

EMERGENCY 9-1-1 SERVICE ENABLING ACT (EXCERPT)
Act 32 of 1986

***** 484.1401c THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1401c Collection of emergency 9-1-1 surcharge by seller from prepaid consumers; amount; in-state transactions; sale at single, nonitemized price; "minimal amount" defined; monthly remittance of surcharge by seller; deposit; retention of amount as reimbursement for direct costs; liability for damages; review and report of emergency 9-1-1 fund; examination or audit; definitions.

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) Until February 28, 2022, the amount of the prepaid wireless 9-1-1 surcharge is 5.0% per retail transaction. Subject to section 401f, beginning March 1, 2022, the amount of the prepaid wireless 9-1-1 surcharge is 6.0% per retail transaction. The charge allowed under this section must 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 is 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) and subject to section 401f, if a prepaid wireless telecommunications service is sold with 1 or more products or services for a single, nonitemized price, the seller shall collect 5.0% until February 28, 2022, and 6.0% beginning March 1, 2022, 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 seller shall remit the prepaid wireless 9-1-1 surcharge monthly to the state treasurer who shall deposit it in the emergency 9-1-1 fund created in section 407.

(8) 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.

(9) 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.

(10) 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.

(11) The department, in cooperation and in conjunction with the state 9-1-1 committee, shall review the emergency 9-1-1 fund created in section 407 for collection and remittance compliance under this section. The review must contain findings on at least all of the following:

(a) The amount of money owed to the emergency 9-1-1 fund created in section 407 under this section.

(b) The amount of money remitted to the emergency 9-1-1 fund created in section 407 under this section.

(c) Any other pertinent information to locate and address noncompliance with this section as determined by the department or the state 9-1-1 committee.

(d) Any other pertinent information on the prepaid mobile wireless calling service and prepaid wireless calling service marketplace that may help accurately predict revenue under this section.

(12) By not later than June 30, 2023, the department and the state 9-1-1 committee shall issue a report to the legislature regarding the findings under subsection (11). In addition to the required information under subsection (11), the report must contain recommendations to the legislature to increase compliance with this section.

(13) Subject to subsection (14), to determine whether a seller has correctly collected and remitted the prepaid wireless 9-1-1 surcharge due under this section, the department may examine the books, records, and papers and audit the accounts of a seller or any other records to the same extent as provided under 1941 PA 122, MCL 205.1 to 205.31. An examination or audit performed by the department under this section must be done in accordance with the procedures under section 21 of 1941 PA 122, MCL 205.21. An assessment, decision, or order of the department issued as a result of an examination or audit under this section is subject to appeal as provided under section 22 of 1941 PA 122, MCL 205.22. An assessment or claim for a refund is subject to the time periods specified under section 27a(2) to (4) of 1941 PA 122, MCL 205.27a. Before initiating an examination or audit under this subsection, the department shall consult with the commission and the attorney general to determine whether the commission has initiated an investigation or the attorney general has commenced a civil action under section 403.

(14) If the commission is investigating a seller or the attorney general has commenced a civil action against a seller under section 403, the department shall not examine or audit the seller under subsection (13) for the same conduct that is being investigated by the commission or for which a civil action has commenced under section 403.

(15) As used in this section:

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

(b) "Department" means the 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.

History: Add. 2007, Act 164, Eff. July 1, 2008;—Am. 2012, Act 260, Eff. Jan. 1, 2013;—Am. 2012, Act 433, Imd. Eff. Dec. 21, 2012;—Am. 2018, Act 51, Imd. Eff. Mar. 6, 2018;—Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021.

Popular name: 9-1-1