, local units of government, public officers, service suppliers, and others; to create an emergency 9-1-1 service committee; to provide remedies and penalties; and to repeal acts and parts of acts,” by amending sections 102, 401a, 401b, 401c, 401d, and 717 (MCL 484.1102, 484.1401a, 484.1401b, 484.1401c, 484.1401d, and 484.1717), section 102 as amended and sections 401c and 401d as added by 2007 PA 164 and sections 401a, 401b, and 717 as amended by 2008 PA 379.

The People of the State of Michigan enact:

Sec. 102. As used in this act:

(a) “Automatic location identification” or “ALI” means a 9-1-1 service feature provided by the service supplier that automatically provides the name and service address or, for a CMRS service supplier, the location associated with the calling party’s telephone number as identified by automatic number identification to a 9-1-1 public safety answering point.

(b) “Automatic number identification” or “ANI” means a 9-1-1 service feature provided by the service supplier that automatically provides the calling party’s telephone number to a 9-1-1 public safety answering point.

(c) “Commercial mobile radio service” or “CMRS” means commercial mobile radio service regulated under section 3 of title I and section 332 of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 USC 153 and 332, and the rules of the federal communications commission or provided under the wireless emergency service order. Commercial mobile radio service or CMRS includes all of the following:

(i) A wireless 2-way communication device, including a radio telephone used in cellular telephone service or personal communication service.

(ii) A functional equivalent of a radio telephone communications line used in cellular telephone service or personal communication service.

(iii) A network radio access line.

(d) “Commission” means the Michigan public service commission.

(e) “Committee” means the emergency 9-1-1 service committee created under section 712.

(f) “Common network costs” means the costs associated with the common network required to deliver a 9-1-1 call with ALI and ANI from a selective router to the proper PSAP and the costs associated with the 9-1-1 database and data distribution system of the primary 9-1-1 service supplier identified in a county 9-1-1 plan. As used in this subdivision, “common network” means the elements of a service supplier’s network that are not exclusive to the supplier or technology capable of accessing the 9-1-1 system.

(g) “Communication service” means a service capable of accessing, connecting with, or interfacing with a 9-1-1 system, exclusively through the numerals 9-1-1, by dialing, initializing, or otherwise activating the 9-1-1 system through the numerals 9-1-1 by means of a local telephone device, cellular telephone device, wireless communication device, interconnected voice over the internet device, or any other means.

(h) “CMRS connection” means each number assigned to a CMRS customer.

(i) “Consolidated dispatch” means a countywide or regional emergency dispatch service that provides dispatch service for 75% or more of the law enforcement, fire fighting, emergency medical service, and other emergency service agencies within the geographical area of a 9-1-1 service district or serves 75% or more of the population within a 9-1-1 service district.

(j) “County 9-1-1 charge” means the charge allowed under sections 401b and 401e.

(k) “Database service provider” means a service supplier who maintains and supplies or contracts to maintain and supply an ALI database or an MSAG.

(l) “Direct dispatch method” means that the agency receiving the 9-1-1 call at the public safety answering point decides on the proper action to be taken and dispatches the appropriate available public safety service unit located closest to the request for public safety service.

(m) “Emergency response service” or “ERS” means a public or private agency that responds to events or situations that are dangerous or that are considered by a member of the public to threaten the public safety. An emergency response service includes a police or fire department, an ambulance service, or any other public or private entity trained and able to alleviate a dangerous or threatening situation.

(n) “Emergency service zone” or “ESZ” means the designation assigned by a county to each street name and address range that identifies which emergency response service is responsible for responding to an exchange access facility’s premises.

(o) “Emergency telephone charge” means the emergency telephone operational charge and emergency telephone technical charge allowed under section 401.

(p) “Emergency 9-1-1 district” or “9-1-1 service district” means the area in which 9-1-1 service is provided or is planned to be provided to service users under a 9-1-1 system implemented under this act.

(q) “Emergency 9-1-1 district board” means the governing body created by the board of commissioners of the county or counties with authority over an emergency 9-1-1 district.

(r) “Emergency telephone operational charge” means a charge allowed under section 401 for nonnetwork technical equipment and other costs directly related to the dispatch facility and the operation of 1 or more PSAPs including, but not limited to, the costs of dispatch personnel and radio equipment necessary to provide 2-way communication between PSAPs and a public safety agency. Emergency telephone operational charge does not include non-PSAP related costs such as response vehicles and other personnel.

(s) “Emergency telephone technical charge” means a charge as allowed under section 401 or 401d for costs directly related to 9-1-1 service including plant-related costs associated with the use of the public switched telephone network from the end user to the selective router; the network start-up costs, customer notification costs, common network costs, administrative costs, database management costs, and network nonrecurring and recurring installation, maintenance, service, and equipment charges of a service supplier providing 9-1-1 service under this act. Emergency telephone technical charge does not include costs recovered under sections 401b(10) and 408(2).

(t) “Exchange access facility” means the access from a particular service user’s premises to the communication service. Exchange access facilities include service supplier provided access lines, PBX trunks, and centrex line trunk equivalents, all as defined by tariffs of the service suppliers as approved by the public service commission. Exchange access facilities do not include telephone pay station lines or WATS, FX, or incoming only lines.

(u) “Final 9-1-1 service plan” means a tentative 9-1-1 service plan that has been modified only to reflect necessary changes resulting from any failure of public safety agencies to be designated as PSAPs or secondary PSAPs under section 307.

(v) “Master street address guide” or “MSAG” means a perpetual database that contains information continuously provided by a service district that defines the geographic area of the service district and includes an alphabetical list of

street names, the range of address numbers on each street, the names of each community in the service district, the emergency service zone of each service user, and the primary service answering point identification codes.

(w) “Obligations” means bonds, notes, installment purchase contracts, or lease purchase agreements to be issued by a public agency under a law of this state.

(x) “Person” means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(y) “Prepaid wireless telecommunications service” means a commercial mobile radio service that allows a caller to dial 9-1-1 to access the 9-1-1 system and is paid for in advance and sold in predetermined units or dollars of which the number declines with use in a known amount.

(z) “Primary public safety answering point”, “PSAP”, or “primary PSAP” means a communications facility operated or answered on a 24-hour basis assigned responsibility by a public agency or county to receive 9-1-1 calls and to dispatch public safety response services, as appropriate, by the direct dispatch method, relay method, or transfer method. It is the first point of reception by a public safety agency of a 9-1-1 call and serves the jurisdictions in which it is located and other participating jurisdictions, if any.

(aa) “Prime rate” means the average predominant prime rate quoted by not less than 3 commercial financial institutions as determined by the department of treasury.

(bb) “Private safety entity” means a nongovernmental organization that provides emergency fire, ambulance, or medical services.

(cc) “Public agency” means a village, township, charter township, or city within the state and any special purpose district located in whole or in part within the state.

(dd) “Public safety agency” means a functional division of a public agency, county, or the state that provides fire fighting, law enforcement, ambulance, medical, or other emergency services.

(ee) “Qualified obligations” means obligations that meet 1 or more of the following:

(i) The proceeds of the obligations benefit the 9-1-1 district, and for which all of the following conditions are met:

(A) The proceeds of the obligations are used for capital expenditures, costs of a reserve fund securing the obligations, and costs of issuing the obligations. The proceeds of obligations shall not be used for operational expenses.

(B) The weighted average maturity of the obligations does not exceed the useful life of the capital assets.

(C) The obligations shall not in whole or in part appreciate in principal amount or be sold at a discount of more than 10%.

(ii) The obligations are issued to refund obligations that meet the conditions described in subparagraph (i) and the net present value of the principal and interest to be paid on the refunding obligations, excluding the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligations being refunded, as calculated using a method approved by the department of treasury.

(ff) “Relay method” means that a PSAP notes pertinent information and relays it by a communication service to the appropriate public safety agency or other provider of emergency services that has an available emergency service unit located closest to the request for emergency service for dispatch of an emergency service unit.

(gg) “Secondary public safety answering point” or “secondary PSAP” means a communications facility of a public safety agency or private safety entity that receives 9-1-1 calls by the transfer method only and generally serves as a centralized location for a particular type of emergency call.

(hh) “Service supplier” means a person providing a communication service to a service user in this state.

(ii) “Service user” means a person receiving a communication service.

(jj) “State 9-1-1 charge” means the charge provided for under section 401a.

(kk) “Tariff” means the rate approved by the public service commission for 9-1-1 service provided by a particular service supplier. Tariff does not include a rate of a commercial mobile radio service by a particular supplier.

(ll) “Tentative 9-1-1 service plan” means a plan prepared by 1 or more counties for implementing a 9-1-1 system in a specified 9-1-1 service district.

(mm) “Transfer method” means that a PSAP transfers the 9-1-1 call directly to the appropriate public safety agency or other provider of emergency service that has an available emergency service unit located closest to the request for emergency service for dispatch of an emergency service unit.

(nn) “Universal emergency number service” or “9-1-1 service” means public communication service that provides service users with the ability to reach a public safety answering point by dialing the digits “9-1-1”.

(oo) “Universal emergency number service system” or “9-1-1 system” means a system for providing 9-1-1 service under this act.

(pp) “Wireless emergency service order” means the order of the federal communications commission, FCC docket No. 94-102, adopted June 12, 1996 with an effective date of October 1, 1996.

Sec. 401a. (1) Each service supplier within a 9-1-1 service district shall bill and collect a state 9-1-1 charge from all service users, except for users of a prepaid wireless telecommunications service, of the service supplier within the geographical boundaries of the 9-1-1 service district or as otherwise provided by this section. The billing and collection of the state 9-1-1 charge shall begin July 1, 2008. The state 9-1-1 charge shall be uniform per each service user within the 9-1-1 service district.

(2) The amount of the state 9-1-1 charge payable monthly by a service user shall be established as provided under subsection (4). The amount of the state 9-1-1 charge shall not be more than 25 cents or less than 15 cents. The charge may be adjusted annually as provided under subsection (4).

(3) The state 9-1-1 charge shall be collected in accordance with the regular billings of the service supplier. Except as otherwise provided under this act, the amount collected for the state 9-1-1 charge shall be remitted quarterly by the service supplier to the state treasurer and deposited in the emergency 9-1-1 fund created under section 407. The charge allowed under this section shall be listed separately on the customer's bill or payment receipt or otherwise disclosed to the consumer.

(4) The initial state 9-1-1 charge shall be 19 cents and shall be effective July 1, 2008. The state 9-1-1 charge shall reflect the actual costs of operating, maintaining, upgrading, and other reasonable and necessary expenditures for the 9-1-1 system in this state. The state 9-1-1 charge may be reviewed and adjusted as provided under subsection (5).

(5) The commission in consultation with the committee shall review and may adjust the state 9-1-1 charge under this section and the distribution percentages under section 408 to be effective on July 1, 2009 and July 1, 2010. Any adjustment to the charge by the commission shall be made no later than May 1 of the preceding year and shall be based on the committee's recommendations under section 412. Any adjustments to the state 9-1-1 charge or distribution percentages after December 31, 2010 shall be made by the legislature.

(6) If a service user has multiple access points or access lines, the state 9-1-1 charge will be imposed separately on each of the first 10 access points or access lines and then 1 charge for each 10 access points or access lines per billed account.

(7) This section takes effect July 1, 2008.

Sec. 401b. (1) In addition to the charge allowed under section 401a, after June 30, 2008 a county board of commissioners may assess a county 9-1-1 charge to service users, except for users of a prepaid wireless telecommunications service, located within that county by 1 of the following methods:

(a) Up to \$0.42 per month by resolution.

(b) Up to \$3.00 per month with the approval of the voters in the county.

(c) Any combination of subdivisions (a) and (b) with a maximum county 9-1-1 charge of \$3.00 per month.

(2) A county assessing a county 9-1-1 charge amount approved in the commission's order in case number U-15489 that exceeds the amounts established in subsection (1) may continue to assess the amount approved by the commission. Any proposed increase to the amount approved in the commission order is subject to subsection (1).

(3) The charge assessed under this section and section 401e shall not exceed the amount necessary and reasonable to implement, maintain, and operate the 9-1-1 system in the county.

(4) If the voters approve the charge to be assessed on the service user's monthly bill on a ballot question under this section, the service provider's bill shall state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on (DATE OF VOTER APPROVAL). This is not a charge assessed by your service supplier. If you have questions concerning your 9-1-1 service, you may call (INCLUDE APPROPRIATE TELEPHONE NUMBER)."

(5) Within 90 days after the first day of each fiscal or calendar year of a county, an annual accounting shall be made of the charge approved under this section.

(6) Except as otherwise provided in subsection (10), the county 9-1-1 charge collected under this section shall be paid quarterly directly to the county and distributed by the county to the primary PSAPs by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the plan, then according to any agreement for distribution between the county and public agencies.

(c) If distribution is not provided in the plan or by agreement, then according to population within the emergency 9-1-1 district.

(7) Subject to subsection (1), the county may adjust the county 9-1-1 charge annually to be effective July 1. The county shall notify the committee no later than May 15 of each year of any change in the county 9-1-1 charge under this section.

(8) If a county has multiple emergency response districts, the county 9-1-1 charge collected under this section shall be distributed under subsection (6) in proportion to the population within the emergency 9-1-1 district.

(9) This section shall not preclude the distribution of funding to secondary PSAPs if the distribution is determined by the primary PSAPs within the emergency 9-1-1 district to be the most effective method for dispatching of fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

(10) The service supplier may retain 2% of the approved county 9-1-1 charge to cover the supplier's costs for billings and collections under this section.

(11) The charge allowed under this section shall be listed separately on the customer's bill or otherwise disclosed to the consumer and shall state by which means the charge was approved under subsection (1).

(12) Information submitted by a service supplier to a county under this section is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be released by the county without the consent of the service supplier. Unless required or permitted by statute, court rule, subpoena, or court order, or except as necessary for a county, the commission, committee, or public agency to pursue or defend the public's interest in any public contract or litigation, a county treasurer, the commission, committee, agency, or any employee or representative of a PSAP, database administrator, or public agency shall not divulge any information acquired with respect to customers, revenues or expenses, trade secrets, access line counts, commercial information, or any other proprietary information with respect to a service supplier while acting or claiming to act as an employee, agent, or representative. An aggregation of information that does not identify or effectively identify the number of customers, revenues or expenses, trade secrets, access lines, commercial information, and other proprietary information attributable to a specific service supplier may be made public.

(13) If a service user has multiple access points or access lines, the county 9-1-1 charge will be imposed separately on each of the first 10 access points or access lines and then 1 charge for each 10 access points or access lines per billed account.

(14) A county 9-1-1 charge assessed under subsection (1) shall be used only to fund costs approved as allowable in a published report by the committee before December 1, 2008. The committee shall notify the standing committees of the senate and house of representatives having jurisdiction over issues pertaining to communication technology at least 90 days before modifying what constitutes an allowable cost under this subsection.

Sec. 401c. (1) A seller shall collect a prepaid wireless 9-1-1 surcharge from a consumer for each retail transaction occurring in this state.

(2) The amount of the prepaid wireless 9-1-1 surcharge shall be 1.92% per retail transaction. The charge allowed under this section shall be either separately stated on an invoice, receipt, or other similar document that is provided to a consumer by the seller or otherwise disclosed to the consumer.

(3) Each of the following transactions shall be considered to have occurred in this state:

(a) A retail transaction that is effected in person by a consumer at a business location of a seller located in this state.

(b) A retail transaction that is treated as occurring in this state as provided in section 3c of the use tax act, 1937 PA 94, MCL 205.93c, as that section applies to a prepaid wireless calling service.

(4) A prepaid wireless 9-1-1 surcharge is the liability of the consumer and not of the seller or of any provider.

(5) Except as otherwise provided in subsection (6), if a prepaid wireless telecommunications service is sold with 1 or more products or services for a single, nonitemized price, the seller shall collect 1.92% on the entire nonitemized price unless the seller elects to do the following:

(a) If the amount of the prepaid wireless telecommunications service is disclosed to the consumer as a dollar amount, apply the percentage to that dollar amount.

(b) If the seller can identify the portion of the price that is attributable to the prepaid wireless telecommunications service by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes, apply the percentage to that portion.

(6) If a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, a seller may elect not to apply the percentage specified in subsection (5)(a) to that transaction. As used in this subsection, "minimal amount" means an amount of service denominated as 10 minutes or less or \$5.00 or less.

(7) The prepaid wireless 9-1-1 surcharge shall be remitted at the same time and in the same manner as the taxes provided by the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78. The department shall establish record keeping, payment, and other procedures for providers or sellers that are substantially similar to those applicable procedures for taxpayers imposed under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78. The department shall deposit the prepaid wireless 9-1-1 surcharges in the emergency 9-1-1 fund created in section 407.

(8) The prepaid wireless 9-1-1 surcharge imposed by this act shall be administered by the department under 1941 PA 122, MCL 205.1 to 205.31, and this act. If the provisions of 1941 PA 122, MCL 205.1 to 205.31, and this act conflict, the provisions of this act apply.

(9) The department shall promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) A seller may retain 2% of prepaid wireless 9-1-1 surcharges that are collected by the seller to reimburse the seller for its direct costs in collecting and remitting the prepaid wireless 9-1-1 surcharges.

(11) A provider or seller of prepaid wireless telecommunications service is not liable for damages to any person resulting from or incurred in connection with the provision of, or failure to provide, 9-1-1 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 9-1-1 service.

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

(13) As used in this section:

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

(b) "Department" means the Michigan department of treasury.

(c) "Prepaid wireless 9-1-1 surcharge" means the fee that is required to be collected by a seller from a consumer in the amount established under subsection (2).

(d) "Provider" means a person that provides prepaid wireless telecommunications services under a license issued by the federal communications commission.

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

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

Sec. 401d. (1) Each local exchange provider within a 9-1-1 service district shall provide a billing and collection service for an emergency telephone technical charge from all service users, except for users of a prepaid wireless telecommunications service, of the provider within the geographical boundaries of the emergency telephone or 9-1-1 service district. The billing and collection of the emergency telephone technical charge used for billing cost shall begin as soon as feasible after the final 9-1-1 service plan has been approved. The billing and collection of the emergency telephone technical charge not already collected for billing costs shall begin as soon as feasible after installation and operation of the 9-1-1 system. The emergency telephone technical charge shall be uniform per each exchange access facility within the 9-1-1 service district. The portion of the emergency telephone technical charge that represents start-up costs, nonrecurring billing, installation, service, and equipment charges of the service supplier, including the costs of updating equipment necessary for conversion to 9-1-1 service, shall be amortized at the prime rate plus 1% over a period not to exceed 10 years and shall be billed and collected from all service users only until those amounts are fully recouped by the service supplier. The prime rate to be used for amortization shall be set before the first assessment of nonrecurring charges and remain at that rate for 5 years, at which time a new rate may be set for the remaining amortization period. Recurring costs and charges included in the emergency telephone technical charge shall continue to be billed to the service user.

(2) The amount of the emergency telephone technical charge to be billed to the service user shall be computed by dividing the total emergency telephone technical charge by the number of exchange access facilities within the 9-1-1 service district.

(3) The amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 4% of the lesser of \$20.00 or the highest monthly rate charged by the local exchange provider for primary basic local exchange service within the 9-1-1 service district. The amount of emergency telephone technical charge payable monthly by a service user for nonrecurring costs and charges shall not exceed 5% of the lesser of \$20.00 or the highest monthly rate charged by the provider for primary basic local exchange service within the 9-1-1 service district. The difference, if any, between the amount of the emergency telephone technical charge computed under subsection (2) and the maximum permitted under this section shall be paid by the county from funds available to the county or through cooperative arrangements with public agencies within the 9-1-1 service district.

(4) The emergency telephone technical charge shall be collected in accordance with the regular billings of the local exchange provider. The emergency telephone technical charge payable by service users under this act shall be added to and shall be stated separately in the billings to service users or otherwise disclosed to the consumer.

(5) As used in this section, "local exchange provider" means a provider of basic local exchange service as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

Sec. 717. This act is repealed effective December 31, 2021.

Enacting section 1. This amendatory act takes effect January 1, 2013.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor