

HOUSE BILL No. 1212

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-30-2-156.2; IC 36-8.

Synopsis: Uniform statewide prepaid wireless E911 fee. Requires a seller of prepaid wireless telecommunications service to collect at the point of sale an enhanced prepaid wireless charge (charge) in an amount determined by the wireless enhanced 911 advisory board. Requires the seller to remit the charge to the department of state revenue for deposit in the wireless emergency telephone system fund.

Effective: July 1, 2010.

Goodin

January 11, 2010, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.

C
O
P
Y



Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

C
o
p
y

HOUSE BILL No. 1212



A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-30-2-156.2 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2010]: **Sec. 156.2. IC 36-8-16.6-20**
4 **(Concerning sellers of prepaid wireless telecommunications service**
5 **for provision of 911 or wireless 911 service and lawful assistance**
6 **to law enforcement officers).**

7 SECTION 2. IC 36-8-16.5-14 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. As used in this
9 chapter, "subscriber" refers to a standard subscriber ~~or a prepaid~~
10 ~~subscriber~~ of CMRS service.

11 SECTION 3. IC 36-8-16.5-22 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 22. The fund consists
13 of the following:

- 14 (1) Service charges assessed on CMRS users in the state under
15 section 25.5 of this chapter.
- 16 (2) Appropriations made by the general assembly.
- 17 (3) Grants and gifts intended for deposit in the fund.



(4) Interest, premiums, gains, or other earnings on the fund.

(5) Enhanced prepaid wireless charges collected and remitted under IC 36-8-16.6-12.

SECTION 4. IC 36-8-16.5-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 29. An additional fee relating to the provision of wireless 911 service may not be levied by a state agency or local unit of government. **An enhanced prepaid wireless charge (as defined in IC 36-8-16.6-4) is not considered an additional fee relating to the provision of wireless 911 service for purposes of this section.**

SECTION 5. IC 36-8-16.5-30.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 30.5. (a) As used in this section, "customer" and "place of primary use" have the meanings set forth in IC 6-8.1-15.

(b) Except as provided in section 34 of this chapter, ~~each~~ a CMRS provider shall, **as part of its normal monthly billing process**, collect the wireless emergency enhanced 911 fee assessed under section 25.5 of this chapter ~~as follows (1) As part of its normal monthly billing process, a CMRS provider shall collect the fee~~ from each standard subscriber that is a customer having a place of primary use in Indiana and may list the fee as a separate line item on each bill. A customer's place of primary use shall be determined in the manner provided by IC 6-8.1-15. If a CMRS provider receives a partial payment for a monthly bill from a CMRS standard subscriber, the CMRS provider shall apply the payment against the amount the CMRS standard subscriber owes to the CMRS provider before applying the payment against the fee.

~~(2) A CMRS provider shall collect and remit to the board under section 36 of this chapter fees from its prepaid subscribers in a total amount equal to the fee amount multiplied by the number of active prepaid subscriber accounts on the last day of each calendar month.~~

(c) This section does not apply to a prepaid subscriber.

SECTION 6. IC 36-8-16.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 16.6. Enhanced Prepaid Wireless Telecommunications Service Charge

Sec. 1. As used in this chapter, "board" refers to the wireless enhanced 911 advisory board established by IC 36-8-16.5-18.

Sec. 2. As used in this chapter, "consumer" means a person that purchases prepaid wireless telecommunications service from a

C
o
p
y



1 seller. The term includes a prepaid subscriber (as defined in
 2 IC 36-8-16.5-14.5).
 3 Sec. 3. As used in this chapter, "department" refers to the
 4 department of state revenue.
 5 Sec. 4. As used in this chapter, "enhanced prepaid wireless
 6 charge" means the charge that a seller is required to collect from
 7 a consumer under section 12 of this chapter.
 8 Sec. 5. As used in this chapter, "fund" refers to the wireless
 9 emergency telephone system fund established under
 10 IC 36-8-16.5-21(a).
 11 Sec. 6. As used in this chapter, "prepaid wireless
 12 telecommunications service" means a prepaid wireless calling
 13 service (as defined in IC 6-2.5-1-22.4) that allows a user of the
 14 service to reach emergency services by dialing the digits nine (9)
 15 one (1) one (1).
 16 Sec. 7. As used in this chapter, "provider" means a person or
 17 entity that offers prepaid wireless telecommunications service.
 18 Sec. 8. As used in this chapter, "retail transaction" means the
 19 purchase of prepaid wireless telecommunications service from a
 20 seller for any purpose other than resale.
 21 Sec. 9. As used in this chapter, "seller" means a person that sells
 22 prepaid wireless telecommunications service to another person.
 23 Sec. 10. As used in this chapter, "wireless telecommunications
 24 service" means commercial mobile radio service (as defined in
 25 47 CFR 20.3).
 26 Sec. 11. (a) A surcharge known as the enhanced prepaid wireless
 27 charge is imposed on each retail transaction that occurs after June
 28 30, 2010.
 29 (b) The board shall determine the amount of the enhanced
 30 prepaid wireless charge. The enhanced prepaid wireless charge:
 31 (1) may not exceed one-half (1/2) of the monthly wireless
 32 emergency enhanced 911 fee assessed under
 33 IC 36-8-16.5-25.5; and
 34 (2) must be proportionately increased or decreased, as
 35 applicable, upon any increase or decrease to the monthly
 36 wireless emergency enhanced 911 fee.
 37 An increase or decrease made under subdivision (2) takes effect on
 38 the first day of the first calendar month immediately following an
 39 increase or decrease to the monthly wireless emergency enhanced
 40 911 fee.
 41 Sec. 12. (a) A seller shall collect the enhanced prepaid wireless
 42 charge from the consumer with respect to each retail transaction.

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(b) The seller shall disclose to the consumer the amount of the enhanced prepaid wireless charge. The seller may separately state the amount of the enhanced prepaid wireless charge on an invoice, a receipt, or a similar document that the seller provides to the consumer in connection with the retail transaction.

(c) A seller shall remit enhanced prepaid wireless charges to the department at the time and in the manner prescribed by the department.

Sec. 13. The enhanced prepaid wireless charge is the liability of the consumer and not of the seller or a provider. However, a seller is liable to remit to the department all enhanced prepaid wireless charges that the seller collects from consumers under section 12 of this chapter, including all charges that the seller is deemed to collect where the amount of the charge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

Sec. 14. The amount of the enhanced prepaid wireless charge that is collected by a seller from a consumer, whether or not separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, shall not be included in the base for determining a tax, fee, surcharge, or other charge that is imposed by the state, a political subdivision, or any other governmental agency.

Sec. 15. A seller may deduct and retain three percent (3%) of enhanced prepaid wireless charges that the seller collects from consumers.

Sec. 16. A seller is subject to the same audit and appeal procedures with respect to the collection and remittance of enhanced prepaid wireless charges as with collection and remittance of the state gross retail tax under IC 6-2.5.

Sec. 17. The department shall establish procedures by which a seller may document that a sale of prepaid wireless telecommunications service is not a retail transaction.

Sec. 18. (a) Subject to subsection (b), the department shall deposit all remitted enhanced prepaid wireless charges in the fund.

(b) The department may retain an amount not to exceed two percent (2%) of collected charges to reimburse the direct costs incurred by the department in administering the collection and remittance of enhanced prepaid wireless charges.

Sec. 19. A seller of prepaid wireless telecommunications service is not liable for damages to a person resulting from or incurred in connection with the following:

C
O
P
Y



- 1 **(1) Providing or failing to provide 911 or wireless 911**
- 2 **services.**
- 3 **(2) Identifying or failing to identify the telephone number,**
- 4 **address, location, or name associated with a person or device**
- 5 **that accesses or attempts to access 911 or wireless 911 service.**
- 6 **(3) Providing lawful assistance to an investigative or law**
- 7 **enforcement officer of the United States, a state, or a political**
- 8 **subdivision of a state in connection with a lawful investigation**
- 9 **or other law enforcement activity by the law enforcement**
- 10 **officer.**
- 11 **Sec. 20. (a) An additional fee relating to the provision of wireless**
- 12 **911 service with respect to prepaid wireless telecommunications**
- 13 **service may not be levied by a state agency or local unit of**
- 14 **government.**
- 15 **(b) The enhanced prepaid wireless charge imposed by section 11**
- 16 **of this chapter is not considered an additional charge relating to**
- 17 **the provision of wireless 911 service for purposes of**
- 18 **IC 36-8-16.5-29.**

C
O
P
Y

