

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,
one thousand nine hundred and ninety-nine**

SENATE BILL NO. 2307
(Senators Krebsbach, Heitkamp, Kringstad)
(Representatives Clark, Dorso, Kroeber)

AN ACT to create and enact sections 57-40.6-02.1, 57-40.6-02.2, and 57-40.6-10 of the North Dakota Century Code, relating to a wireless 911 service fee, service fund, and planning committee; to amend and reenact sections 57-40.6-01, 57-40.6-06, 57-40.6-07, and 57-40.6-08 of the North Dakota Century Code, relating to wireless 911 service fees, definitions, and communications; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. "Commercial mobile radio service provider" means any provider of wireless telephone service or any communications service capable of accessing a public safety answering point by dialing the digits 9-1-1.
2. "Emergency services communication system" means a statewide, countywide, or citywide radio system, land lines communication network, or emergency 911 telephone system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for law enforcement, fire, medical, or other emergency services.
3. "Enhanced 911 wireless service" has the meaning provided by the federal communications commission under a two-phase implementation of a wireless enhanced 911 technology. Phase I provides for a commercial mobile radio service subscriber's telephone number and the location of the cell site transmitting the call to those public safety answering points which request enhanced 911 wireless service. Phase II requires commercial mobile radio service providers to be able to identify the location of the commercial mobile radio service subscriber within one hundred twenty-five meters at least sixty-seven percent of the time by October 1, 2001.
4. "Public safety answering point" means a communications facility operated on a twenty-four-hour basis which first receives 911 calls from persons in a 911 service area and which may, as appropriate, directly dispatch public safety services or extend, transfer, or relay 911 calls to appropriate public safety agencies.
2. 5. "Telephone access line" means the principal land-line or fixed-line access to the telephone telecommunications company's switched network including an outward dialed trunk or access register.
6. "Wireless telephone service" means commercial mobile radio service as defined by 47 U.S.C. 332(d)(1) and includes any of the following:
 - a. Services commonly referred to as wireless.
 - b. Services provided by wireless real time two-way voice communication devices, including radio-telephone communications used in:
 - (1) Cellular telephone services;

- (2) Personal communications services; or
- (3) The functional or competitive equivalent of a radio-telephone communications line used in cellular telephone services, a personal communications services, or a network radio access line.

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

57-40.6-02.1. Wireless 911 service fee, administration, collection. A wireless 911 service fee is imposed at a rate of forty cents per month on each commercial mobile radio service telephone service number provided within the state, except for those issued to the federal government or agencies of the federal government. The tax commissioner shall administer this section and the fee imposed. The commissioner may adopt rules not inconsistent with this chapter necessary for its administration, including appropriate penalties and interest for late payment of the fee. The fee must be collected and remitted as follows:

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

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

57-40.6-02.2. Wireless 911 service fund - Allocation - Continuing appropriation. Revenues deposited in the wireless 911 service fund are provided as a standing and continuing appropriation to the state treasurer for allocation as follows:

1. Revenues from twenty-five cents per month per telephone service number from the fee imposed under section 57-40.6-02.1 must be allocated monthly in equal shares to political subdivisions operating a public safety answering point. Political subdivisions served by the state public safety answering point must be treated as one public safety answering point for the purposes of this subsection and must be allocated a portion of the revenues based upon the proportion each of those political subdivision's telephone access lines bears to the total number of telephone access lines served by the state public safety answering point. Revenue received under this subsection must be used by the political subdivision for establishing and operating a 911 emergency services communication system including enhanced 911 wireless service.
2. Revenues remaining after the allocation under subsection 1 must be allocated monthly to political subdivisions responsible for the emergency services communication system in each political subdivision based upon the proportion the population served by the emergency services communication system bears to the total population of the state served by emergency services communication systems, as indicated by the most current census. However, these funds and the interest earned must be held in escrow by the state treasurer for each political subdivision until the governing board of the political subdivision certifies that it has formally begun the implementation of phase I or phase II of enhanced

911 wireless service as defined by the federal communications commission. The certification must include documentation of agreements between political subdivisions or public safety answering points and commercial mobile service providers which authorize the purchase of equipment or services necessary to implement enhanced 911 wireless service. The funds must be designated for the implementation of enhanced 911 wireless service and allocated by political subdivisions on the basis of actual costs incurred by public safety answering points and commercial mobile radio service providers.

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

57-40.6-06. Data base. ~~In 911 systems that have been approved by the state emergency service communication system advisory committee, any~~ Any telecommunications company providing emergency 911 service shall provide upon request, on an annual basis, current customer names, addresses, and telephone numbers to each public ~~service~~ safety answering point within each 911 system ~~and shall update the information according to a schedule prescribed by the state 911 advisory committee's standards and guidelines.~~ Information provided under this section must be provided in accordance with the transactional record disclosure requirements of the federal Electronics Communications Privacy Act of 1986, 18 U.S.C. 2703 (C)(1)(B)(iv).

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

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

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

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

1. A public agency, public safety agency, commercial mobile radio service provider, or local exchange telecommunications company that provides access to an emergency services communication system ~~at or below cost~~, or any officer, agent, or employee of any public agency, public safety agency, commercial mobile radio service provider, or local exchange telecommunications company, is not liable for any civil damages as a result of any act or omission except willful and wanton misconduct or gross negligence in connection with developing, adopting, operating, or implementing any plan or system as provided under this chapter.
2. A person who gives emergency instructions through a an emergency services communication system as provided under this chapter, to persons rendering services in an emergency at another location, or any person following such instructions in rendering such services, is not liable for any civil damages as a result of issuing or following the instructions, unless issuing or following the instructions constitutes willful and wanton misconduct or gross negligence.
3. This section does not waive, limit, or modify any existing immunity or other defense of the state or any political subdivision, or any of its agencies, departments, commissions, boards, officers, or employees, nor does it create any claim for relief against any of these entities.

4. A public agency, public safety agency, commercial mobile radio service provider, or local exchange telecommunications company that provides access to an emergency services communications system or any officer, agency, or employee of any public agency, public safety agency, commercial mobile radio service provider, or local exchange telecommunications company and its data base vendor is not liable for any civil damages resulting from the release of a wireless customer's telephone number or other subscriber information provided to any public safety answering point.
5. All proprietary information of commercial mobile radio service providers, including a commercial mobile radio service provider's customer lists and information concerning a commercial mobile radio service provider's actual or estimated costs and revenues, submitted to a public agency, public safety agency, political subdivision, or state agency may be released or published in aggregate amounts that do not identify or allow identification of number of subscribers, costs, or revenues of an individual commercial mobile radio service provider.

SECTION 7. Section 57-40.6-10 of the North Dakota Century Code is created and enacted as follows:

57-40.6-10. Enhanced 911 wireless service planning committee. An enhanced 911 wireless service planning committee is created to consist of five members. The governor shall appoint one member to represent commercial mobile radio service providers, one member to represent telecommunications companies providing land-line or fixed-line service, one member to represent a county served by state radio communications in the emergency services communication system, and one member from the information technology committee of the legislative council. The North Dakota association of counties shall appoint one member of the committee. The governor shall designate the chairman of the committee. The state radio communications office shall provide staff services to the committee.

The committee shall develop proposed legislation for implementation of a statewide plan regarding enhanced 911 wireless service and fees, administration, and allocation of revenues. Before November 1, 2001, the proposed legislation must be presented by the committee to the budget section of the legislative council for consideration.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2307.

Senate Vote: Yeas 47 Nays 1 Absent 1

House Vote: Yeas 72 Nays 23 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,
at _____ o'clock _____ M.

Secretary of State