

1 1. "Consumer" means a person who purchases prepaid wireless
2 telecommunications service in a retail transaction;

3 2. "Prepaid wireless nine-one-one fee" means the fee that is
4 required to be collected by a seller from a consumer in the amount
5 established in this section;

6 3. "Provider" means a person who provides prepaid wireless
7 telecommunications service pursuant to a license issued by the
8 Federal Communications Commission;

9 4. "Retail transaction" means the purchase of prepaid wireless
10 telecommunications service from a seller for any purpose other than
11 for resale; and

12 5. "Seller" means a person who sells prepaid wireless
13 telecommunications service to another person.

14 B. There is hereby imposed a prepaid wireless nine-one-one fee
15 of fifty cents (\$0.50) per retail transaction or, on and after the
16 effective date of an adjusted amount per retail transaction that is
17 established under subsection G of this section, the adjusted amount.

18 C. The prepaid wireless nine-one-one fee shall be collected by
19 the seller from the consumer with respect to each retail transaction
20 occurring in this state. The amount of the prepaid wireless nine-
21 one-one fee shall either be separately stated on an invoice, receipt
22 or similar document that is provided to the consumer by the seller,
23 or otherwise disclosed to the consumer.

1 D. For purposes of subsection C of this section, a retail
2 transaction that is effected in person by a consumer at a business
3 location of the seller shall be treated as occurring in this state
4 if that business location is in this state. Any other retail
5 transaction shall be sourced as follows:

6 1. When the retail transaction does not occur at a business
7 location of the seller, the retail transaction is sourced to the
8 location where receipt by the consumer, or the consumer's donee,
9 designated as such by the consumer, occurs, including the location
10 indicated by instructions for delivery to the consumer or donee,
11 known to the seller;

12 2. When the provisions of paragraph 1 of this subsection do not
13 apply, the sale is sourced to the location indicated by an address
14 for the consumer that is available from the business records of the
15 seller that are maintained in the ordinary course of the seller's
16 business when use of this address does not constitute bad faith;

17 3. When the provisions of paragraphs 1 and 2 of this subsection
18 do not apply, the sale is sourced to the location indicated by an
19 address for the consumer obtained during the consummation of the
20 sale, including the address of a consumer's payment instrument, if
21 no other address is available, when use of this address does not
22 constitute bad faith; and

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1 4. When none of the previous rules of paragraphs 1, 2, and 3 of
2 this subsection apply, including the circumstance in which the
3 seller is without sufficient information to apply the previous
4 rules, then the location will be determined by the address from
5 which the service was provided, disregarding for these purposes any
6 location that merely provided the digital transfer of the product
7 sold. If the seller knows the mobile telephone number, the location
8 will be that which is associated with the mobile telephone number.

9 E. The prepaid wireless nine-one-one fee is the liability of
10 the consumer and not of the seller or of any provider, except that
11 the seller shall be liable to remit all prepaid wireless nine-one-
12 one fees that the seller collects from the consumer as provided for
13 in this section, including all charges that the seller is deemed to
14 collect where the amount of the fee has not been separately stated
15 on an invoice, receipt, or other similar document provided by the
16 consumer to the seller.

17 F. If the amount of the prepaid wireless nine-one-one fee is
18 separately stated on the invoice, the prepaid wireless nine-one-one
19 fee shall not be included in the base for measuring any tax, fee,
20 surcharge, or other charge that is imposed by the state, any
21 political subdivision of this state, or any intergovernmental
22 agency.

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1 G. The prepaid wireless nine-one-one fee shall be
2 proportionately increased or reduced, as applicable, upon any change
3 to the amount of the nine-one-one emergency wireless telephone fee
4 as provided in subsection A of Section 2843.1 of ~~Title 63 of the~~
5 ~~Oklahoma Statutes~~ this title. The increase or reduction shall be
6 effective on the effective date of the change to the nine-one-one
7 emergency wireless telephone fee as provided in subsection A of
8 Section 2843.1 of ~~Title 63 of the Oklahoma Statutes~~ this title or,
9 if later, the first day of the first calendar month to occur at
10 least sixty (60) days after the enactment of the change. The
11 Oklahoma Tax Commission shall provide not less than thirty (30)
12 days' advance notice of an increase or reduction on its public
13 website.

14 H. Prepaid wireless nine-one-one fees collected by sellers
15 shall be remitted to the Oklahoma Tax Commission at the times and in
16 a manner provided for under the Oklahoma Sales Tax Code with respect
17 to the sales tax imposed on prepaid wireless telecommunications
18 services. The Oklahoma Tax Commission shall establish registration
19 and payment procedures that substantially coincide with the
20 registration and payment procedures that apply under the Oklahoma
21 Sales Tax Code.

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1 I. A seller shall be permitted to deduct and retain three
2 percent (3%) of the prepaid wireless nine-one-one fees collected
3 from consumers.

4 J. The audit and appeal procedures, including limitations
5 period, applicable to the Oklahoma Sales Tax Code shall apply to
6 prepaid wireless nine-one-one fees.

7 K. The Oklahoma Tax Commission shall establish procedures by
8 which a seller may document that a sale is not a retail transaction.
9 The procedures shall be in substantial conformity with the
10 procedures for document sale for resale transactions under the
11 Oklahoma Sales Tax Code.

12 L. Within thirty (30) days of receipt, the Oklahoma Tax
13 Commission shall pay all remitted prepaid wireless nine-one-one fees
14 to the governing bodies that the Statewide Nine-One-One Advisory
15 Board has certified as eligible to receive funds. ~~Such~~ The
16 certification shall be provided to the Oklahoma Tax Commission
17 annually before July 1. Eligible governing bodies shall be those
18 governing bodies that have imposed, and are collecting, the nine-
19 one-one emergency wireless telephone fee as authorized in subsection
20 A of Section 2843.1 of ~~Title 63 of the Oklahoma Statutes~~ this title
21 or, for those counties that have not assessed a nine-one-one
22 emergency wireless telephone fee, the substate planning district
23 designated by that county. It shall be the duty and obligation of

1 the substate planning district to hold in a separate escrow account
2 all fees paid on behalf of counties in its region that have not
3 assessed a nine-one-one emergency wireless telephone fee pursuant to
4 Section 2843.1 of this title, until such time as the county votes to
5 assess the fee or develops wireless nine-one-one service pursuant to
6 Section 2849 of this title. ~~Such distribution~~ Distribution shall be
7 as follows:

8 1. Ninety-eight percent (98%) of the revenue from the fee is
9 hereby allocated to the governing bodies as defined in Section 2843
10 of ~~Title 63 of the Oklahoma Statutes~~ this title and shall be paid to
11 the governing bodies. The share for each governing body shall be
12 determined by dividing the population of the governing body by the
13 total population of ~~governing bodies where the fee authorized under~~
14 ~~subsection A of Section 2843.1 of Title 63 of the Oklahoma Statutes~~
15 ~~is imposed~~ the state. The Oklahoma Tax Commission shall develop the
16 formula on the basis of population residing within the governing
17 body, as shown by the latest available Federal Census estimates as
18 of July 1, or from the best information then available to the
19 Commission when the information is not available from the latest
20 available Federal Census; and

21 2. The remaining two percent (2%) of the revenue from the fee
22 shall be retained by the Oklahoma Tax Commission to reimburse its
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1 direct cost of administering the collection and remittance of
2 prepaid wireless nine-one-one fees.

3 Notwithstanding paragraphs 1 and 2 of this subsection, in the
4 fiscal year in which this act takes effect, prior to making the
5 distributions provided in paragraphs 1 and 2 of this subsection, the
6 Oklahoma Tax Commission shall retain an amount not to exceed Three
7 Hundred Thousand Dollars (\$300,000.00) to cover programming and
8 other one-time costs to implement a system to collect the prepaid
9 wireless nine-one-one fees. Distributions to governing bodies that
10 enact the wireless nine-one-one fee authorized under Section 2843.1
11 of ~~Title 63 of the Oklahoma Statutes~~ this title after the effective
12 date of this act shall commence in the calendar quarter after which
13 the Oklahoma Tax Commission has received at least one hundred twenty
14 (120) days' written notice from the governing body of the imposition
15 of the fee.

16 M. Money distributed by the Oklahoma Tax Commission to a
17 governing body pursuant to paragraph 1 of subsection L of this
18 section shall be used only for services related to nine-one-one
19 emergency wireless telephone services, including automatic number
20 identification and automatic location information services.

21 N. The provisions of subsection C of Section 2817 of ~~Title 63~~
22 ~~of the Oklahoma Statutes~~ this title shall apply to providers and
23 sellers of prepaid wireless telecommunications service.

1 O. The prepaid wireless nine-one-one fee imposed by this
2 section shall be the only nine-one-one funding obligation imposed
3 with respect to prepaid wireless telecommunications services in this
4 state, and no tax, fee, surcharge, or other charge shall be imposed
5 by this state, any political subdivision of this state, or any
6 intergovernmental agency, for nine-one-one funding purposes, upon
7 any provider, seller, or consumer with respect to the sale,
8 purchase, use, or provision of prepaid wireless telecommunications
9 service.

10 P. Money collected pursuant to this section shall be used only
11 for services related to nine-one-one emergency wireless telephone
12 services, including automatic number identification and automatic
13 location information services. The money remitted to the governing
14 body and any other money collected to fund the emergency wireless
15 telephone system shall be deposited in a special wireless nine-one-
16 one account established by the governing body to which the Oklahoma
17 Tax Commission has remitted the prepaid wireless nine-one-one fees
18 and that has established emergency wireless telephone service. The
19 special wireless nine-one-one account may be the same account that
20 is or was established by the governing body under subsection C of
21 Section 2843.1 of ~~Title 63 of the Oklahoma Statutes~~ this title.
22 Amounts not used within a given year shall be carried forward.

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Q. All wireless user information provided by a wireless service provider shall be deemed proprietary and is not subject to disclosure to the public or any other party.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated 02-24-2011 - DO PASS, As Coauthored.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.