

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 11

Introduced by Krist, 10.

Read first time January 10, 2013

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to telecommunications; to amend section 86-435,
2 Reissue Revised Statutes of Nebraska, and sections 86-457
3 and 86-903, Revised Statutes Cumulative Supplement, 2012;
4 to change provisions relating to surcharges for 911
5 service; to harmonize provisions; and to repeal the
6 original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 86-435, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 86-435 (1) A governing body may incur any nonrecurring or
4 recurring charges for the installation, maintenance, and operation of
5 911 service and shall pay such costs out of general funds which may
6 be supplemented by funds from the imposition of a service surcharge.
7 A governing body incurring costs for 911 service may impose a uniform
8 service surcharge of up to fifty cents per month on each telephone
9 number or functional equivalent of service users whose primary place
10 of use is within the governing body's 911 service area, except for
11 those service users served by wireless carriers as defined in section
12 86-456 and those service users who have no access to 911 service. The
13 initial service surcharge may be imposed at any time subsequent to
14 the execution of an agreement for 911 service with a service
15 supplier.

16 (2) ~~Except in a county containing a city of the~~
17 ~~metropolitan class, such~~ The uniform service surcharge in subsection
18 (1) of this section may be increased by an additional amount not to
19 exceed fifty cents per month. Such additional increase shall be made
20 only after:

21 (a) Publication of notices for a public hearing. Such
22 notices shall:

23 (i) Be published at least once a week for three
24 consecutive weeks in a legal newspaper published or of general
25 circulation in the areas affected;

1 (ii) Set forth the time, place, and date of such public
2 hearing; and

3 (iii) Set forth the purpose of the public hearing and the
4 purpose of the increase; and

5 (b) A public hearing is held pursuant to such notices.

6 (3) If 911 service is to be provided for a territory
7 which is included in whole or in part in the jurisdiction of two or
8 more governing bodies, the agreement for such service shall be
9 entered into by each such governing body unless any such governing
10 body expressly excludes itself from the agreement. Such an agreement
11 shall provide that each governing body which is a customer of 911
12 service will pay for its portion of the service. Nothing in this
13 subsection shall be construed to prevent two or more governing bodies
14 from entering into a contract which establishes a separate legal
15 entity for the purpose of entering into such an agreement as the
16 customer of the service supplier or any supplier of equipment for 911
17 service.

18 (4) If a governing body's 911 service area includes a
19 local exchange area which intersects governmental boundary lines, the
20 affected governmental units may cooperate to provide 911 service
21 through an agreement as provided in the Interlocal Cooperation Act or
22 the Joint Public Agency Act. The agreement shall provide for the
23 assessment of a uniform service surcharge within a governing body's
24 911 service area. The service surcharge on each telephone number or
25 functional equivalent of service users whose primary place of use is

1 within the governing body's 911 service area, except for those
2 service users served by wireless carriers as defined in section
3 86-456 and those service users who have no access to 911 service,
4 shall be the same as the amount allowed in subsections (1) and (2) of
5 this section.

6 (5) Funds generated by the service surcharge shall be
7 expended only for the purchase, installation, maintenance, and
8 operation of telecommunications equipment and telecommunications-
9 related services required for the provision of 911 service.

10 Sec. 2. Section 86-457, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 86-457 (1) Each wireless carrier shall collect: ~~(a) A a~~
13 surcharge of up to seventy cents, ~~except as provided in subdivision~~
14 ~~(1)(b) of this subsection,~~ on all active telephone numbers or
15 functional equivalents every month from users of wireless service and
16 shall remit the surcharge in accordance with section 86-459. ~~;~~ ~~or~~

17 ~~(b) A surcharge of up to fifty cents on all active~~
18 ~~telephone numbers or functional equivalents every month from users of~~
19 ~~wireless service whose primary place of use is in a county containing~~
20 ~~a city of the metropolitan class and shall remit the surcharge in~~
21 ~~accordance with section 86-459.~~

22 The wireless carrier is not liable for any surcharge not
23 paid by a customer.

24 (2) Except as otherwise provided in this section, the
25 wireless carrier shall add the surcharge to each user's billing

1 statement. The surcharge shall appear as a separate line-item charge
2 on the user's billing statement and shall be labeled as "Enhanced
3 Wireless 911 Surcharge" or a reasonable abbreviation of such phrase.

4 (3) If a wireless carrier, except as otherwise provided
5 in this section, resells its service through other entities, each
6 reseller shall collect the surcharge from its customers and shall
7 remit the surcharge in accordance with section 86-459.

8 (4) The surcharges authorized by this section shall not
9 apply to prepaid wireless telecommunications service as defined in
10 section 86-902.

11 (5) This section shall not apply to users who have no 911
12 service.

13 Sec. 3. Section 86-903, Revised Statutes Cumulative
14 Supplement, 2012, is amended to read:

15 86-903 (1) The Department of Revenue shall determine the
16 prepaid wireless surcharge annually, effective January 1, based on
17 the charges described in subsection (2) of this section as in effect
18 on the preceding July 1. The department shall provide not less than
19 ninety days' advance notice of any change in the prepaid wireless
20 surcharge on the department's web site.

21 (2) The prepaid wireless surcharge shall be the sum of
22 the following two percentages, rounded up to the nearest tenth of one
23 percent:

24 (a) The percentage obtained by dividing (i) the amount of
25 the wireless E-911 surcharge authorized under ~~subdivision (1)(b)~~

1 subsection (1) of section 86-457 by (ii) fifty; and

2 (b) The percentage obtained by dividing (i) the amount of
3 the Nebraska Telecommunications Relay System Fund surcharge set by
4 the Public Service Commission pursuant to the Telecommunications
5 Relay System Act by (ii) fifty.

6 (3) Beginning January 1, 2013, each seller shall collect
7 the prepaid wireless surcharge from the consumer with respect to each
8 retail transaction occurring in this state. The seller shall disclose
9 the amount of the prepaid wireless surcharge either separately on an
10 invoice, receipt, or other similar document that is provided to the
11 consumer by the seller or otherwise. A retail transaction that is
12 effected in person by a consumer at a business location of the seller
13 shall be treated as occurring in this state if that business location
14 is in this state, and any other retail transaction shall be treated
15 as occurring in this state if the retail transaction is treated as
16 occurring in this state for purposes of section 77-2703.

17 (4) The prepaid wireless surcharge is the liability of
18 the consumer and not of the seller or of any provider, except that
19 the seller shall be liable to remit all prepaid wireless surcharges
20 that the seller collects from consumers as provided in section
21 86-904, including all such charges that the seller is deemed to
22 collect when the amount of the charge has not been separately stated
23 on an invoice, receipt, or other similar document provided to the
24 consumer by the seller.

25 (5) The amount of the prepaid wireless surcharge that is

1 collected by a seller from a consumer, whether or not such amount is
2 separately stated on an invoice, receipt, or other similar document
3 provided to the consumer by the seller, shall not be included in the
4 base for measuring any tax, fee, surcharge, or other charge that is
5 imposed by this state, any political subdivision of this state, or
6 any intergovernmental agency.

7 (6) For purposes of subsection (3) of this section, when
8 prepaid wireless telecommunications service is sold with one or more
9 other products or services for a single, non-itemized price, the
10 seller shall elect to treat the price of the prepaid wireless
11 telecommunications service (a) as such entire non-itemized price, (b)
12 if the amount of prepaid wireless telecommunications service is
13 disclosed to the consumer as a dollar amount, as such dollar amount,
14 or (c) if the retailer can identify the portion of the price that is
15 attributable to the prepaid wireless telecommunications service by
16 reasonable and verifiable standards from its books and records that
17 are kept in the regular course of business for other purposes,
18 including, but not limited to, nontax purposes, as such portion. If
19 the amount of prepaid wireless telecommunications service is
20 denominated as ten minutes or less or as five dollars or less, the
21 seller may elect not to collect any prepaid wireless surcharge with
22 respect to the retail transaction.

23 Sec. 4. Original section 86-435, Reissue Revised Statutes
24 of Nebraska, and sections 86-457 and 86-903, Revised Statutes
25 Cumulative Supplement, 2012, are repealed.