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PENNSYLVANIA STATUTES, ANNOTATED BY LEXISNEXIS(R)

* Pa.C.S. documents are current through 2013 Regular Session Act 10, Enacted May 21, 2013. *

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* Annotations current through May 17, 2013 *

PENNSYLVANIA CONSOLIDATED STATUTES
TITLE 35. HEALTH AND SAFETY
PART III. PUBLIC SAFETY
CHAPTER 53. EMERGENCY TELEPHONE SERVICE

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35 Pa.C.S. § 5301 (2013)

§ 5301. Scope of chapter.

This chapter relates to emergency telephone service.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.

NOTES:

LexisNexis (R) Notes:

EDITOR'S NOTES.

Section 2.1 of Act 2010-118 added new Part III, "Public Safety."

Section 2.1 of Act 2010-118 added new Chapter 53, "Emergency Telephone Service."

Section 7(b) of Act 2010-118 provides that "[t]he addition of 35 Pa.C.S. Ch. 53 is a continuation of the act of July 9, 1990 (P.L. 340, No. 78), known as the Public Safety Emergency Telephone Act. The following apply: (1) Except as otherwise provided in 35 Pa.C.S. Ch. 53, all activities initiated under the Public Safety Emergency Telephone Act shall continue and remain in full force and effect and may be completed under 35 Pa.C.S. Ch. 53. Orders, regulations, rules and decisions which were made under the Public Safety Emergency Telephone Act and which are in effect on the effective date of section 2(2) of this act shall remain in full force and effect until revoked, vacated or modified under 35 Pa.C.S. Ch. 53. (2) Except as set forth in paragraph (3), any difference in language between 35 Pa.C.S. Ch. 53 and the Public Safety Emergency Telephone Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Public Safety Emergency Telephone Act. (3) Paragraph (2) does not apply to any of the

following: (i) The omission of the following definitions in 35 Pa.C.S. § 5302: (A) 'active prepaid wireless account.'(A.1) 'prepaid wireless telephone service.'(B) 'sufficient positive balance.' (ii) The addition of any of the following provisions in title 35: (A) The addition of the following definitions in section 5302: (I) 'consumer.'(II) 'prepaid wireless device.'(III) 'prepaid wireless e-911 surcharge.'(IV) 'prepaid wireless provider.'(V) 'prepaid wireless telecommunications service.'(V.1) 'retail transaction.'(V.2) 'seller.'(VI) 'wireless e-911 surcharge.'(B) The following provisions of section 5311.4: (I) subsection (a) introductory paragraph. (II) subsection (b) introductory paragraph and (4). (III) subsection (b.1). (IV) subsection (h). (C) section 5311.10. (D) section 5312.1. (E) section 5398."



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35 Pa.C.S. § 5302 (2013)

§ 5302. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"911 System." . --A system, including enhanced 911 service but excluding a wireless E-911 system, which permits a person dialing 911 by telephone to be connected to a public safety answering point, via normal telephone facilities, for the reporting of police, fire, medical or other emergency situations.

"Advisory Committee." . --The E-911 Emergency Services Advisory Committee.

"Agency." . --The Pennsylvania Emergency Management Agency.

"ALI." . --Automatic location information.

"ANI." . --Automatic number identification.

"Associated with Pennsylvania." . --The term shall mean:

(1) In the case of the mobile telephone number (MTN), the geographical location associated with the first six digits or NPA-NXX of the MTN.

(2) In the case of a customer service address, the physical location of the address.

"Automatic location information." --The delivery or receipt of the street address of the telephone or the geographic location of the wireless device, as specified in the FCC E-911 Order, being used to place a call to a 911 system or to a wireless E-911 system.

"Automatic number identification." --The delivery or receipt of the telephone number assigned to the telephone or wireless device being used to place a call to a 911 system or to a wireless E-911 system.

"Commission." --The Pennsylvania Public Utility Commission.

"Competitive local exchange carrier." --A local exchange carrier that has been certificated as a competitive local exchange carrier by the Pennsylvania Public Utility Commission.

"Consumer." --A person who purchases prepaid wireless telecommunications service or a prepaid wireless device in a retail transaction.

"Contribution Rate." --A fee assessed against a telephone subscriber for the nonrecurring costs, maintenance and operating costs of a 911 system.

"Council." --The Pennsylvania Emergency Management Council.

"County." --The term shall include a city of the first class coterminous with a county.

"County Plan." --A document submitted by the county on a triennial basis to the Pennsylvania Emergency Management Agency outlining its proposed and existing wireline and wireless 911 and E-911 systems and procedures, including a contribution rate, for the forthcoming three years.

"Emergency notification services." --Services provided by authorized agencies of Federal, State, county or local governments, or by persons authorized by these governments, that notify the public, using ANI/ALI database information, of emergencies declared by these governments.

"Emergency support services." --Information or database management services provided by authorized agencies of Federal, State, county or local governments, or by persons authorized by these governments, that are used in support of PSAPs or emergency notification services.

"Enhanced 911 service" or "E-911." --Emergency telephone service providing for automatic identification of caller location and calling number.

"FCC E-911 Order." --All of the following:

(1) All orders issued by the Federal Communications Commission pursuant to the proceeding entitled "Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems" (CC Docket No. 94-102) codified at 47 CFR section 20.18 (relating to 911 service) and any successor proceeding.

(2) Any Federal Communications Commission order that affects the provision of wireless E-911 service to wireless service customers.

"Fund." --The Wireless E-911 Emergency Services Fund.

"Interconnected Voice over Internet Protocol provider." --A person engaged in the business of providing VoIP service to end- use customers in this Commonwealth, including resellers.

"Interconnected Voice over Internet Protocol service." --Service as defined by any of the following:

(1) All orders issued by the Federal Communications Commission pursuant to the proceeding entitled "IP-Enabled Services" (WC Docket No. 04-36; FCC 05-116), codified at 47 CFR Part 9 (relating to interconnected Voice over Internet Protocol services), and any successor proceeding.

(2) Any Federal Communications Commission order that affects the provision of 911 service or E-911 service to VoIP service customers or further defines interconnected Voice over Internet Protocol service.

"Interconnected Voice over Internet Protocol service customer." --A person who is billed by an interconnected Voice over Internet Protocol provider, who is the end user of VoIP service and who has designated a primary place of use within this Commonwealth.

"Interexchange carrier." --A person that is authorized by the Pennsylvania Public Utility Commission to provide long-distance telecommunications service.

"Local exchange carrier." --A person, including a competitive local exchange carrier, that is authorized by the Pennsylvania Public Utility Commission to provide local exchange telecommunications service or exchange access.

"Local exchange telephone service." --The provision of telephonic message transmission within an exchange, as defined and described in tariffs filed with and approved by the Pennsylvania Public Utility Commission.

"Mobile telephone number" or "MTN." --The telephone number assigned to a wireless telephone at the time of initial activation.

"NPA -NXX." --The first six digits of a ten-digit telephone number, including a mobile telephone number, representing the area code and exchange of the telephone number.

"Person." --The term includes a corporation, a partnership, an association, the Federal Government, the State government, a political subdivision, a municipal or other local authority and a natural person.

"Prepaid wireless device." --A wireless telephone that is purchased strictly for the purpose of initiating a prepaid calling service. The term does not include traditional wireless devices used for monthly calling plans.

"Prepaid wireless E-911 surcharge." --The charge that is required to be collected by a seller from a consumer in the amount established under section 5311.4(b.1)(relating to Wireless E-911 Emergency Services Fund).

"Prepaid wireless provider." --A person that provides prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission.

"Prepaid wireless telecommunications service." --A wireless telecommunications service that meets all of the following:

(1) Allows a caller to dial 911 to access the 911 system.

(2) Is paid for in advance and sold in predetermined units or dollars of which the number may or may not decline with use in a known amount.

"Primary place of use." --The street address representative of where the customer's use of the VoIP service primarily occurs. For the purpose of VoIP 911 fees, primary place of use is the customer's registered location on the

date the customer is billed

"PSAP." --A public safety answering point.

"Public agency." --Any of the following:

(1) The Commonwealth.

(2) A political subdivision, public authority or municipal authority.

(3) An organization located in whole or in part within this Commonwealth which provides or has the authority to provide firefighting, law enforcement, ambulance, emergency medical or other emergency services.

"Public safety answering point." --The agency-approved first point at which calls for emergency assistance from individuals are answered and which is operated 24 hours a day.

"Retail transaction." --The purchase of prepaid wireless telecommunications service or a prepaid wireless device from a seller for any purpose other than resale.

"Seller." --A person who sells prepaid wireless telecommunications service or a prepaid wireless device to another person.

"Telecommunications carrier." --Any provider of telecommunications services as defined by the Telecommunications Act of 1996 (Public Law 104-104, *110 Stat. 56*).

"Telephone subscriber." --A person who contracts with a local exchange carrier within this Commonwealth for residential or commercial local exchange telephone service. If the same person has several telephone dial tone access lines, each dial tone access line shall constitute a separate subscription. For purposes of the contribution rate, the term shall not include pay stations owned or operated by a regulated public utility, or nonpublic utilities as the term is used in 66 Pa.C.S. § 2913(b)(relating to minimum service requirement).

"Vendor." --A person other than a local exchange carrier or a wireless provider who supplies 911 or wireless E-911 system services or equipment.

"VoIP provider." --Interconnected Voice over Internet Protocol provider.

"VoIP service." --Interconnected Voice over Internet Protocol service.

"VoIP service customer." --An Interconnected Voice over Internet Protocol service customer.

"Wireless E-911 service." --Service provided by a wireless provider, pursuant to the FCC E-911 Order.

"Wireless E-911 State plan." --A document to be prepared, maintained and kept current by the Pennsylvania Emergency Management Agency providing for all aspects of the development, implementation, operation and maintenance of a Statewide integrated wireless E-911 system, including the exclusive authority to formulate technical standards and determine permitted uses of and amounts disbursed from the Wireless E-911 Emergency Services Fund.

"Wireless E-911 surcharge." --A monthly fee assessed upon each wireless service customer, other than a prepaid wireless seller, provider or consumer, subject to the prepaid wireless E-911 surcharge under section 5311.4(b.1) (relating to Wireless E-911 Emergency Services Fund), for each wireless two-way communication device for which that customer is charged by a wireless provider for wireless service.

"Wireless E-911 system." --An E-911 system which permits wireless service customers dialing 911 to be

connected to a public safety answering point for the reporting of police, fire, medical or other emergency situations.

"Wireless provider." --A person engaged in the business of providing wireless service to end-use customers in this Commonwealth, including resellers.

"Wireless service." --Commercial mobile radio service as defined under section 332(d) of the Communications Act of 1934 (48 Stat. 1604, 47 U.S.C. § 332(d)) which provides real-time, two-way voice service that is interconnected with the public switched telephone network.

"Wireless service customer." --A person who is billed by a wireless provider or who receives prepaid wireless telephone service from a wireless provider for wireless service within this Commonwealth.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.

NOTES:

LexisNexis (R) Notes:

EDITOR'S NOTES.

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35 Pa.C.S. § 5303 (2013)

§ 5303. Telecommunications management.

(a) *Powers and duties of agency.* --The agency shall have the following powers and duties:

(1) To adopt rules and regulations pursuant to this chapter and promulgate, adopt, publish and use guidelines for the implementation of this chapter. Rules, regulations and guidelines proposed under the authority of this section shall be subject to review by the General Counsel and the Attorney General in the manner provided for the review of proposed rules and regulations pursuant to the act of October 15, 1980 (P.L. 950, No.164), known as the Commonwealth Attorneys Act, and the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(2) To establish guidelines and application procedures for the establishment of contribution rates.

(3) To receive, review and approve or disapprove all 911 system county plans.

(4) To forward a copy of each county plan application to the council and the commission for their review as required under this chapter.

(5) To submit an annual report not later than March 1 of each year to the Governor and the General Assembly, which plan includes at least the following:

(i) The extent to which 911 systems currently exist in this Commonwealth.

(ii) Those counties which have completed installation, and the costs and expenses for installation.

(iii) An anticipated schedule for installing a 911 system on a county basis for that year.

(6) To establish minimum training and certification standards for emergency dispatchers, call takers and supervisors.

(7) To establish technical standards for the county plans.

(8) To establish standards for performance review and quality assurance programs for 911 systems to ensure public safety and improve the performance of 911 systems.

(9) To establish standards for accuracy of 911 database systems.

(10) To establish a program of communication between the agency and county 911 coordinators for the purpose of sharing information among counties and to develop recommendations to improve 911 systems throughout this Commonwealth.

(11) To prescribe, in cooperation with the council and the commission, the applications and forms necessary to carry out the provisions of this chapter.

(12) To take the actions necessary to implement, administer and enforce the provisions of this chapter.

(b) *Powers and duties of council.* --The council shall have the following powers and duties:

(1) To review all county plans, including the initial application forwarded by the agency for conformity to the minimum standards.

(2) To review county plans to determine if equipment conforms to the technical standards.

(3) To recommend approval of plans or indicate deficiencies in plans to the agency.

(c) *Powers and duties of commission.* --The commission shall have the following powers and duties:

(1) Review the contribution rate requested by the county based on the costs of the plan.

(2) Approve or modify the contribution rate requested by the county and forward its decision to the agency.

(d) *Exemption.* --The Pennsylvania State Police telecommunications facilities are exempt from the telecommunications management of the agency, council and the commission.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5304 (2013)

§ 5304. Counties.

(a) *Powers and duties.* --The board of county commissioners, or, in a home rule county, the appropriate body according to the home rule charter, shall have the following powers and duties in relation to a 911 system and wireless E-911 system:

(1) To designate a member of county government as the county 911 coordinator. the county coordinator shall serve as a point of contact with the agency and shall develop a county plan for the implementation, operation and maintenance of a 911 system. Where technologically feasible, the county plan shall be adequate to provide service for the entire county.

(2) To make arrangements with each telephone company providing local exchange telephone service within the county's jurisdiction to provide 911 service.

(3) To send a copy of the proposed county plan to the appropriate telephone company upon submission of the plan to the agency.

(4) To cooperate with the agency, the council and the commission in the preparation and submission of the county plan and contribution rate.

(5) To execute all contracts, mutual aid agreements, cross-service agreements and all other necessary documents which may be required in the implementation of the county plan.

(6) To obtain annually from each telephone service provider a list of the provider's local telephone exchanges within the county and the addresses of that provider's central offices serving those exchanges. Without exception, the service provider shall provide the list to the board.

(7) To notify the agency and all adjacent counties of the local telephone exchanges which provide telephone service to residents within the county, specifically noting exchanges known to provide telephone service to residents of more than one county. Notice shall be provided at the time the county plan is submitted to the agency and when local telephone service is newly initiated for local telephone exchange within the county.

(8) To cooperate with the Pennsylvania State Police. Subject to subparagraphs (i) through (iii), a county that utilizes ANI/ALI database services shall, upon request of the Commissioner of the Pennsylvania State Police or the designee of the commissioner, provide authority to access all ANI/ALI database information relating to 911 calls for emergency services, whether the database is held by the county or by a commercial entity.

(i) In order to ensure that no county or PSAP experiences degradation of service or additional costs as a result of complying with this subsection:

(A) the Pennsylvania State Police shall provide, at its cost, any equipment, computer software or telecommunications equipment or services, exclusive of recurring personnel costs for county personnel, that are necessary to enable its access to any ANI/ALI database information; and

(B) all means of access must be approved by the county, PSAP and the Pennsylvania State Police before the county is required to authorize or provide the access. in the event of a dispute between the Pennsylvania State Police and a county or PSAP regarding approval by the county and PSAP, the dispute shall be mediated by the Office of Information Technology of the Commonwealth's Office of Administration. The Office of Information Technology may bring in a Commonwealth mediator from the Office of General Counsel to provide assistance in resolving the dispute.

(ii) The ANI/ALI database information to which access is authorized or enabled under this paragraph or section 5304.1(a)(3)(relating to Pennsylvania State Police) shall be used only in providing emergency response services to a 911 call. A person who uses or discloses the ANI/ALI database information under this subparagraph for any other purpose commits a misdemeanor of the third degree.

(iii) Nothing contained in this paragraph shall be construed to impose on wireless providers any obligations beyond those created by applicable Federal Communications Commission orders and regulations. Public agencies, counties, PSAPs and wireless providers shall not be liable to any person for errors in any of the ANI/ALI database

information which may be accessed by or provided to the Pennsylvania State Police under this paragraph.

(9) To comply with reporting requirements established by the agency.

(b) *Persons outside county.* --When an individual physically resides in an adjacent county but receives local exchange telephone service from a central office in a county which provides 911 service, it shall be the responsibility of the county with the 911 service to notify the appropriate public agency of a request for emergency service from the individual.

(c) *Cities of second class, second class A and third class.* --A city of the second class, second class A or third class that has established a 911 system prior to September 4, 1990, may exercise the powers and duties of counties under this chapter. A city of the second class, second class A or third class that has not established a 911 system prior to September 4, 1990, may exercise the powers and duties of counties under this chapter only when the county has chosen not to exercise those powers and duties. The powers and duties granted to cities under this section shall be applicable and may be exercised only within the boundaries of the city. No action by a city under this section shall preempt the powers and duties of a county to establish a 911 system outside the boundaries of the city at any time. The agency may establish regulations governing the exercise of powers and duties granted to cities of the second class, second class A and third class by this section.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5304.1 (2013)

§ 5304.1. Pennsylvania State Police.

(a) *Powers and duties.* --The Commissioner of the Pennsylvania State Police, or the designee of the commissioner, shall have the following powers and duties in relation to a Pennsylvania State Police telecommunications facility:

(1) To designate, with specificity, which Pennsylvania State Police facilities shall be considered Pennsylvania State Police telecommunications facilities under this chapter.

(2) To designate a commander of a Pennsylvania State Police telecommunications facility, who shall serve as the point of contact with the agency and the counties and shall oversee the implementation, operation and maintenance of a Pennsylvania State Police telecommunications facility. A Pennsylvania State Police facility shall, where technologically feasible, be adequate to provide service to the designated area of coverage.

(3) To request authority to access ANI/ALI database information relating to 911 calls for emergency services from the counties and PSAPs within the designated area of coverage of a Pennsylvania State Police telecommunications facility. No county or PSAP shall be required to comply with such a request unless it is made by the Commissioner of the Pennsylvania State Police or the designee of the commissioner under section 5304(a)(8)(relating to counties).

(4) To provide training and certification for all call takers/dispatchers and call taker/dispatcher supervisors that meet or exceed the training and certification standards that are provided for in 4 Pa. Code Ch. 120c (relating to training and certification standards for 911 emergency communications personnel) or any successor standard.

(b) *Ineligible reimbursement.* --The Pennsylvania State Police is not eligible to receive reimbursement from the money collected from the contribution rate or wireless E-911 surcharge, nor may the Pennsylvania State Police impose a monthly contribution rate upon the telephone subscribers on the local exchange access line or any wireless E-911-related surcharge upon wireless service customers.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5305 (2013)

§ 5305. County plan.

(a) *Minimum standards.* --Upon the agreement of the governing body of a county to establish a 911 system, a plan shall be drafted meeting at least the standards promulgated by the agency. The county may obtain technical assistance from the agency in formulating its plan. Each 911 plan shall be designed to meet the individual circumstances of each community and the public agencies participating in the 911 system.

(b) *Completion.* --Upon completion of the plan, the county shall forward it to the agency, with a copy of the plan being sent to those telephone companies affected by the plan. When the plan is submitted to the agency, the county shall also provide each adjacent county with a list of local telephone exchanges included in the plan, specifically noting exchanges known to provide telephone service to residents of more than one county.

(c) *Agency review.*

(1) The agency shall review each county plan for completeness and shall forward a copy of the county plan and the proposed contribution rate to the council and the commission for review as required by this section.

(2) After the county plan has been reviewed by the council and the commission, the agency shall approve or reject a county plan based on the recommendations of the council and the commission.

(3) If the county plan is rejected, the agency shall return the county plan and explain the deficiencies that caused the rejection.

(d) *Council review.* --The council shall have 90 days to review the plan and make suggested revisions to the plan. The agency may act as agent for the council in the administration of the plan approval process.

(e) *Commission review.*

(1) The commission shall review the county plan only in relation to the contribution rate and may modify only those contribution rates which it finds excessive to meet the costs stated in the plan. The rates shall be reviewed and a decision forwarded to the agency within 90 days of the date of submission.

(2) If the commission fails to review the contribution rate within 90 days, the contribution rate will be deemed approved by the commission.

(f) *Present systems.*

(1) A county which has a present 911 system may establish a contribution rate to cover nonrecurring and operating costs of an existing 911 system by using the same contribution rate approval mechanism as a new 911 system for the purposes of this chapter.

(2) A county which did not have a 911 system in operation on September 4, 1990, but which awarded a contract for a 911 system prior to September 4, 1990, shall be considered to have a present system.

(g) *Regional systems.* --Nothing in this chapter shall be construed to prohibit the formation of multijurisdictional or regional 911 systems, and any regional system established under this chapter shall include the territory of two or more counties.

(g.1) *Contribution rate.*

(1) Counties of the first through second class A may impose a monthly contribution rate in an amount not to exceed \$ 1 per line on each local exchange access line. Counties of the third through fifth class may impose monthly contribution rates in an amount not to exceed \$ 1.25 per line on each local exchange access line. Counties of the sixth through eighth class may impose a monthly contribution rate in an amount not to exceed \$ 1.50 per line on each local exchange access line.

(2) The following shall apply:

(i) The contribution rate may be used by counties for the expenses of implementing, expanding or upgrading a 911 system.

(ii) Expenses eligible for reimbursement through the contribution rate shall include telephone terminal equipment, trunk line service installation, network changes, building of initial database and any other nonrecurring costs to establish a 911 system. The contribution rate may also be used to fund recurring costs under section 5308(b)(relating to expenditures for nonrecurring costs, training, mobile communications equipment, maintenance and operation of 911 systems).

(iii) Expenses not eligible for reimbursement through the contribution rate shall include purchase of real estate, cosmetic remodeling, central office upgrades, hiring of dispatchers, ambulances, fire engines or other emergency vehicles, utilities, taxes and other expenses as determined by the Pennsylvania Emergency Management Agency.

(h) *Contribution rate changes.*

(1) Once a plan and contribution rate have been established, the contribution rate shall remain fixed for a period of at least three years. Updating and expanding the present system shall require an amended plan to be filed with the agency. The contribution rate shall remain fixed for three years even if the present system is updated and expanded.

(2) A request for a contribution rate change must be submitted to the agency, and the agency shall forward the request to the commission for approval as provided under subsection (e).

(3) A contribution rate increase shall not be permitted more often than every three years and shall not take effect unless approved by the commission.

(i) *Assessment.*

(1) The money collected from the telephone contribution rate shall be utilized for payments of nonrecurring and recurring costs of a 911 system.

(2) The contribution rate may be imposed at any time subsequent to the execution of a contract with the provider of a 911 service at the discretion of the governing body of the county and pursuant to approval of the county plan and contribution rate under the provisions of this section.

(3) The money collected from the contribution rate:

(i) Is a county fee collected by the telephone company.

(ii) Shall not subject be to taxes or charges levied on or by the telephone company.

(iii) Shall not be considered revenue of the telephone company for any purpose.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5306 (2013)

§ 5306. Special public meeting.

(a) *Public comment.* --Before a county may establish a contribution rate for nonrecurring and recurring costs under this chapter, it must obtain public comment from the residents of the county.

(b) *Requirements.* --The proposed contribution rate shall be fixed by the governing body of the county in the following manner:

(1) The governing body shall cause notice of intention to fix the contribution rate at a special public meeting on a date certain to be published in a newspaper of general circulation at least ten days in advance of the special public meeting. The notice shall include the precise amount of the proposed monthly contribution rate.

(2) The special public meeting shall be held during the hours of 6 p.m. to 9 p.m., prevailing time, so as to afford the public the greatest opportunity to attend.

(3) The special meeting shall be held in a centrally located area of the county.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5307 (2013)

§ 5307. Collection and disbursement of contribution.

(a) *Subscribers' contribution.*

(1) Each service supplier that provides local exchange telephone service within the county shall collect the contribution from each subscriber and forward the collection quarterly less the actual uncollectibles experienced by the local exchange telephone companies to the county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds.

(2) The amount of the subscribers' contribution shall be stated separately in the telephone subscribers' billing.

(3) Each service supplier shall retain the fair and reasonable cost to establish the 911 contribution rate billing system and an amount not to exceed 2% of the gross receipts collected to cover actual administrative costs.

(b) *Subscribers' contribution for multiple line systems.* --In the case of Centrex or similar multiple line system subscribers, except PBX subscribers, the following multipliers shall be applied to determine the contribution rate of each subscriber:

(1) For the first 25 lines, each line shall be billed at the approved contribution rate.

(2) For lines 26 through 100, each line shall be billed at 75% of the approved contribution rate.

(3) For lines 101 through 250, each line shall be billed at 50% of the approved contribution rate.

(4) For lines 251 through 500, each line shall be billed at 20% of the approved contribution rate.

(5) For lines 501 or more, each line shall be billed at 17.2% of the approved contribution rate.

(c) *Restricted account.*

(1) The county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds shall deposit the money received in an interest-bearing restricted account used solely for the purpose of nonrecurring and recurring charges billed for the 911 system and for the purpose of making payments under subsection (d).

(2) The governing body of the county shall make an annual appropriation from the account for the 911 system, subject to the provisions of subsection (d), and may retain up to 1% of the gross receipts collected to cover administrative costs.

(3) If the 911 system is discontinued or a county fails to implement a 911 system within three years from the imposition of a monthly contribution rate, any money remaining in the restricted account after all payments to the 911 service supplier have been made shall be transferred to the general fund of the county or proportionately to the general funds of each participating public agency.

(d) *Reimbursement to municipalities.* --The county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds shall, on a quarterly basis, pay from funds of the restricted account to a municipality which operates a 911 system a sum of money not less than that contributed by the telephone subscribers of that municipality to the county 911 system, less the applicable service supplier administrative cost provided by subsection (a) and the applicable county administrative cost provided by subsection (c).

(e) *Collection enforcement.*

(1) The local exchange telephone company shall not be required to take any legal action to enforce the collection of any charge imposed under this chapter. Action may be brought by or on behalf of the public agency imposing the charge.

(2) The local exchange telephone company shall annually provide, upon request of the governing body of the county, a list of the names and addresses of those service users which carry a balance that can be determined by the telephone company to be the nonpayment of any charge imposed under this chapter.

(3) The local exchange telephone company shall not be liable for uncollectible amounts.

(f) *Prohibition against release of information.* --Neither the county treasurer, the agency, nor any employee, agent or representative of a PSAP or public agency shall divulge any information acquired with respect to any wireline telephone service provider, its customers, revenues or expenses, trade secrets, access line counts, commercial information and other proprietary information while acting or claiming to act as the employee, agent or representative, and all information shall be kept confidential except that aggregations of information which do not identify or effectively identify numbers of customers, revenues or expenses, trade secrets, access lines, commercial information and other proprietary information attributable to any individual wireline telephone service provider may be made public.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5308 (2013)

§ 5308. Expenditures for nonrecurring costs, training, mobile communications equipment, maintenance and operation of 911 systems.

(a) *Expenditures authorized.* --During a county's fiscal year, the county may expend the amounts distributed to it from the contribution rate for the nonrecurring costs, training, costs for mobile communications equipment, maintenance and operation of a county 911 system.

(b) *Items included in nonrecurring costs, training, mobile communications equipment, maintenance and operation costs.*

(1) Maintenance and operation costs may include telephone company charges, equipment costs or equipment lease charges, repairs, utilities, development and maintenance of a master street address guide, erection of street signs on State and local highways, database maintenance costs, personnel training, salary and benefit costs which are directly related to the provision of 911 services and costs for mobile communications equipment, audit costs and appropriate carryover costs from previous years.

(2) Maintenance and operation costs shall not include any cost necessary to house the 911 system.

(3) No more than 70% of the contribution rate collected during a county's fiscal year may be utilized to fund personnel training, salary and benefit costs.

(c) *Limitations on expenditures.*

(1) The agency shall adopt procedures to assure that the total amount collected from the 911 contribution rate shall be expended only for the nonrecurring costs, costs for mobile communications equipment, maintenance and operation of a county 911 system.

(2) Nonrecurring costs shall be amortized over a minimum of three years.

(d) *Triennial financial audit.*

(1) The agency shall require a triennial audit of each county's collection and disbursement of contribution rate funds and expenditures for the nonrecurring costs, training, costs for mobile communications equipment, maintenance and operation of 911 systems.

(2) The triennial audit cost shall be paid by the respective county from contribution rate revenues and shall be conducted consistent with guidelines established by the agency.

(e) *Public education.* --A county may use money received from the imposition of the contribution rate to educate the public on the 911 system. The education may include, but is not limited to, confirming with all residents of the county their actual street addresses.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5309 (2013)

§ 5309. Telephone records.

(a) *Access.* --A telephone service supplier shall provide customer telephone numbers, names and service addresses to PSAPs when requested by them for use in responding to 911 calls and, when required, to providers of emergency notification services and emergency support services, solely for the purposes of delivering or assisting in the delivery of emergency notification services and emergency support services. A wireless provider shall provide the telephone number and geographical location of the wireless device, as required under the FCC E-911 order, to PSAPs when requested by them for use in responding to 911 calls. Customer telephone numbers, names and service addresses, and telephone numbers and geographical locations of wireless devices, shall remain the property of the disclosing service supplier. The total cost of the 911 system or wireless E-911 system shall include expenses to reimburse telephone service suppliers for providing and maintaining 911 information. A telephone service supplier shall not be reimbursed directly from the fund for providing and maintaining 911 information. This Information shall be used only in providing emergency response services to a 911 call or for purposes of delivering or assisting in the delivery of emergency notification services or emergency support services, except as provided in subsection (c). A person who uses or discloses ANI/ALI database information for purposes other than providing emergency response services to a 911 call, delivering or assisting in the delivery of emergency notification services or emergency support services or other than as provided in subsection (c) commits a misdemeanor of the third degree.

(b) *Privacy waived.* --Private listing service customers in a 911 service district shall waive the privacy afforded by nonlisted and nonpublished numbers with respect to the delivery of emergency services.

(c) *Immunity.* --No telephone company, wireless provider, vendor or agent, employee or director of a telephone company, providers of emergency notification services or providers of emergency support services shall be liable to any person who directly or indirectly uses the 911 emergency service or wireless E-911 emergency service established under this chapter or provides information to 911 systems or wireless E-911 systems with respect to the delivery of emergency services:

(1) for release to PSAPs, providers of emergency notification services or providers of emergency support services of information specified in this section, including nonpublished telephone numbers;

(2) for release to the commission, the Federal Communications Commission or any other Federal or Commonwealth agency with the authority to regulate the provision of telecommunications services, of telephone company information specified in this section that is not already part of public records, including, as applicable,

information regarding numbers of lines served by an individual company but excluding nonpublic information regarding the company's individual customer names, addresses and telephone numbers; or

(3) for interruptions, omissions, defects, errors, mistakes or delays in transmission occurring in the course of the delivery of emergency services or wireless E-911 service under this chapter, unless the interruptions, omissions, defects, errors, mistakes or delays are caused by the willful or wanton misconduct of the telephone company, wireless provider or vendor, their agents, employees or directors. Nothing in this paragraph may preclude the application of any commission tariff or regulation within its jurisdiction pertaining to allowances for telephone service interruptions.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5310 (2013)

§ 5310. Penalty.

A person who intentionally calls the 911 emergency number for other than emergency purposes commits a misdemeanor of the third degree.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5311 (2013)

§ 5311. (Reserved).

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5311.1 (2013)

§ 5311.1. Immunity.

A 911 system or a wireless E-911 system run by county and local governments shall be a local agency which shall enjoy local governmental immunity as provided under 42 Pa.C.S. Ch. 85 Subch. C (relating to actions against local parties).

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5311.2 (2013)

§ 5311.2. Powers and duties of agency.

(a) *Administration.* --The agency shall have the following powers and duties in relation to a wireless E-911 system:

(1) To designate at least one employee of the agency who shall serve as a point of contact at the agency for all matters involving wireless E-911 systems in this Commonwealth.

(2) To oversee the development, implementation, operation and maintenance of a Statewide integrated wireless E-911 system, formulate technical standards and determine permitted uses of and amounts disbursed from the wireless E-911 Emergency Services Fund, including the costs of PSAPs and wireless providers that are eligible for payment from the fund.

(3) To approve each county's county plan, or amendment to its agency-approved county plan, incorporating wireless E-911 service capabilities as may be submitted by the county to the agency.

(4) To provide counties with plans that contain cost-saving measures that provide joint purchasing opportunities and facilitate regionalization of technology and consolidation of PSAPs and their operations. The agency shall provide suggested industry-acceptable and uniform standards for levels of staffing and uniform standards of operation.

(b) *Wireless E-911 State plan.* --The agency shall prepare, maintain and keep current, after adequate public notice and opportunity to comment and after consideration of the recommendations of the wireless subcommittee of the advisory committee, a wireless E-911 State plan providing for all aspects of the development, implementation, operation and maintenance of a Statewide integrated wireless E-911 system in accordance with the FCC E-911 Order. Under the plan, the agency shall:

(1) Establish model agreements for mutual aid agreements, cross-service agreements, service contracts and all

other documents by and among public agencies, PSAPs and wireless providers that may be required in the implementation of the wireless E-911 State plan, review the agreements and documents for consistency with the applicable county plan and assist the parties in assuring their execution.

(2) Require each wireless provider to notify the agency of each county in which it is licensed on March 29, 2004, and provides wireless service and, at the time new service is initiated, each county in which it is licensed and initiates wireless service; and to notify counties of wireless service within each county, specifically noting wireless service to more than one county. In the event of disputes among PSAPs regarding the PSAP to which a wireless provider routes 911 calls, the routing shall be determined by the agency.

(3) Establish uniform Statewide standards for the format and content of wireless automatic location information and wireless automatic number identification, which standards shall be the standards adopted by the National Emergency Number Association, as amended by that organization. Wireless providers will use the applicable National Emergency Number Association data transmission format standards to deliver the data to the wireless E-911 system.

(4) Forward a copy of the completed plan and any revision of the plan to all affected counties, PSAPs, wireless providers, local exchange carriers, competitive local exchange carriers and interexchange carriers.

(5) Require each wireless provider to provide the agency with a 24-hour, seven-days-a-week contact telephone number or pager number for use by PSAPs in emergency situations.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011; Act 2013-9 (H.B. 583), § 1, approved May 21, 2013, eff. immediately.

NOTES:

LexisNexis (R) Notes:

EDITOR'S NOTES.

Section 3 of Act 2013-9 provides: "The Pennsylvania Emergency Management Agency shall, within 120 days of the effective date of this section, promulgate updated program guidance to incorporate the following provisions: (1) The addition of *35 Pa.C.S. § 5311.2(a)(4)*. (2) The amendment of *35 Pa.C.S. § 5311.5(b)* and (c)."

AMENDMENT NOTES.

The 2013 amendment added (a)(4).



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35 Pa.C.S. § 5311.3 (2013)

§ 5311.3. Advisory committee.

(a) *Establishment.* --There is established an advisory committee to be known as the E-911 Emergency Services Advisory Committee.

(b) *Members.* --The advisory committee shall be comprised of the following persons:

(1) The director of the agency or his designee, who shall act as chairperson.

(2) Two county commissioners.

(3) Four county 911 program managers.

(4) Four wireless providers licensed by the Federal Communications Commission.

(5) Two landline telephone service provider representatives.

(6) Two representatives each from fire services, emergency medical services and police.

(7) The chairman and minority chairman of the Communications and Technology Committee of the Senate and the chairman and minority chairman of the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives, or their designees.

The Governor, upon recommendation of the applicable Statewide organizations, associations and industry segments, shall appoint the committee members, who will each serve a two-year term. Advisory Committee membership shall be limited to one representative per organization or corporate entity.

(c) *Roles and responsibilities.* --The advisory committee shall make recommendations to the agency regarding the formulation of technical, administrative and operational standards for use in overseeing 911 programs Statewide.

(d) *Reimbursement.* --The members of the advisory committee shall serve without compensation but shall be reimbursed for their actual and necessary travel and other expenses in connection with attendance at meetings called by the chairperson.

(e) *Advisory committee subcommittees.* --The chairperson may create, within the committee membership, subcommittees to study and address specific technical and program areas:

(1) A wireless subcommittee shall be created as a permanent subcommittee and shall consist of the following persons:

(i) The advisory committee chairperson.

(ii) Two county commissioners.

(iii) Four county 911 program managers.

(iv) Four representatives of wireless providers licensed by the Federal Communications Commission.

(v) Two landline telephone service provider representatives.

(2) Wireless subcommittee roles and responsibilities:

(i) To advise the agency regarding the development, implementation, operation and maintenance of a Statewide integrated wireless E-911 system.

(ii) To make recommendations to the agency regarding the preparation and periodic revision of a wireless E-911 State plan providing for the development, implementation, operation and maintenance of a Statewide integrated wireless E-911 system in accordance with the FCC E-911 Order.

(iii) To make recommendations to the agency regarding the approval or disapproval of wireless provider service agreements and the formulation of technical standards.

(iv) To make recommendations to the agency regarding the development of guidelines, rules and regulations required to address the administration of the Statewide E-911 wireless plan and the disbursement of money from the Wireless E-911 Emergency Services Fund.

(v) To make recommendations to the agency regarding the development of the annual report required of the agency by this chapter, including, but not limited to, recommendations concerning adjustments of the wireless E-911 surcharge.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5311.4 (2013)

§ 5311.4. Wireless E-911 Emergency Services Fund.

(a) *Establishment of fund.* --There is established in the State Treasury a nonlapsing restricted interest-bearing account to be known as the Wireless E-911 Emergency Services Fund. The fund shall consist of the fees collected under subsections (b) and (b.1), funds appropriated by the General Assembly and of funds from another source, private or public. Money in the fund and the interest it accrues is appropriated to the Pennsylvania Emergency Management Agency to be disbursed by the agency. The money in the fund shall be used only for the following costs:

(1) PSAP and wireless provider costs resulting from compliance with the FCC E-911 Order, including development, implementation and testing, operation and maintenance of a Statewide integrated wireless E-911 system. Costs paid from the fund must be eligible recurring or nonrecurring costs as determined by the agency in accordance with sections 5311.2(a) (relating to powers and duties of agency) and 5311.5 (relating to disbursement of fund amounts by agency) for wireless E-911 service provided in accordance with the FCC E-911 Order or a county plan or amended county plan approved by the agency.

(2) The agency-approved costs of PSAPs specified in section 5308(b) (relating to expenditures for nonrecurring costs, training, mobile communications equipment, maintenance and operation of 911 systems) that relate directly or indirectly to the provision of wireless E-911 service, to the extent:

(i) the costs are not included in the costs paid under paragraph (1) and the approved E-911 costs provided in paragraph (1) have been reimbursed; and

(ii) the costs do not exceed the percentage of the actual ratio of demonstrated wireless calls to demonstrated total emergency call volume times the amount of money in the fund, and further:

(A) The amount of the costs that may be reimbursed is limited to 25% of the fund if a majority of wireless providers serving the geographic area covered by the PSAP have been tested and accepted by the PSAP for wireless E-911 Phase I service.

(B) The amount of the costs that may be reimbursed is limited to 50% of the fund if all of the wireless providers serving the geographic area covered by the PSAP have been tested and accepted by the PSAP for wireless E-911 Phase I service.

(C) The amount of the costs that may be reimbursed is limited to 75% of the fund if a majority of wireless providers serving the geographic area covered by the PSAP have been tested and accepted by the PSAP for wireless E-911 Phase II service.

(D) The amount of the costs that may be reimbursed is limited to 100% of the fund if all of the wireless providers serving the geographic area covered by the PSAP have been tested and accepted by the PSAP for wireless E-911 Phase II service.

(iii) If, under an FCC E-911 waiver, a wireless provider is temporarily relieved of its obligation to provide wireless E-911 Phase II service in the geographic area covered by a requesting PSAP, the wireless carrier shall be disregarded in the determinations to be made under subparagraphs (i) and (ii) until the wireless carrier's obligation to provide wireless E-911 Phase II service again becomes effective.

(b) *Wireless E-911 surcharge.* --Each wireless service customer shall pay a fee, to be known as a wireless E-911 surcharge, in an amount of \$ 1 per month for each device that provides wireless service for which that customer is billed by a wireless provider for wireless service. The fee shall be collected apart from and in addition to a fee levied by the wireless provider in whole or in part for the provision of 911 services.

(1) Wireless providers shall collect the fee on behalf of the agency as part of their billing process and shall have no obligation to take any legal action to enforce the collection of the surcharge. Action may be brought by or on behalf of the agency. Upon written request of the agency, each wireless provider shall annually provide a list of the names and addresses of those wireless service customers carrying a balance that have failed to pay the wireless E-911 surcharge. The wireless provider shall not be liable for the unpaid amounts.

(2) If a wireless provider receives a partial payment for a monthly bill from a wireless service customer, the wireless provider shall apply the payment against the amount the wireless service customer owes the wireless provider first and shall remit to the State Treasurer the lesser amount, if any, resulting from the application.

(3) The fees collected under this subsection shall not be subject to taxes or charges levied by the Commonwealth or a political subdivision of this Commonwealth, nor shall the fees be considered revenue of the wireless provider for any purpose.

(4) The provisions of this subsection shall not apply to sellers, providers or consumers of prepaid wireless telecommunications service.

(b.1) *Prepaid wireless E-911 surcharge.*

(1) There is imposed a prepaid wireless E-911 surcharge of \$ 1 per retail transaction or the adjusted surcharge, if any, established under paragraph (5). The \$ 1 surcharge shall be applied to the cost of each retail transaction regardless of whether the service or prepaid wireless device was purchased in person, by telephone, through the Internet or by any other method.

(2) A prepaid wireless E-911 surcharge shall be collected by the seller from the consumer for each retail transaction occurring in this Commonwealth. The amount of the prepaid wireless E-911 surcharge 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. 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 Commonwealth if that business location is in this Commonwealth, and any other retail transaction shall be treated as occurring in this Commonwealth if the retail transaction is treated as occurring in this Commonwealth for the purposes of section 202 (e.1) of the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971.

(3) A prepaid wireless E-911 surcharge is a liability of the consumer and not of the seller or any provider, except that the seller shall be liable to remit the prepaid wireless E-911 surcharges that the seller collects from consumers as provided under paragraph (6), including the charges that the seller is deemed to collect if the amount of the surcharge has not been separately stated in an invoice, receipt or other similar document provided to the consumer by the seller.

(4) The amount of the prepaid wireless E-911 surcharge that is collected by a seller from a consumer, whether or not the amount is separately stated on an invoice, receipt or similar document provided to the consumer by the seller, shall not be included in the base for measuring a tax, fee, surcharge or other charge that is imposed by the Commonwealth, a political subdivision or an intergovernmental agency.

(5) The prepaid wireless E-911 surcharge shall be proportionately increased or reduced, as applicable, upon any change to the wireless E-911 surcharge imposed under subsection (b). The increase or reduction shall be effective on the effective date of the change to the surcharge imposed under subsection (b) or, if later, the first day of the first calendar month to occur at least 60 days after the effective date of the change to the surcharge imposed under subsection (b). The Department of Revenue shall provide not less than 30 days' notice of an increase or reduction on its public Internet website.

(6) Prepaid wireless E-911 surcharges collected by a seller shall be remitted to the Department of Revenue at the times provided under Article II of the Tax Reform Code of 1971. The department shall establish payment procedures

that substantially coincide with the payment procedures of Article II of the Tax Reform Code of 1971, except the department may require the filing of returns and the payment of the surcharge by electronic means.

(7) During the first 180 days after the effective date of this section, a seller may deduct and retain 35% of the prepaid wireless surcharges collected by the seller from consumers for direct start-up costs. After the implementation period, a seller may deduct and retain up to 3% of prepaid wireless E-911 surcharges that are collected by the seller from consumers for administrative purposes.

(8) The assessment, audit, appeal, collection and enforcement procedures and other pertinent provisions applicable to the sales and use tax imposed under Article II of the Tax Reform Code of 1971 shall apply to prepaid wireless E-911 surcharges.

(9) 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 for sales and use tax purposes under Article II of the Tax Reform Code of 1971.

(10) The department shall pay all remitted prepaid wireless E-911 surcharges to the State Treasurer for deposit into the fund within 30 days of receipt, for use as provided in this chapter. The department may retain up to 2% of remitted surcharges to pay for department expenses directly related to the costs of administering the collection and remittance of prepaid wireless E-911 surcharges.

(11) The provisions of section 5311.9 (relating to immunity) shall apply to providers and sellers of prepaid wireless telecommunications service.

(12) The prepaid wireless E-911 surcharge shall be the only E-911 funding obligation imposed regarding prepaid wireless telecommunications service in this Commonwealth. No tax, fee, surcharge or other charge may be imposed by the Commonwealth, a political subdivision or an intergovernmental agency for E-911 funding purposes, on a provider, seller or consumer with respect to the sale, purchase, use or provision of prepaid wireless telecommunications service.

(c) *Remittance of fees.* --On a quarterly basis, each wireless provider shall remit the fees collected under subsection (b) to the State Treasurer for deposit into the fund.

(d) *Reimbursement of wireless provider and PSAP costs.*

(1) From every remittance, the wireless provider shall be entitled to deduct and retain an amount not to exceed 2% of the gross receipts collected as reimbursement for the administrative costs incurred by the wireless provider to bill, collect and remit the surcharge.

(2) Wireless providers and PSAPs shall be entitled to payment from the fund in the manner provided in section 5311.5(c) for the following costs:

(i) recurring costs approved by the agency under agency rules associated with the development, implementation, operation and maintenance of wireless E-911 service in the geographic area served by the requesting PSAP; and

(ii) nonrecurring costs approved by the agency under agency rules associated with the development, implementation, operation and maintenance of wireless E-911 service in the geographic area served by the requesting PSAP.

(3) In no event shall costs be paid that are not related to a wireless provider's or PSAP's compliance with requirements established by the wireless E-911 State plan, the FCC E-911 Order or the wireless E-911 provisions of an

agency-approved county plan or amended county plan.

(4) Costs incurred by a PSAP or wireless provider for wireless E-911 service shall be paid by the agency provided that the costs comply with the requirements of this section and section 5311.5, were incurred after January 1, 1998, and are determined by the agency, after application in accordance with section 5311.5(c), to be eligible for payment from the fund. Costs that the agency determines to be eligible shall be paid as provided in section 5311.5.

(5) Nothing in this chapter shall prevent a wireless provider from recovering its costs of implementing and maintaining wireless E-911 service directly from its customers, whether itemized on the customer's bill or by any other lawful method. No wireless provider that levies a separate fee for provision of E-911 wireless service in the geographic area served by the requesting PSAP may receive a reimbursement for the same costs.

(e) *Reporting by wireless providers.* --With each remittance a wireless provider shall supply the following information to the State Treasurer and to the agency:

(1) The total fees collected through the wireless E-911 surcharge from its wireless service customers during the reporting period.

(2) The total amount retained by it as reimbursement for administrative costs to cover its expenses of billing, collecting and remitting the fees collected from the wireless E-911 surcharge during the reporting period.

(3) Until the nonrecurring costs have been recovered by a wireless provider, the total amount it has been reimbursed by the agency for nonrecurring costs associated with the development, implementation, operation and maintenance of wireless E-911 service during the reporting period.

(f) *Information to be supplied by wireless providers.* --Wireless providers shall provide the agency with the information it shall request in writing in order to discharge its obligations under this section, including the collection and deposit of the wireless E-911 surcharge and its administration of the fund. Information supplied by wireless providers under this section shall remain confidential, and release of the information shall be governed by section 5311.7 (relating to public disclosure and confidentiality of information).

(g) *Prohibition.* --No part of the fund, including an excess amount under section 5311.6(a) (relating to reporting), shall be used for any purpose unless expressly authorized by this chapter.

(h) *Surcharge sunset.* --The wireless E-911 surcharge fee established in subsections (b) and (b.1) shall terminate on June 30, 2014, unless extended by an act of the General Assembly.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, See section of this act for effective date information.

NOTES:

LexisNexis (R) Notes:

EDITOR'S NOTES.

Section 7(b) of Act 2010-118 provides that "[t]he addition of 35 Pa.C.S. Ch. 53 is a continuation of the act of July 9, 1990 (P.L. 340, No. 78), known as the Public Safety Emergency Telephone Act. The following apply: (1) Except as otherwise provided in 35 Pa.C.S. Ch. 53, all activities initiated under the Public Safety Emergency Telephone Act shall continue and remain in full force and effect and may be completed under 35 Pa.C.S. Ch. 53. Orders, regulations, rules and decisions which were made under the Public Safety Emergency Telephone Act and which are in effect on the effective date of section 2(2) of this act shall remain in full force and effect until revoked, vacated or modified under 35 Pa.C.S. Ch. 53. (2) Except as set forth in paragraph (3), any difference in language between 35 Pa.C.S. Ch. 53 and the

Public Safety Emergency Telephone Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Public Safety Emergency Telephone Act. (3) Paragraph (2) does not apply to any of the following: (i) The omission of the following definitions in 35 Pa.C.S. § 5302: (A) 'active prepaid wireless account.'(A.1) 'prepaid wireless telephone service.'(B) 'sufficient positive balance.' (ii) The addition of any of the following provisions in title 35: (A) The addition of the following definitions in section 5302: (I) 'consumer.'(II) 'prepaid wireless device.'(III) 'prepaid wireless e-911 surcharge.'(IV) 'prepaid wireless provider.'(V) 'prepaid wireless telecommunications service.'(V.1) 'retail transaction.'(V.2) 'seller.'(VI) 'wireless e-911 surcharge.'(B) The following provisions of section 5311.4: (I) subsection (a) introductory paragraph. (II) subsection (b) introductory paragraph and (4). (III) subsection (b.1). (IV) subsection (h). (C) section 5311.10. (D) section 5312.1. (E) section 5398."



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35 Pa.C.S. § 5311.5 (2013)

§ 5311.5. Disbursement of fund amounts by agency.

(a) *Expenditures for wireless E-911 systems.* --During each fiscal year the agency may, only in furtherance of the wireless E-911 State plan, disburse money from the Wireless E-911 Emergency Services Fund to PSAPs with agency-approved county plans or amended county plans and wireless providers for the following purposes:

(1) To pay the costs of PSAPs and wireless providers provided for in section 5311.4(a)(1) and (d)(2) (relating to Wireless E-911 Emergency Services Fund) and the costs of PSAPs provided for in section 5311.4(a)(2).

(2) To train emergency service personnel regarding receipt and use of wireless E-911 service information.

(3) To educate consumers regarding the operations, limitations, role and responsible use of wireless E-911 service.

(b) *Limitations on use of fund amounts by PSAPs.* --No PSAP shall receive a disbursement from the fund for any

cost necessary to house the wireless E-911 system or for the purchase of real estate, cosmetic remodeling, ambulances, fire engines or other emergency vehicles, utilities, taxes and other expenses as determined by the agency. No PSAP may be funded for more than 70% of its agency-approved personnel training, salary and benefit costs during the agency's fiscal year.

(c) *Manner of payment.* --Each PSAP and wireless provider shall submit to the agency each year, not later than 120 days before the first day of the agency's fiscal year, the eligible costs it expects to incur for wireless E-911 service during the next fiscal year of the agency. The submission may include eligible costs that the PSAP or wireless provider has already incurred for wireless E-911 service at the time of the submission. The agency shall review the submission, ensure that the costs are eligible for payment from the fund and notify the submitting PSAP or wireless provider, not later than 30 days before the first day of the agency's fiscal year, of the eligible costs. The agency shall disburse funds to each PSAP and wireless provider for costs the agency determines to be eligible only up to the amount of fund revenue available for distribution during the agency's fiscal year. No costs may be carried forward for payment by the agency in subsequent fiscal years, except that the agency shall fund all approved and unfunded costs submitted in wireless fiscal year 2012-2013 that are applied for in wireless fiscal year 2013-2014. Payment shall be made in four equal payments during the first month of each quarter of the agency's fiscal year as follows:

(1) The agency shall first pay the costs approved for each PSAP that are payable in the quarter.

(2) Following the payment of approved costs to a PSAP for Phase I deployment of wireless E-911 service, as set forth in the FCC E-911 Order, but only after the PSAP has issued its request to wireless providers to furnish Phase I wireless E-911 service pursuant to the FCC E-911 Order, the agency shall pay the approved costs of wireless providers that are payable in the quarter to provide the requested wireless E-911 service to that PSAP.

(3) Following the payment of approved costs to a PSAP for Phase II deployment of wireless E-911 service, as set forth in the FCC E-911 Order, but only after the PSAP has issued its request to wireless providers to furnish Phase II wireless E-911 service pursuant to the FCC E-911 Order, the agency shall pay the approved costs of wireless providers that are payable in the quarter to provide the requested wireless E-911 service to that PSAP.

(4) In any quarter of the agency's fiscal year, all costs specified in section 5311.4(a)(1) that are approved by the agency for payment to PSAPs or wireless providers shall be paid before any other costs payable under this chapter are paid to any PSAP or wireless provider. In the first quarter of the agency's fiscal year, the agency shall determine whether payments to PSAPs and wireless providers during the preceding fiscal year exceeded or were less than the eligible costs incurred by each PSAP and wireless provider submitting costs during the fiscal year. Each PSAP and wireless provider shall provide verification of the costs as required by the agency. Any overpayment shall be refunded to the agency or, with the agency's approval, may be used to pay agency-approved costs the PSAP or wireless provider submitted for the current fiscal year of the agency. The agency shall reconsider a determination of eligible costs under this subsection upon request by a submitting PSAP or wireless provider and shall provide a procedure for the reconsideration.

(d) *Pro rata sharing of fund amounts.*

(1) If the total amount of money in the fund in any quarter is insufficient to pay for both agency-approved PSAP costs and agency-approved wireless provider costs which are payable in the quarter under subsection (c) for both Phase I deployment and Phase II deployment of wireless E-911 service, as set forth in the FCC E-911 Order, then payments from the fund for that quarter shall be made as follows:

(i) The agency-approved Phase I deployment costs of a PSAP and those wireless providers to which the PSAP has issued its request for Phase I wireless E-911 service shall be paid before any agency-approved costs for Phase II deployment are paid.

(ii) If, notwithstanding subparagraph (i), the total amount of money in the fund in the quarter is insufficient to

pay all Phase I deployment costs of both PSAPs and wireless providers which are payable in the quarter, then each requesting PSAP and each requesting wireless provider shall receive, for payment of Phase I deployment costs, a pro rata share of the total amount of money in the fund in the quarter.

(iii) If the total amount of money in the fund in the quarter is insufficient to pay all agency-approved Phase II deployment costs of both PSAPs and wireless providers which are payable in the quarter, then each requesting PSAP and each requesting wireless provider shall receive, for payment of Phase II deployment costs, a pro rata share of the total money in the fund which are available in the quarter for payment of Phase II deployment costs.

(2) For any PSAP or wireless provider, pro rata shares shall be computed based upon the total dollar amount of money available in the fund for payment of Phase I or Phase II deployment costs, whichever is applicable, multiplied by the ratio of:

(i) the total dollar amount of agency-approved but unpaid costs of that PSAP or wireless provider for Phase I or Phase II deployment, whichever is applicable; to

(ii) the total dollar amount of all agency-approved but unpaid costs.

(3) (Deleted by amendment).

(e) *Triennial financial audit.* --The agency shall require a triennial financial audit of each PSAP's use of the disbursements it has received from the fund and of a wireless provider's collection, deduction, retention, remittance and use of the amounts collected by the wireless provider under the wireless E-911 surcharge or the disbursements it received from the fund. These triennial financial audits shall be consistent with guidelines established by the agency, and the cost of each audit shall be paid from the fund.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011; Act 2013-9 (H.B. 583), § 2, approved May 21, 2013, eff. immediately.

NOTES:

LexisNexis (R) Notes:

EDITOR'S NOTES.

Section 3 of Act 2013-9 provides: "The Pennsylvania Emergency Management Agency shall, within 120 days of the effective date of this section, promulgate updated program guidance to incorporate the following provisions: (1) The addition of 35 Pa.C.S. § 5311.2(a)(4). (2) The amendment of 35 Pa.C.S. § 5311.5(b) and (c)."

AMENDMENT NOTES.

The 2013 amendment rewrote the second sentence of (b), which formerly read: "No more than 70% of the disbursements which a PSAP receives from the fund during the agency's fiscal year may be utilized to fund personnel training, salary and benefit costs."; in (c), deleted the former fourth sentence of the introductory language, added the fourth and fifth sentences of the introductory language; and deleted the former fifth sentence of (c)(4); and deleted (d)(3).



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35 Pa.C.S. § 5311.6 (2013)

§ 5311.6. Reporting.

(a) *Annual report by agency.* --Not later than March 1 of each year, the agency, after consideration of the recommendations of the advisory committee, shall submit an annual report, which may be combined with that required by section 5303(a)(5) (relating to telecommunications management), to the Governor and the General Assembly. Subject to the provisions of section 5311.7(b) (relating to public disclosure and confidentiality of information), the report shall include at least the following:

- (1) The extent to which wireless E-911 systems currently exist in this Commonwealth.
- (2) Those PSAPs which completed installation of wireless E-911 systems pursuant to the wireless E-911 State plan and the costs and expenses for installation.
- (3) An itemization by PSAP or wireless provider, project and description and expenditure for each Wireless E-911 Emergency Services Fund disbursement made in the fiscal year just concluded. The itemization shall include an explanation of how each project contributed to the fulfillment of the existing wireless E-911 State plan.
- (4) The planned expenditures for the next fiscal year for installation of wireless E-911 systems pursuant to the wireless E-911 State plan.
- (5) The total aggregate fees collected from all wireless providers in the fiscal year just concluded based upon the reports of the providers submitted under section 5311.4(e) (relating to Wireless E-911 Emergency Services Fund) and any other funds received by the fund.
- (6) The amount of any unexpended funds carried forward in the fund.
- (7) The amount of any remaining unpaid agency-approved PSAP costs or wireless provider costs being carried forward for payment during the next fiscal quarter.
- (8) Any advances in a wireless provider's system technology or expansion of its customer service area which further the goal of providing access to a wireless E-911 system regardless of the customer's geographic location on any interstate highway in this Commonwealth.

(b) *Study of wireless E-911 emergency services implementation and operation.* --The agency, after consideration

of the recommendations of the advisory committee, shall report to the Governor and the General Assembly no less than triennially its recommendations concerning wireless E-911 implementation and operation, including, but not limited to, necessary or required actions which must be undertaken in response to the Federal Communication Commission's directive in the FCC E-911 Order. The report shall recommend measures to be taken by the General Assembly.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5311.7 (2013)

§ 5311.7. Public disclosure and confidentiality of information.

(a) *Annual report of agency.* --The annual report of the agency shall be a public document.

(b) *Prohibition against release of information.* --Neither the State Treasurer, the agency, nor any employee, agent or representative of a PSAP or public agency shall divulge any information acquired with respect to any wireless provider or VoIP provider, its customers, revenues or expenses, trade secrets, commercial information and other proprietary information while acting or claiming to act as the employee, agent or representative, and all information is required to be kept confidential except that aggregations of information which do not identify or effectively identify numbers of customers, revenues or expenses, trade secrets, commercial information and other proprietary information attributable to any individual wireless provider or VoIP provider may be made public.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5311.8 (2013)

§ 5311.8. Wireless provider and VoIP provider records.

(a) *Access.* --Upon request from and pursuant to agreement with a PSAP, each wireless provider shall provide E-911 service database information; and each VoIP provider shall provide VoIP service database information or automatic location information as permitted under the law to the requesting PSAP. The information shall remain the property of the disclosing wireless provider or VoIP provider and, except as otherwise provided by applicable Federal or State law, shall be used by the PSAP only in connection with providing emergency response services to a call to a 911 system or to a wireless E-911 system.

(b) *Violations.* --A person commits a misdemeanor of the third degree if the person does any of the following:

(1) Uses or discloses wireless E-911 service database information or VoIP service database information for purposes other than handling a call to a 911 system or to a wireless E-911 system without the consent of the wireless service customer or VoIP service customer or as otherwise provided by applicable Federal or State law.

(2) Knowingly uses the telephone number of a 911 system, wireless E-911 system or VoIP service database information to avoid any charges for the services of a local exchange carrier, competitive local exchange carrier, interexchange carrier, wireless provider or VoIP provider.

(c) *Privacy waived.* --The provisions of *66 Pa.C.S. § 2906* (relating to dissemination of telephone numbers and other identifying information) shall not apply to wireless providers or VoIP providers to the extent they are engaged in providing wireless E-911 service, 911 service or related services.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5311.9 (2013)

§ 5311.9. Immunity.

(a) *Generally.*

(1) This subsection applies to all of the following:

- (i) A wireless provider or VoIP provider.
- (ii) An officer or director of a wireless provider or VoIP provider.
- (iii) An employee or agent of a wireless provider or VoIP provider.
- (iv) A vendor of a wireless provider or VoIP provider.

(2) Except as set forth in paragraph (3), a person specified in paragraph (1) is immune from liability for civil damages resulting from or caused by an act or omission in the development, design, installation, operation, maintenance, performance or provision of wireless E-911 service or 911 service of:

- (i) the wireless provider or VoIP provider;
- (ii) an officer or director of the wireless provider or VoIP provider;
- (iii) an employee or agent of the wireless provider or VoIP provider; or
- (iv) a supplier of the wireless provider or VoIP provider.

(3) Immunity under paragraph (2) does not apply to willful or wanton misconduct.

(b) *Parity of liability.* --A wireless provider or VoIP provider shall have the same immunity from liability for

transmission errors or failures, network outages or other technical problems that arise in the course of handling emergency calls or providing emergency services, including wireless E-911 service, as a local exchange carrier enjoys in the course of handling the calls or providing the services.

(c) *Release of information.*

(1) This subsection applies to all of the following:

(i) A wireless provider or VoIP provider.

(ii) An employee or agent of a wireless provider or VoIP provider.

(2) A person specified in paragraph (1) is immune from liability for releasing, as required by this chapter or any other law, wireless service customer information or VoIP service customer information to the agency or to any 911 system or wireless E-911 system, public agency or PSAP.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.

LexisNexis (R) Notes:

CASE NOTES

1. In this *Pa. R. App. P. 1925(a)* opinion, the court recommended its summary judgment in favor of defendant cable company be affirmed, as its technician's action of temporarily disrupting plaintiffs' telephone service, which prevented them from calling 911 after their toddler was found at the bottom of their swimming pool, did not constitute willful or wanton misconduct under former 35 Pa.C.S. § 5311.9

Archer v. Comcast Corp., 2012 Pa. Dist. & Cnty. Dec. LEXIS 133 (Jan. 4, 2012).

2. In this *Pa. R. App. P. 1925(a)* opinion, the court recommended its summary judgment in favor of defendant cable company be affirmed, as its technician's action of temporarily disrupting plaintiffs' telephone service, which prevented them from calling 911 after their toddler was found at the bottom of their swimming pool, did not constitute willful or wanton misconduct under former 35 Pa.C.S. § 5311.9

Archer v. Comcast Corp., 2012 Pa. Dist. & Cnty. Dec. LEXIS 133 (Jan. 4, 2012).

3. In this *Pa. R. App. P. 1925(a)* opinion, the court recommended its summary judgment in favor of defendant cable company be affirmed, as plaintiffs did properly plead a claim that the company violated former 35 Pa.C.S. § 5311.9, and did not assert such a claim until after the limitations period for doing so had expired.

Archer v. Comcast Corp., 2012 Pa. Dist. & Cnty. Dec. LEXIS 133 (Jan. 4, 2012).

4. In this *Pa. R. App. P. 1925(a)* opinion, the court recommended its summary judgment in favor of defendant cable company be affirmed, as plaintiffs did properly plead a claim that the company violated former 35 Pa.C.S. § 5311.9, and did not assert such a claim until after the limitations period for doing so had expired.

Archer v. Comcast Corp., 2012 Pa. Dist. & Cnty. Dec. LEXIS 133 (Jan. 4, 2012).



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35 Pa.C.S. § 5311.10 (2013)

§ 5311.10. Agency funding for wireless E-911 support.

The agency is authorized to retain up to 2% of the annual wireless E-911 surcharge and prepaid wireless E-911 surcharge proceeds to pay for agency expenses directly related to administering the wireless E-911 provisions of this chapter. Expenses under this section include personnel, travel, administrative, financial auditing and printing costs.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.

NOTES:

LexisNexis (R) Notes:

EDITOR'S NOTES.

Section 7(b) of Act 2010-118 provides that "[t]he addition of 35 Pa.C.S. Ch. 53 is a continuation of the act of July 9, 1990 (P.L. 340, No. 78), known as the Public Safety Emergency Telephone Act. The following apply: (1) Except as otherwise provided in 35 Pa.C.S. Ch. 53, all activities initiated under the Public Safety Emergency Telephone Act shall continue and remain in full force and effect and may be completed under 35 Pa.C.S. Ch. 53. Orders, regulations, rules and decisions which were made under the Public Safety Emergency Telephone Act and which are in effect on the effective date of section 2(2) of this act shall remain in full force and effect until revoked, vacated or modified under 35 Pa.C.S. Ch. 53. (2) Except as set forth in paragraph (3), any difference in language between 35 Pa.C.S. Ch. 53 and the Public Safety Emergency Telephone Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Public Safety Emergency Telephone Act. (3) Paragraph (2) does not apply to any of the

following: (i) The omission of the following definitions in *35 Pa.C.S. § 5302*: (A) 'active prepaid wireless account.'(A.1) 'prepaid wireless telephone service.'(B) 'sufficient positive balance.' (ii) The addition of any of the following provisions in title 35: (A) The addition of the following definitions in section 5302: (I) 'consumer.'(II) 'prepaid wireless device.'(III) 'prepaid wireless e-911 surcharge.'(IV) 'prepaid wireless provider.'(V) 'prepaid wireless telecommunications service.'(V.1) 'retail transaction.'(V.2) 'seller.'(VI) 'wireless e-911 surcharge.'(B) The following provisions of section 5311.4: (I) subsection (a) introductory paragraph. (II) subsection (b) introductory paragraph and (4). (III) subsection (b.1). (IV) subsection (h). (C) section 5311.10. (D) section 5312.1. (E) section 5398."



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35 Pa.C.S. § 5311.11 (2013)

§ 5311.11. Rate regulation.

Nothing In this chapter shall be construed to constitute the regulation of the rates charged by wireless providers for any service or feature which they provide to their wireless service customers or to prohibit a wireless provider from charging a wireless service customer for any service or feature provided to the customer.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5311.12

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35 Pa.C.S. § 5311.12 (2013)

§ 5311.12. Regulations.

The council has the power to issue statements of policy and to promulgate regulations for the implementation of this chapter.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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35 Pa.C.S. § 5311.13 (2013)

§ 5311.13. Enforcement.

In addition to any powers expressly enumerated in this chapter, the agency has the power and duty to enforce and execute, by its regulations or otherwise, this chapter. The agency may institute injunction, mandamus or other appropriate legal proceedings to enforce this chapter and regulations promulgated under this chapter.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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* Pa.C.S. documents are current through 2013 Regular Session Act 10, Enacted May 21, 2013. *

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* Annotations current through May 17, 2013 *

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35 Pa.C.S. § 5311.14 (2013)

§ 5311.14. Collection and disbursement of VoIP 911 fee.

(a) *VoIP service customer 911 contribution.*

(1) Each VoIP provider or telecommunications carrier shall collect a \$ 1 fee per month for each telephone number or successor dialing protocol assigned by a VoIP provider to a VoIP service customer number that has outbound calling capability. the following apply:

(i) The fee, minus the actual uncollectibles experienced by the VoIP provider, shall be remitted:

(A) quarterly; or

(B) at the option of the provider or telecommunications carrier, monthly.

(ii) The remittance shall be made as follows:

(A) Except as set forth in clause (b), to the county treasurer.

(B) In a home rule county, as follows:

(I) To the county official responsible for the collection and disbursement of funds.

(II) At the option of the remitter, to the State Treasurer. Election of the option shall be by regulations established by the agency, which shall include appropriate notification to the affected counties of the exercise of this option.

(iii) The fee shall be stated separately in the VoIP service customer's paper or electronic billing, and the fee shall be collected apart from and in addition to any fee levied by the voip provider in whole or in part for the provision of 911 services or E-911 services.

(2) In the case of VoIP service customers purchasing multiple dial tone telephone access lines from a VoIP provider, the following multipliers shall be applied to determine the contribution rate of each customer:

- (i) For the first 25 lines, each line shall be billed at the approved contribution rate.
- (ii) For lines 26 through 100, each line shall be billed at 75% of the approved contribution rate.
- (iii) For lines 101 through 250, each line shall be billed at 50% of the approved contribution rate.
- (iv) For lines 251 through 500, each line shall be billed at 20% of the approved contribution rate.
- (v) For lines 501 or more, each line shall be billed at 17.2% of the approved contribution rate.

(3) If a VoIP provider receives a partial payment for a monthly bill from a VoIP service customer, the VoIP provider:

- (i) may first apply the payment against the amount the VoIP service customer owes the VoIP provider; and
- (ii) shall then remit to the county or the State Treasurer the lesser amount resulting from the application of the payment.

(4) The fees collected and remitted under this subsection shall not:

- (i) be subject to taxes or charges levied by the Commonwealth or a political subdivision; nor
- (ii) be considered revenue of the VoIP provider for any purpose.

(5) As reimbursement for administrative costs to cover its expenses of billing, collecting and remitting the fees during the reporting period, the VoIP provider is allowed to retain for reimbursement up to the following percentages of the total fees collected under this subsection:

- (i) If remittance is made to the county, 2%.
- (ii) If remittance is made to the State Treasurer, 1%.

(6) To the extent that a VoIP provider obtains connections to the public switched telephone network from a telecommunications carrier, that telecommunications carrier shall not be required to assess or make contributions to any 911 or E-911 fund in connection with the customers or the telephone numbers for which the VoIP provider is responsible for collecting and making contributions under this section. If, however, the telecommunications carrier is, by agreement with the VoIP provider, required to make 911 or E-911 contributions on behalf of the VoIP provider customer, the voip provider shall not be responsible for collecting and making contributions under this section.

(b) *Reporting by VoIP providers.*

(1) With each remittance under subsection (a), a VoIP provider and telecommunications carrier shall supply the following information to the individual receiving the remittance and to the agency the total fees collected under subsection (a)(1) from its VoIP service customers during the reporting period. If the telecommunications carrier has remitted the fees to the county or the agency pursuant to an agreement with the VoIP provider, the VoIP provider shall provide notification of the reporting agreement along with the telecommunications carrier's name and 911 or E-911

account number.

(2) A VoIP provider and telecommunications carrier shall provide the county or, if remitting to the State Treasurer, the agency with requested information, including the primary place of use of each interconnected VoIP service customer, in order to discharge its obligations under this section. The information shall be in writing. This paragraph includes the collection and deposit of the VoIP fee and its administration of the fund.

(b.1) *Confidentiality.* --Information supplied by VoIP providers under this section shall remain confidential, and release of the information shall be governed by section 5311.7 (relating to public disclosure and confidentiality of information).

(c) *Collection enforcement.* --A VoIP provider has no obligation to take legal action to enforce the collection of a fee imposed under this section.

(d) *Deposit of remitted fees.* --The individual who receives fees remitted under this section shall deposit receipts into the restricted account established under section 5307(c) (relating to collection and disbursement of contribution).

(e) *Establishment of fund.* --There is established in the State Treasury a nonlapsing restricted interest-bearing account to be known as the VoIP 911 Emergency Services Fund. The VoIP 911 Emergency Services Fund shall consist of the fees remitted to the State Treasurer under this section.

(f) *Distribution of fees.* --Money in the VoIP 911 Emergency Services Fund and the interest it accrues are appropriated on a continuing basis to the agency to be disbursed by the agency. The agency shall make quarterly disbursements from the account to each county by March 31, June 30, September 30 and December 31 in an amount equal to the amount of fees collected from VoIP service customers located in that county. The disbursements are for the purpose of assisting counties with the implementation of an agency-approved plan adopted under section 5305 (relating to county plan). The agency may retain up to 1% of the fees for costs incurred in administering this subsection.

§ 5312. (Reserved).

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.



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Go to the Pennsylvania Code Archive Directory*35 Pa.C.S. § 5312 (2013)*

§ 5312. (Reserved).

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.

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Go to the Pennsylvania Code Archive Directory*35 Pa.C.S. § 5312.1 (2013)*

§ 5312.1. Legislative study.

(a) *Requirement.* --The Legislative Budget and Finance Committee shall study the 911 and wireless E-911 funding system under section 5311.4 (relating to wireless E-911 Emergency Services Fund). In conducting the study, the committee shall consider cost-benefit analyses to determine the cost effectiveness of the systems both within the agency and the counties. At a minimum, the committee shall inquire into and make recommendations with respect to:

- (1) The efficacy by which the VoIP service 911 fee, the contribution rate, the wireless E-911 surcharge and the prepaid wireless E-911 surcharge are collected and remitted for intended purposes set forth in this chapter.
- (2) The expenditures authorized for payment from a county's restricted account for the purposes of nonrecurring and recurring charges billed for the 911 system.
- (3) Disbursements made by the agency from the fund.
- (4) The method and amount of funding collected through the VoIP service 911 fee, the contribution rate, the wireless E-911 surcharge and the prepaid wireless E-911 surcharge in comparison to 911 and wireless E-911 funding systems utilized in other states.

(5) The feasibility and effectiveness of consolidating PSAPs in this Commonwealth.

(6) Any other cost-saving measures that may be utilized by the PSAPs or the agency which will not jeopardize public safety.

(7) National initiatives being considered or implemented in other states intended to provide cost savings in 911 systems without impacting public safety.

(8) A review of the current auditing requirements of State and county 911 expenditures under this chapter.

(9) The issues the Commonwealth will need to consider in incorporating "Next Generation 911" and other nontraditional communication technologies into its emergency response system.

(10) Any technology-neutral 911 funding options by either the Commonwealth or political subdivisions which do not rely on disparate technologies, fee amounts and grant structures.

(b) *Report.* --The committee shall submit a final report with recommendations to the Secretary of the Senate and the Chief Clerk of the House of Representatives by December 31, 2011, and shall transmit a copy of the final report to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin within 30 days of the submission of the final report.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. immediately.

NOTES:

LexisNexis (R) Notes:

EDITOR'S NOTES.

Section 7(b) of Act 2010-118 provides that "[t]he addition of 35 Pa.C.S. Ch. 53 is a continuation of the act of July 9, 1990 (P.L. 340, No. 78), known as the Public Safety Emergency Telephone Act. The following apply: (1) Except as otherwise provided in 35 Pa.C.S. Ch. 53, all activities initiated under the Public Safety Emergency Telephone Act shall continue and remain in full force and effect and may be completed under 35 Pa.C.S. Ch. 53. Orders, regulations, rules and decisions which were made under the Public Safety Emergency Telephone Act and which are in effect on the effective date of section 2(2) of this act shall remain in full force and effect until revoked, vacated or modified under 35 Pa.C.S. Ch. 53. (2) Except as set forth in paragraph (3), any difference in language between 35 Pa.C.S. Ch. 53 and the Public Safety Emergency Telephone Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Public Safety Emergency Telephone Act. (3) Paragraph (2) does not apply to any of the following: (i) The omission of the following definitions in 35 Pa.C.S. § 5302: (A) 'active prepaid wireless account.'(A.1) 'prepaid wireless telephone service.'(B) 'sufficient positive balance.' (ii) The addition of any of the following provisions in title 35: (A) The addition of the following definitions in section 5302: (I) 'consumer.'(II) 'prepaid wireless device.'(III) 'prepaid wireless e-911 surcharge.'(IV) 'prepaid wireless provider.'(V) 'prepaid wireless telecommunications service.'(V.1) 'retail transaction.'(V.2) 'seller.'(VI) 'wireless e-911 surcharge.'(B) The following provisions of section 5311.4: (I) subsection (a) introductory paragraph. (II) subsection (b) introductory paragraph and (4). (III) subsection (b.1). (IV) subsection (h). (C) section 5311.10. (D) section 5312.1. (E) section 5398."



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35 Pa.C.S. § 5398 (2013)

§ 5398. Termination.

This chapter shall expire June 30, 2014.

HISTORY: Act 2010-118 (H.B. 2321), P.L. 1181, § 2.1, approved Nov. 23, 2010, eff. Jan. 1, 2011.

NOTES:

LexisNexis (R) Notes:

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