

Fifty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2307

Introduced by

Senators Krebsbach, Heitkamp, Kringstad

Representatives Clark, Dorso, Kroeber

1 A BILL for an Act to create and enact sections 57-40.6-02.1 and 57-40.6-02.2 of the North  
2 Dakota Century Code, relating to a wireless 911 service fee and service fund; to amend and  
3 reenact sections 57-40.6-01, 57-40.6-06, 57-40.6-07, and 57-40.6-08 of the North Dakota  
4 Century Code, relating to wireless 911 service fees, definitions, and communications; and to  
5 provide a continuing appropriation.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 57-40.6-01 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **57-40.6-01. Definitions.** In this chapter, unless the context or subject matter otherwise  
10 requires:

- 11 1. "Commercial mobile radio service provider" means any provider of wireless  
12 telephone service or any communications service capable of accessing a public  
13 safety answering point by dialing the digits 9-1-1.
- 14 2. "Emergency services communication system" means a statewide, countywide, or  
15 citywide radio system, land lines communication network, or emergency 911  
16 telephone system, which provides rapid public access for coordinated dispatching  
17 of services, personnel, equipment, and facilities for law enforcement, fire, medical,  
18 or other emergency services.
- 19 3. "Enhanced 911 wireless service" has the meaning provided by the federal  
20 communications commission under a two-phase implementation of a wireless  
21 enhanced 911 technology. Phase I provides for a commercial mobile radio service  
22 subscriber's telephone number and the location of the cell site transmitting the call  
23 to those public safety answering points which request enhanced 911 wireless  
24 service. Phase II requires commercial mobile radio service providers to be able to

1           identify the location of the commercial mobile radio service subscriber within one  
2           hundred twenty-five meters at least sixty-seven percent of the time by October 1,  
3           2001.

4           4. "Public safety answering point" means a communications facility operated on a  
5           twenty-four-hour basis which first receives 911 calls from persons in a 911 service  
6           area and which may, as appropriate, directly dispatch public safety services or  
7           extend, transfer, or relay 911 calls to appropriate public safety agencies.

8           ~~2.~~ 5. "Telephone access line" means the principal land-line or fixed-line access to the  
9           telephone telecommunications company's switched network including an outward  
10           dialed trunk or access register.

11           6. "Wireless telephone service" means commercial mobile radio service as defined  
12           by 47 U.S.C. 332(d)(1) and includes any of the following:

13           a. Services commonly referred to as wireless.  
14           b. Services provided by wireless real time two-way voice communication  
15           devices, including radio-telephone communications used in:

16                   (1) Cellular telephone services;  
17                   (2) Personal communications services; or  
18                   (3) The functional or competitive equivalent of a radio-telephone  
19                   communications line used in cellular telephone services, a personal  
20                   communications services, or a network radio access line.

21           **SECTION 2.** Section 57-40.6-02.1 of the North Dakota Century Code is created and  
22           enacted as follows:

23           **Wireless 911 service fee, administration, collection.** A wireless 911 service fee is  
24           imposed at a rate of one dollar per month on each commercial mobile radio service telephone  
25           service number provided within the state, except for those issued to the federal government or  
26           agencies of the federal government. The tax commissioner shall administer this section and  
27           the fee imposed. The commissioner may adopt rules not inconsistent with this chapter  
28           necessary for its administration, including appropriate penalties and interest for late payment of  
29           the fee. The fee must be collected and remitted as follows:

- 1           1. Each commercial mobile radio service provider shall add the wireless 911 service  
2           fee to its subscribers' billings, separately stating the amount of the 911 wireless  
3           service fee.
- 4           2. The commercial mobile radio service provider shall collect the 911 service fee and  
5           may retain two percent of the fees collected by the provider for the purpose of  
6           defraying the administrative costs of collecting and remitting the fees.
- 7           3. The commercial mobile radio service provider shall remit the balance of the  
8           wireless service fees collected to the tax commissioner on or before the last day of  
9           the month following the month the fees were collected.
- 10          4. The tax commissioner may retain one percent of the fees received for the services  
11          rendered in connection with their collection and disbursement and transfer this  
12          amount to the state treasurer at the end of each month for deposit in the state  
13          general fund.
- 14          5. The tax commissioner shall transfer the balance of the fees received under this  
15          section to the state treasurer at the end of each month for deposit in the wireless  
16          911 service fund.

17           **SECTION 3.** Section 57-40.6-02.2 of the North Dakota Century Code is created and  
18 enacted as follows:

19           **Wireless 911 service fund - Allocation - Continuing appropriation.** Revenues  
20 deposited in the wireless 911 service fund are provided as a standing and continuing  
21 appropriation to the state treasurer for allocation as follows:

- 22          1. Twenty-five percent of the revenues must be allocated monthly in equal shares to  
23          political subdivisions operating a public safety answering point. Political  
24          subdivisions served by the state public safety answering point must be treated as  
25          one public safety answering point for the purposes of this subsection and must be  
26          allocated a portion of the revenues based upon the proportion each of those  
27          political subdivision's telephone access lines bears to the total number of  
28          telephone access lines served by the state public safety answering point.  
29          Revenue received under this subsection must be used by the political subdivision  
30          for establishing and operating a 911 emergency services communication system  
31          including enhanced 911 wireless service.

1           2. Seventy-five percent of the revenues must be allocated monthly to political  
2           subdivisions responsible for the emergency services communication system in  
3           each political subdivision based upon the proportion the population served by the  
4           emergency services communication system bears to the total population of the  
5           state served by emergency services communication systems, as indicated by the  
6           most current census. However, these funds and the interest earned must be held  
7           in escrow by the state treasurer for each political subdivision until the governing  
8           board of the political subdivision certifies that it has formally begun the  
9           implementation of phase I or phase II of enhanced 911 wireless service as defined  
10          by the federal communications commission. The certification must include  
11          documentation of agreements between political subdivisions or public safety  
12          answering points and commercial mobile service providers which authorize the  
13          purchase of equipment or services necessary to implement enhanced 911 wireless  
14          service. The funds must be designated for the implementation of enhanced 911  
15          wireless service and allocated by political subdivisions on the basis of actual costs  
16          incurred by public safety answering points and commercial mobile radio service  
17          providers.

18           **SECTION 4. AMENDMENT.** Section 57-40.6-06 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20           **57-40.6-06. Data base.** ~~In 911 systems that have been approved by the state~~  
21 ~~emergency service communication system advisory committee, any~~ Any telecommunications  
22 company providing emergency 911 service shall provide upon request, on an annual basis,  
23 current customer names, addresses, and telephone numbers to each public ~~service~~ safety  
24 answering point within each 911 system ~~and shall update the information according to a~~  
25 ~~schedule prescribed by the state 911 advisory committee's standards and guidelines.~~

26 Information provided under this section must be provided in accordance with the transactional  
27 record disclosure requirements of the federal Electronics Communications Privacy Act of 1986,  
28 18 U.S.C. 2703 (C)(1)(B)(iv).

29           **SECTION 5. AMENDMENT.** Section 57-40.6-07 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1           **57-40.6-07. Use of the furnished information.** Names, addresses, and telephone  
2 numbers provided to a 911 public ~~service~~ safety answering point under section 57-40.6-06 are  
3 private data and may be used only for verifying the location or identity, or both, for response  
4 purposes only, of a person calling a 911 answering point for emergency help. The information  
5 furnished may not be used or disclosed by the public ~~service~~ safety answering point or its  
6 agents or employees for any other purpose except those specifically required by state law or  
7 under a court order issued for good cause shown after notice to the submitting  
8 telecommunications company or commercial mobile radio service provider, or upon written  
9 consent granted by the submitting telecommunications company or commercial mobile radio  
10 service provider.

11           **SECTION 6. AMENDMENT.** Section 57-40.6-08 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13           **57-40.6-08. Emergency services communication system or emergency**  
14 **instructions - Liability.**

- 15           1. A public agency, public safety agency, commercial mobile radio service provider,  
16 or local exchange telecommunications company that provides access to an  
17 emergency services communication system ~~at or below cost,~~ or any officer, agent,  
18 or employee of any public agency, public safety agency, commercial mobile radio  
19 service provider, or local exchange telecommunications company, is not liable for  
20 any civil damages as a result of any act or omission except willful and wanton  
21 misconduct or gross negligence in connection with developing, adopting,  
22 operating, or implementing any plan or system as provided under this chapter.
- 23           2. A person who gives emergency instructions through a an emergency services  
24 communication system as provided under this chapter, to persons rendering  
25 services in an emergency at another location, or any person following such  
26 instructions in rendering such services, is not liable for any civil damages as a  
27 result of issuing or following the instructions, unless issuing or following the  
28 instructions constitutes willful and wanton misconduct or gross negligence.
- 29           3. This section does not waive, limit, or modify any existing immunity or other defense  
30 of the state or any political subdivision, or any of its agencies, departments,

1           commissions, boards, officers, or employees, nor does it create any claim for relief  
2           against any of these entities.

3           4. A public agency, public safety agency, commercial mobile radio service provider,  
4           or local exchange telecommunications company that provides access to an  
5           emergency services communications system or any officer, agency, or employee  
6           of any public agency, public safety agency, commercial mobile radio service  
7           provider, or local exchange telecommunications company and its data base vendor  
8           is not liable for any civil damages resulting from the release of a wireless  
9           customer's telephone number or other subscriber information provided to any  
10          public safety answering point.

11          5. All proprietary information of commercial mobile radio service providers, including  
12          a commercial mobile radio service provider's customer lists and information  
13          concerning a commercial mobile radio service provider's actual or estimated costs  
14          and revenues, submitted to a public agency, public safety agency, political  
15          subdivision, or state agency may be released or published in aggregate amounts  
16          that do not identify or allow identification of number of subscribers, costs, or  
17          revenues of an individual commercial mobile radio service provider.