

MAINE STATE LEGISLATURE

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H.P. 540

House of Representatives, February 26, 2009

**An Act To Make Certain Changes to the Laws Regarding E-9-1-1
Surcharge Collection from Prepaid Wireless and Voice over
Internet Protocol Providers**

Submitted by the Public Utilities Commission pursuant to Joint Rule 204.
Reference to the Committee on Utilities and Energy suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FLAHERTY of Scarborough.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 25 MRSA §2927, sub-§1-B**, as amended by PL 2007, c. 637, §1, is
3 further amended to read:

4 **1-B. Statewide E-9-1-1 surcharge.** The activities authorized under this chapter are
5 funded through a special statewide E-9-1-1 surcharge levied on each residential and
6 business telephone exchange line, including private branch exchange lines and Centrex
7 lines, cellular or wireless telecommunications service customers, including prepaid
8 wireless telephone service customers, interconnected voice over Internet protocol service
9 customers and semipublic coin and public access lines. The statewide E-9-1-1 surcharge
10 may not be imposed on more than 25 lines or numbers per customer billing account,
11 except that this limitation does not apply to prepaid wireless telephone services. In the
12 case of nonprepaid cellular or wireless telecommunications service customers, the
13 customer's place of residence of these customers primary use must be determined
14 according to the sourcing rules for mobile telecommunications services as set forth in
15 Title 36, section 2556. In the case of customers or purchasers of prepaid cellular or
16 wireless telecommunications service, the determination of whether the customer or
17 purchaser has a reasonable nexus to this State must be determined according to the
18 sourcing rules for mobile telecommunications services as set forth in Title 36, section
19 2556. The Public Utilities Commission may by rule establish additional criteria
20 indicative of a nexus to this State, including the assignment of prepaid wireless service to
21 a telephone number within an area code assigned to this State. The statewide E-9-1-1
22 surcharge is 30¢ per month per line or number or, in the case of prepaid wireless
23 telephone services, 30¢ per month or 30-day increment of service per customer. The
24 statewide E-9-1-1 surcharge must be collected from the customer on a monthly basis by
25 each local exchange telephone utility, cellular or wireless telecommunications service
26 provider and interconnected voice over Internet protocol service provider and be shown
27 separately as a statewide E-9-1-1 surcharge on the customer's bill, except that in the case
28 of prepaid wireless telephone service, the collection of the statewide E-9-1-1 surcharge is
29 governed by subsection 1-C.

30 **Sec. 2. 25 MRSA §2927, sub-§1-C**, as enacted by PL 2007, c. 68, §6, is amended
31 to read:

32 **1-C. Statewide E-9-1-1 surcharge; prepaid wireless service.** The statewide
33 E-9-1-1 surcharge, referred to in this subsection as "the surcharge," must be collected
34 from prepaid wireless telephone service customers by the prepaid wireless telephone
35 service provider. The prepaid wireless telephone service provider is authorized to:

36 A. Collect the surcharge on a monthly basis from each customer whose account
37 balance is equal to or greater than the amount of the surcharge;

38 B. Collect the surcharge, or contract with a retail seller of prepaid wireless telephone
39 service to collect the surcharge, from the customer or purchaser at the point-of-sale
40 for each 30-day increment of prepaid wireless telephone service that is purchased at
41 the time of sale; or

1 C. Collect the surcharge indirectly from customers by calculating the total surcharge
2 owed by its customers and remitting that amount to the Treasurer of State in
3 accordance with subsection 2-B. A prepaid wireless telephone service provider that
4 elects the collection method specified in this paragraph must calculate the total
5 surcharge owed by:

6 (1) Dividing ~~its~~ the total intrastate prepaid wireless revenue for the month that
7 the provider has received from customers or purchasers having a nexus to this
8 State as determined pursuant to subsection 1-B or pursuant to rule of the Public
9 Utilities Commission by the provider's national average monthly revenue per user
10 customer or purchaser for prepaid wireless service, as ~~defined~~ determined by the
11 Public Utilities Commission by rule; and

12 (2) Multiplying the result obtained under subparagraph (1) by the amount of the
13 surcharge.

14 SUMMARY

15 Public Law 2007, chapter 68 amended the Maine Revised Statutes, Title 25, section
16 2927 and clarified that the E-9-1-1 surcharge applies to prepaid wireless service and
17 interconnected voice over Internet protocol providers. Chapter 68 also required the
18 Public Utilities Commission to adopt rules to implement the provisions of section 2927.
19 This bill makes certain changes to section 2927 to facilitate the commission's
20 implementation of the section in the course of the rulemaking.

21 The Maine Revised Statutes, Title 25, section 2927 presently states that the
22 "residence" of cellular or wireless service customers must be determined pursuant to the
23 "sourcing rules for mobile telecommunications services as set forth in Title 36, section
24 2556." This bill substitutes the term "place of primary use" for "residence" because
25 "place of primary use" is the criterion used in Title 36, section 2556. This bill amends
26 Title 25, section 2927, subsection 1-B to state that the commission by rule may establish
27 other criteria to determine when prepaid cellular or wireless service customers or
28 purchasers have a nexus to Maine, including the assignment of prepaid wireless service to
29 a telephone number within Maine's area code.

30 This bill addresses the provision that allows indirect payment of the E-9-1-1
31 surcharge. It amends the formula for determining the total surcharge that is collected
32 indirectly from prepaid wireless telephone customers. In the Maine Revised Statutes,
33 Title 25, section 2927, subsection 1-C, paragraph C, subparagraph (1), the bill substitutes
34 the phrase "total prepaid wireless revenue for the month that the provider has received
35 from customers or purchasers having a nexus to this State" for the present phrase "total
36 intrastate prepaid wireless revenue for the month." This bill also clarifies that the
37 national average revenue used must be that of the individual provider.