

SHORT TITLE: Public health and safety; creating Nine-One-One
Wireless Emergency Number Act. Effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1279

By: Easley

AS INTRODUCED

An Act relating to public health and safety; creating the "Nine-One-One Wireless Emergency Number Act"; providing short title; stating purpose; providing definitions; requiring certain telecommunications subscribers be charged certain fee for certain connection and authorizing additional fee; providing for retention of certain portion of certain fee; requiring payment of certain fee to the State Treasurer; requiring monies be held in separate fund; stating purposes for which certain monies may be used; requiring State Treasurer distribute certain share of monies received to substate planning districts on certain basis by certain time; requiring substate planning districts make certain distribution of monies received on certain basis; requiring undistributed amounts be carried forward; providing billed service users be liable for fees imposed; requiring certain service providers bill the fees as a separate billing item; absolving certain service providers of obligation to take certain legal action; requiring certain reimbursement on receipt of certain invoice if certain monies available; providing for remittance of fees and reports to the State Treasurer monthly by certain time; requiring certain service provider keep certain records for certain period; permitting

certain audits of service provider by State Auditor and Inspector annually; requiring certain annual audits of certain public agencies; permitting certain audits of certain public agencies by State Auditor and Inspector; providing for certain filing of audits; declaring proprietary information confidential; requiring quarterly meetings of certain public bodies; subjecting certain public bodies to Oklahoma Open Records Act and Oklahoma Open Meeting Act; permitting governing body of certain public agency to issue and sell bonds for certain purposes; absolving certain public agency employees and certain service providers of certain liabilities, claims, damages, or losses, and making exception thereto; permitting certain contracts; prohibiting certain use of the number nine-one-one; providing penalty and assessment; requiring provision of certain services to certain telephone subscribers; requiring certain service companies provide certain information to certain public bodies; permitting release of certain confidential information in aggregate form for certain purpose; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2841 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Nine-One-One Wireless Emergency Number Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2842 of Title 63, unless there is created a duplication in numbering, reads as follows:

It is the purpose of the Nine-One-One Wireless Emergency Number Act to provide efficient communication between wireless telephone customers and emergency service providers in order to expedite the response of law enforcement, fire, medical, rescue, and other emergency services to any person requiring such assistance. In addition, this enables the state, wireless telephone providers, and local jurisdictions to comply with FCC Docket 94-102 requiring enhanced nine-one-one wireless services when requested by local public safety answering points.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2843 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Nine-One-One Wireless Emergency Number Act, unless the context otherwise requires:

1. "Area served" means the geographic area which shall be served by the emergency telephone service provided by the governing body of a county, municipality, part of a county or combination of such governing bodies;

2. "Governing body" means the board of county commissioners of a county, the city council or other governing body of a municipality, or a combination of such boards, councils or other municipal governing bodies, which shall have an administering board as provided in subsection G of Section 2815 of Title 63 of the Oklahoma Statutes. Any such combined administering board shall be

formed and shall enter into an agreement with the governing body of each entity in accordance with the Interlocal Cooperation Act. The agreement shall be filed with the office of the county clerk and in the offices of each governmental entity involved;

3. "Nine-one-one emergency telephone service" means any telephone system whereby wireless telephone subscribers may utilize a three-digit number, nine-one-one (911), for reporting an emergency to the appropriate public agency providing law enforcement, fire, medical, or other emergency services, including ancillary communications systems and personnel necessary to pass the reported emergency to the appropriate emergency service and personnel;

4. "Nine-one-one emergency wireless telephone fee" means a fee to finance the installation and operation of emergency wireless telephone service;

5. "Local exchange telephone company" means any company providing exchange telephone service to any service user in this state;

6. "Person" means any service user, including any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, private corporation, whether organized for profit or not, fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, the United States of America, the state, any political subdivision of the state or any federal or state agency, department, commission, board, or bureau;

7. "Proprietary information" shall include subscriber and market share information;

8. "Public agency" means any city, town, county, municipal corporation, public district, public trust or public authority located within this state which provides or has authority to provide

fire fighting, law enforcement, ambulance, emergency medical, or other emergency services;

9. "Substate planning district" means the following organizations:

- a. Association of Central Oklahoma Governments (ACOG),
- b. Association of South Central Oklahoma Governments (ASCOG),
- c. Central Oklahoma Economic Development District (COEDD),
- d. Eastern Oklahoma Economic Development District (EOEDD),
- e. Grand Gateway Economic Development Association (GGEDA),
- f. Indian Nations Council of Governments (INCOG),
- g. Kiamichi Economic Development District (KEDDO),
- h. Northern Oklahoma Development Association (NODA),
- i. Oklahoma Economic Development Association (OEDA),
- j. Southern Oklahoma Development Association (SODA), and
- k. South Western Oklahoma Development Authority (SWODA);

10. "Wireless service provider" means a provider of commercial mobile service under Section 332(d) of the Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq., Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, and includes a provider of wireless two-way communication service, radio-telephone communications related to cellular telephone service, network radio access lines or the equivalent, and personal communication service. The term does not include a provider of:

- a. a service whose users do not have access to nine-one-one service,
- b. a communication channel used only for data transmission, or

- c. a wireless roaming service or other nonlocal radio access line service;

11. "Wireless telecommunications connection" means any wireless communication mobile station assigned a number containing an area code assigned to Oklahoma by the North American Numbering Plan Administrator.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2844 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. To provide for processing nine-one-one emergency wireless calls, including when possible automatic number identification and automatic location identification of wireless nine-one-one calls and selective routing of such calls, each wireless telecommunications subscriber shall be charged a nine-one-one emergency wireless telephone fee for each wireless telecommunications connection. A political subdivision may not impose another fee on a wireless service provider or subscriber for nine-one-one emergency service. The proceeds of the fee shall be utilized to pay for the operation of emergency wireless telephone service as specified in this section.

B. A wireless service provider shall collect the fee in an amount equal to fifty cents (\$0.50) a month for each wireless telecommunications connection from each of its subscribers and shall pay the money collected to the State Treasurer not later than the 30th day after the last day of the month during which the fees were collected. The wireless service provider may retain an administrative fee of two percent (2%) of the amount collected. Money deposited with the State Treasurer under this subsection is for local services and the money shall be held by the State Treasurer in a separate fund.

C. Money collected under subsection B of this section shall be used only for services related to nine-one-one wireless telephone

services, including automatic number identification and automatic location information services. Within fifteen (15) days of the date of collection of the money, the State Treasurer shall distribute to each substate planning district in the state a proportionate share of the money deposited in accordance with subsection B of this section based on the number of subscribers of wireless telephone services of the area served by the substate planning district as determined by the zip code of the subscribers. The substate planning district shall distribute the money to each public agency within its area which has established an emergency wireless telephone service or has sent a written request for installation, maintenance, and operation of an emergency wireless telephone service to a wireless service provider. The money shall be distributed to each eligible public agency as a proportionate share based on the number of subscribers of wireless telephone service within the boundaries of the public agency as determined by the zip code of the subscriber. From the emergency wireless telephone fee, the substate planning district shall also pay other public agencies in its area their proportionate costs attributable to emergency wireless telephone services as determined by local agreement. Remittance of the fee by the substate planning district to a public agency may begin at any time if an existing emergency telephone service is already operative or upon written request by the local governing body to the provider for installation, maintenance, and operation of an emergency wireless telephone service. Amounts not used within a given year shall be carried forward.

D. Every billed service user shall be liable for any fee imposed pursuant to this section until it has been paid to the wireless service provider.

E. The duty to collect any fee imposed pursuant to the authority of the Nine-One-One Wireless Emergency Number Act from a service user shall commence on the effective date of this act. Fees

imposed pursuant to this section that are required to be collected by the wireless service provider shall be added to and shall be stated separately in the billings to the service user.

F. The wireless service provider shall have no obligation to take any legal action to enforce the collection of any fee imposed pursuant to the authority of this section; however, should any service user tender a payment insufficient to satisfy all charges, tariffs, fees, and taxes for wireless telephone service, the amount tendered shall be credited to the emergency wireless telephone fee in the same manner as other taxes and fees.

G. Any fee imposed pursuant to the authority provided by this section shall be collected insofar as practicable at the same time as, and along with, the charges for wireless telephone service in accordance with the regular billing practice of the wireless telephone service.

H. On receipt of an invoice from a wireless service provider for reasonable expenses for network facilities, including equipment, installation, maintenance, and associated implementation costs, the public agency shall reimburse the wireless service provider to the extent of available funds and in accordance with the local agreement for all expenses related to wireless nine-one-one service.

Reimbursement shall be made on a competitively neutral basis.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2845 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Any fee imposed pursuant to Section 4 of this act and the amounts required to be collected are due monthly. The amount of fee collected in one (1) month by the wireless service provider shall be remitted to the State Treasurer no later than thirty (30) days after the close of the month in which such fees were collected. All fees collected by the wireless service provider and remitted to the State Treasurer and any other money collected to fund the emergency

wireless telephone system shall be deposited in a special nine-one-one account established by the State Treasurer. The State Treasurer shall account for all disbursements from the account established for the operation of the emergency wireless telephone system.

B. On or before the last day of each month, a return for the preceding month shall be filed with the State Treasurer in a form the State Treasurer and the wireless service provider agree to. The wireless service provider required to file the return shall deliver the return together with a remittance of the amount of the fee payable to the State Treasurer. The wireless service provider shall maintain records of the amount of any fee collected in accordance with the provisions of the Nine-One-One Wireless Emergency Number Act. The records shall be maintained for a period of three (3) years from the time the fee is collected. The State Auditor and Inspector may require an annual audit of the books and records of the wireless service provider concerning the collection and remittance of the fee authorized by the Nine-One-One Wireless Emergency Number Act.

C. The public agency shall be required to have conducted separately or as a part of the annual audit required by law of the municipality or county an annual audit of any accounts established or used by the governing body for the operation of an emergency wireless telephone system. The audit may be conducted by the State Auditor and Inspector at the discretion of the public agency. All audits shall be conducted in accordance with generally accepted auditing standards and Government Auditing Standards issued by the Comptroller General of the United States. A copy of the audit shall be filed with the State Auditor and Inspector and action taken in accordance with Section 212A of Title 74 of the Oklahoma Statutes. The cost of the audit of the emergency wireless telephone system accounts may be paid from and be considered a part of the operating expenses of the emergency wireless telephone system. Proprietary

information of the wireless service providers shall be confidential. Audit information pertaining to revenues collected or disbursed may be released only in aggregate form so that no provider-specific information may be extrapolated.

D. The governing body of the public agency shall meet at least quarterly to oversee the operations of the emergency wireless telephone system, review expenditures, set and approve an operating budget, and take such other action as necessary for the operation and management of the system. The records and meetings of the governing body shall be subject to the Oklahoma Open Records Act and the Oklahoma Open Meeting Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2846 of Title 63, unless there is created a duplication in numbering, reads as follows:

The governing body may issue and sell bonds to finance:

1. The acquisition of facilities, equipment or supplies necessary to begin providing nine-one-one emergency wireless telephone service or any component or system associated therewith; or

2. Any payment necessary for the governing body to associate with an existing nine-one-one emergency wireless telephone service system.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2847 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No employee of a public agency or public agency acting under the provisions of this act shall be liable for the method of providing emergency wireless telephone service or for the method of providing or failure to provide emergency response service except as otherwise provided under the Governmental Tort Claims Act, nor shall such person or public agency have any special duty to any service user or other user of the emergency wireless telephone system.

B. A service provider of telecommunications service involved in providing wireless nine-one-one service is not liable for any claim, damage, or loss arising from the provision of wireless nine-one-one service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2848 of Title 63, unless there is created a duplication in numbering, reads as follows:

For the administration of nine-one-one emergency wireless telephone service as provided by law, any governing body may:

1. Contract directly with the wireless service provider;
2. Contract and cooperate with any public agency;
3. Contract with other states or their political subdivisions;
4. Contract with any association or corporation for their political subdivisions; or
5. Contract with any association or corporation.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2849 of Title 63, unless there is created a duplication in numbering, reads as follows:

No person shall call the number nine-one-one for the purpose of making a knowingly false alarm or complaint or reporting knowingly false information which could result in the dispatch of emergency services from any public agency as defined in Section 3 of this act. Nor shall any person call nine-one-one for nonemergency or personal use. Any person violating the provisions of this section, upon conviction, shall be guilty of a misdemeanor punishable by a fine of not to exceed Five Hundred Dollars (\$500.00) and by an assessment for the resulting costs of any dispatching of emergency personnel and equipment for each such offense.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2850 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. All local exchange companies, and wireless and other telephone service companies providing service to users in an area in which nine-one-one emergency telephone service is currently operating shall also provide emergency telephone service to all subscribing service users in that area. Wireless and other telephone service companies shall provide information necessary for automatic number identification, automatic location identification and selective routing of nine-one-one emergency wireless calls to cities and counties answering emergency telephone calls for maintenance of existing nine-one-one databases. The governing body may reasonably require sufficient information to ensure compliance with this section and to provide data for audit and budgetary calculation purposes.

B. Information that a wireless service provider is required to furnish in providing nine-one-one service is confidential and exempt from disclosure. The wireless service provider is not liable to any person who uses a nine-one-one service created under this act for the release of information furnished by the wireless service provider in providing nine-one-one service. Information that is confidential under this section may be released only for budgetary calculation purposes and only in aggregate form so that no provider-specific information may be extrapolated.

SECTION 11. This act shall become effective November 1, 1998.

46-2-2430

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