

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 215

Introduced by Hughes, 44.

Read first time January 11, 2021

Committee: Transportation and Telecommunications

- 1 A BILL FOR AN ACT relating to telecommunications; to amend sections
2 86-435 and 86-457, Reissue Revised Statutes of Nebraska, and section
3 86-903, Revised Statutes Cumulative Supplement, 2020; to change 911
4 service surcharge provisions under the Emergency Telephone
5 Communications Systems Act, the Enhanced Wireless 911 Services Act,
6 and the Prepaid Wireless Surcharge Act as prescribed; and to repeal
7 the original sections.
8 Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

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

24 (iii) Set forth the purpose of the public hearing and the purpose of
25 the increase; and

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

27 (3) If 911 service is to be provided for a territory which is
28 included in whole or in part in the jurisdiction of two or more governing
29 bodies, the agreement for such service shall be entered into by each such
30 governing body unless any such governing body expressly excludes itself
31 from the agreement. Such an agreement shall provide that each governing

1 body which is a customer of 911 service will pay for its portion of the
2 service. Nothing in this subsection shall be construed to prevent two or
3 more governing bodies from entering into a contract which establishes a
4 separate legal entity for the purpose of entering into such an agreement
5 as the customer of the service supplier or any supplier of equipment for
6 911 service.

7 (4) If a governing body's 911 service area includes a local exchange
8 area which intersects governmental boundary lines, the affected
9 governmental units may cooperate to provide 911 service through an
10 agreement as provided in the Interlocal Cooperation Act or the Joint
11 Public Agency Act. The agreement shall provide for the assessment of a
12 uniform service surcharge within a governing body's 911 service area. The
13 service surcharge on each telephone number or functional equivalent of
14 service users whose primary place of use is within the governing body's
15 911 service area, except for those service users served by wireless
16 carriers as defined in section 86-456 and those service users who have no
17 access to 911 service, shall be the same as the amount allowed in
18 subsections (1) and (2) of this section.

19 (5) Funds generated by the service surcharge shall be expended only
20 for the purchase, installation, maintenance, and operation of
21 telecommunications equipment and telecommunications-related services
22 required for the provision of 911 service.

23 Sec. 2. Section 86-457, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 86-457 (1) Each wireless carrier shall collect a ~~:(a)~~ A surcharge of
26 up to seventy cents, ~~except as provided in subdivision (1)(b) of this~~
27 ~~subsection,~~ on all active telephone numbers or functional equivalents
28 every month from users of wireless service and shall remit the surcharge
29 in accordance with section 86-459; ~~or (b) A surcharge of up to fifty cents~~
30 ~~on all active telephone numbers or functional equivalents every month~~
31 ~~from users of wireless service whose primary place of use is in a county~~

1 ~~containing a city of the metropolitan class and shall remit the surcharge~~
2 ~~in accordance with section 86-459.~~ The wireless carrier is not liable for
3 any surcharge not paid by a customer.

4 (2) Except as otherwise provided in this section, the wireless
5 carrier shall add the surcharge to each user's billing statement. The
6 surcharge shall appear as a separate line-item charge on the user's
7 billing statement and shall be labeled as "Enhanced Wireless 911
8 Surcharge" or a reasonable abbreviation of such phrase.

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

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

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

16 Sec. 3. Section 86-903, Revised Statutes Cumulative Supplement,
17 2020, is amended to read:

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

24 (2) The rate of the prepaid wireless surcharge shall be the sum of
25 the following three percentages, rounded up to the nearest tenth of one
26 percent:

27 (a) The percentage obtained by dividing (i) the amount of the
28 wireless E-911 surcharge authorized under subsection (1) subdivision (1)
29 ~~(b)~~ of section 86-457 by (ii) fifty;

30 (b) The percentage obtained by dividing (i) the amount of the
31 Nebraska Telecommunications Relay System Fund surcharge set by the Public

1 Service Commission pursuant to the Telecommunications Relay System Act by
2 (ii) fifty; and

3 (c) The percentage obtained by multiplying (i) the Nebraska
4 Telecommunications Universal Service Fund surcharge percentage rate set
5 by the Public Service Commission by (ii) one minus the Federal
6 Communications Commission safe harbor percentage for determining the
7 interstate portion of a fixed monthly wireless charge.

8 (3) The Department of Revenue shall provide the Public Service
9 Commission with prepaid wireless surcharge calculation and collection
10 data upon request by the commission.

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

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

29 (6) The amount of the prepaid wireless surcharge that is collected
30 by a seller from a consumer, whether or not such amount is separately
31 stated on an invoice, receipt, or other similar document provided to the

1 consumer by the seller, shall not be included in the base for measuring
2 any tax, fee, surcharge, or other charge that is imposed by this state,
3 any political subdivision of this state, or any intergovernmental agency.

4 (7) For purposes of subsection (4) of this section, when prepaid
5 wireless telecommunications service is sold with one or more other
6 products or services for a single, non-itemized price, the seller shall
7 elect to treat the price of the prepaid wireless telecommunications
8 service (a) as such entire non-itemized price, (b) if the amount of
9 prepaid wireless telecommunications service is disclosed to the consumer
10 as a dollar amount, as such dollar amount, or (c) if the retailer can
11 identify the portion of the price that is attributable to the prepaid
12 wireless telecommunications service by reasonable and verifiable
13 standards from its books and records that are kept in the regular course
14 of business for other purposes, including, but not limited to, nontax
15 purposes, as such portion. If the amount of prepaid wireless
16 telecommunications service is denominated as ten minutes or less or as
17 five dollars or less, the seller may elect not to collect any prepaid
18 wireless surcharge with respect to the retail transaction.

19 Sec. 4. Original sections 86-435 and 86-457, Reissue Revised
20 Statutes of Nebraska, and section 86-903, Revised Statutes Cumulative
21 Supplement, 2020, are repealed.