

HOUSE BILL No. 2428

By Committee on Taxation

3-6

AN ACT concerning enhanced wireless emergency telecommunications system; providing for financing by a surcharge imposed hereunder; establishing a wireless enhanced 911 advisory board; amending K.S.A. 12-5301 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 12-5301 is hereby amended to read as follows: 12-5301. As used in this act, unless the context otherwise requires:

(a) ~~“Emergency telephone service” means a telephone system utilizing a single three digit number “911” for reporting police, fire, medical or other emergency situations;~~

~~—(b) “emergency telephone tax” means a tax to finance the operation of emergency telephone service;~~

~~—(c) “exchange Access facilities” means all facilities provided by the service supplier for the facility which provides local telephone exchange access to a service user;~~

~~(d) “tariff rate” means the rate or rates billed by a service supplier and as stated in the service supplier’s tariffs, approved by the state corporation commission which represent the service supplier’s recurring charges for exchange access facilities or their equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever;~~

~~—(e) “public agency” means any city, county, municipal corporation, public district or public authority located in whole or in part within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical or other emergency services;~~

~~—(f) (b) “administrator” means the person appointed by the governor and employed by or contracted with the Kansas highway patrol to administer the enhanced wireless 911 fund;~~

(c) “automatic number identification (ANI)” means a telecommunications signaling parameter which refers to the number transmitted through a network identifying the number associated with the originator of a call. With respect to wireless 911 services, “ANI” means a feature by which the pseudo-automatic number identification is automatically forwarded to the 911 selective routing switch and to the PSAP customer premise equipment (CPE) for display;

1 (d) “advisory board” means the enhanced wireless 911 advisory
2 board;

3 (e) “emergency telephone system” means a 911 telephone service and
4 the system for processing reports made by use of such service and for
5 dispatching responders in response to such reports;

6 (f) “emergency telephone tax” means a tax to finance the operation of
7 an emergency telephone system;

8 (g) “enhanced 911 service” means an emergency telephone service
9 that generally may provide, but is not limited to, selective routing, auto-
10 matic number identification and automatic location identification
11 features;

12 (h) “enhanced wireless 911 service” means a communication service
13 by which wireless telecommunication carriers can provide automatic
14 number identification, pseudo-automatic number identification or wire-
15 less automatic location identification information to a requesting public
16 safety answering point as defined in FCC docket 94-102 which is capable
17 of receiving and utilizing the data elements associated with enhance wire-
18 less 911 service, and has a mechanism for covering its costs of receiving
19 and utilizing the enhanced wireless 911 data elements in place;

20 (i) “governing body” means the board of county commissioners of a
21 county or the governing body of a city;

22 (j) “911 telephone service” means a telephone system utilizing a single
23 three digit number “911” for reporting police, fire, medical or other emer-
24 gency situations;

25 ~~(g)~~ (k) “person” means any individual, firm, partnership, copartner-
26 ship, joint venture, association, cooperative organization, corporation,
27 municipal or private, and whether organized for profit or not, state,
28 county, political subdivision, state department, commission, board, bu-
29 reau or fraternal organization, nonprofit organization, estate, trust, busi-
30 ness or common law trust, receiver, assignee for the benefit of creditors,
31 trustee or trustee in bankruptcy or any other service user;

32 (l) “PSAP” means public safety answering point;

33 (m) “pseudo-automatic number identification” means a 10-digit num-
34 ber used to support routing of wireless 911 calls;

35 (n) “public agency” means any city, county, municipal corporation,
36 public district or public authority located in whole or in part within this
37 state which provides or has authority to provide, law enforcement, fire-
38 fighting, ambulance, emergency medical or other emergency services;

39 ~~(h)~~ (o) “service supplier” means any person providing exchange tel-
40 ephone services or wireless service to any service user in this state;

41 ~~(i)~~ (p) “service user” means any person who is provided exchange
42 telephone service or wireless in this state;

43 (q) “subscriber account” means the 10-digit access number assigned

1 to a customer regardless of whether more than one such number is ag-
2 gregated for the purpose of billing a service user;

3 (r) “tariff rate” means the rate or rates billed by an exchange tele-
4 phone service supplier and as stated in the service supplier’s tariffs, ap-
5 proved by the state corporation commission which represent the service
6 supplier’s recurring charges for exchange access facilities or their equiv-
7 alent, exclusive of all taxes, fees, licenses or similar charges whatsoever;

8 (s) “wireless automatic location information” means information pro-
9 vided to a public safety answering point identifying the location of the
10 wireless unit originating a 911 call according to the requirements and
11 standards in the 94-102 FCC order and subsequent amendments;

12 ~~(j)~~ (t) “wireless carrier” means any common, private or other radio
13 carrier licensed by the federal communications commission to provide
14 two-way voice or text radio service in this state which provides intercon-
15 nection to the public switched telephone network and access to a 24-hour
16 answering point; and

17 ~~(k)~~ (u) “wireless service” means a two-way voice or text radio service
18 provided by a wireless carrier; and

19 ~~(l) “PSAP” means public safety answering point.~~

20 New Sec. 2. On and after July 1, 2003, each wireless carrier who has
21 a subscriber with primary place of use as defined in the mobile telecom-
22 munications sourcing act in the state of Kansas shall collect from each
23 subscriber a surcharge of \$.50 per month per subscriber telephone num-
24 ber in the state. The surcharge imposed hereunder shall ensure, over a
25 reasonable period of time, the full recovery by PSAPs and wireless carriers
26 of costs associated with developing and maintaining an enhanced wireless
27 911 telecommunications system on a technologically and competitively
28 neutral basis. The wireless carrier shall add the surcharge to each sub-
29 scriber’s telephone bill. The wireless carrier shall have no obligation to
30 take any legal action to enforce the collection of any surcharge imposed
31 under authority of this act.

32 Any surcharge imposed under authority of this act shall be collected
33 insofar as practicable at the same time as, and along with, other charges
34 owed by the subscriber in accordance with the regular billing practice of
35 the wireless carrier. The surcharge shall appear as a separate line item
36 charge on the subscriber’s billing statement and shall be labeled as “en-
37 hanced wireless 911 surcharge” or a similar description. No surcharge
38 shall be imposed pursuant to this section on a wireless connection used
39 for remote control purpose and capable of accessing only one number.

40 New Sec. 3. (a) Each wireless carrier shall remit to the administrator
41 50% of the amount of the surcharge collected monthly together with
42 forms required by the administrator.

43 (b) Each wireless carrier shall maintain surcharge and remittance re-

1 cords for a period of two years after the date of the billing of the surcharge
2 to the subscriber. The administrator shall remit the funds to the state
3 treasurer for credit to the enhanced wireless 911 fund. The administrator
4 may require an audit of any wireless carrier's books and records concern-
5 ing the collection and remittance of the surcharge pursuant to this act.
6 Any such audit shall be conducted at the administrator's expense.

7 (c) Carriers shall retain 50% of the collected surcharge as a partial
8 off set of its costs for providing the PSAP requested services related to
9 enhanced wireless 911 implementation and maintenance.

10 New Sec. 4. (a) The enhanced wireless 911 advisory board is estab-
11 lished to advise the administrator concerning the implementation, devel-
12 opment, administration, coordination, evaluation and maintenance of en-
13 hanced wireless 911 service. The advisory board shall be composed of six
14 individuals including:

15 (1) One representative of local law enforcement appointed by the
16 governor;

17 (2) one representative of the Kansas highway patrol appointed by the
18 governor;

19 (3) one county official or county employee appointed by the governor;

20 (4) one municipal official or municipal employee appointed by the
21 governor;

22 (5) one member shall be a person with a communication disability
23 recommended by the Kansas commission for the deaf and hard of hear-
24 ing; and

25 (6) one legislator, appointed by the legislative coordinating council.

26 (b) The board shall meet as often as necessary to carry out its duties.
27 Members of the board shall be reimbursed for their actual and necessary
28 expenses. The provisions of this section and section 5, and amendments
29 thereto, shall expire on July 1, 2007. The board shall prepare a report
30 concerning the extent to which the purposes of this act have been
31 achieved including the extent to which enhanced wireless 911 service has
32 been deployed throughout the state and the costs incurred during such
33 deployment. The board shall deliver the report to the house committee
34 on utilities and the senate committee on commerce during the 2005 and
35 2007 sessions of the legislature. The administrator retains final authority
36 to approve and implement any and all recommendations made by the
37 advisory board. The administrator, in consultation with the advisory
38 board, shall determine and encourage use of the most efficient methods
39 by PSAPs for providing enhanced wireless 911 service.

40 New Sec. 5. The enhanced wireless 911 fund is hereby created. The
41 fund shall consist of the surcharges credited to the fund, any money ap-
42 propriated by the legislature to the fund, any federal funds received for
43 wireless emergency communication and any other funds designated for

1 credit to the fund. Money in the fund shall be used for the costs of
2 administering the fund and for the purposes specified in section 6, and
3 amendments thereto, unless otherwise directed by federal law, with re-
4 spect to federal funds received. The costs of administering the fund shall
5 be kept to a minimum. The money in the fund shall not be subject to any
6 fiscal-year limitation or lapse provision of an unexpended balance at the
7 end of any fiscal year or biennium.

8 New Sec. 6. (a) The administrator, in consultation with the advisory
9 board, shall:

10 (1) Promote collaboration between public safety answering points
11 and encourage economies of scale;

12 (2) determine the level of funding available for disbursements to be
13 made pursuant to the act;

14 (3) determine the percentage of the funds that shall be allocated to
15 each funding purpose, including the percentage that shall be designated
16 for funding 911 service under subsection (b); and

17 (4) adopt rules and regulations as may be necessary to implement the
18 provisions of this act.

19 (b) The administrator, in consultation with the advisory board, shall
20 establish standards and criteria to determine the eligibility of applications
21 for disbursements from the fund and the level of disbursement for each
22 application. In establishing such criteria and standards, the administrator
23 shall include applications submitted for the following purposes as eligible
24 for funding:

25 (1) Necessary and reasonable costs incurred or to be incurred by pub-
26 lic safety answering points to implement enhanced wireless 911 service
27 including, but not limited to, purchases of equipment and upgrades and
28 modification to equipment used solely to process the data elements of
29 enhanced wireless 911 service, maintenance costs and license fees for
30 such equipment and the training of personnel to operate such equipment
31 including costs of training PSAP personnel to provide effective service to
32 all users of the emergency telephone system who have communications
33 disabilities;

34 (2) necessary and reasonable costs incurred or to be incurred by pub-
35 lic safety answering points for the purchase, installation, maintenance and
36 operation of telecommunications equipment and telecommunications
37 services required for the provision of 911 service, or enhanced 911 serv-
38 ice, if the costs are necessary to prepare the public safety answering point
39 for the capability of providing enhanced wireless 911 service. Such costs
40 shall not include expenditures for new or expanded buildings or similar
41 facilities or to construct other capital improvements not expressly au-
42 thorized by this act;

43 (3) in addition to other duties, the superintendent of the highway

1 patrol shall provide budgeting, purchasing and related management func-
2 tions for the administrator and the enhanced wireless 911 advisory board
3 as may be provided by law and perform other functions and duties per-
4 taining to enhanced wireless 911 service as may be specified by law;

5 (4) actual and necessary expenses incurred by members of the advi-
6 sory board while performing duties required by this act; and

7 (5) administrative expenses shall not exceed 5% of revenue in the
8 fund.

9 (c) None of the provisions of this act shall be deemed to require the
10 deployment of a state-wide centralized system of dispatch.

11 New Sec. 7. (a) Public safety answering points may apply for dis-
12 bursement from the enhanced wireless 911 fund by submitting a written
13 application to the administrator. The administrator shall receive and re-
14 view applications, including supporting documentation. The administra-
15 tor shall notify the public safety answering points as to the determination
16 of the administrator regarding the application.

17 (b) Each entity that receives disbursements from the fund shall make
18 a full accounting of the money in a manner and form prescribed by the
19 administrator.

20 New Sec. 8. Information provided by wireless carriers to the advisory
21 board or to the administrator pursuant to this act will be treated as pro-
22 prietary records which will be withheld from the public upon request of
23 the party submitting such records.

24 New Sec. 9. The enhanced wireless 911 service described in this act
25 is within the governmental power and authority of the administrator, gov-
26 erning bodies and public safety agencies. Except as provided by the Kan-
27 sas tort claims act, in contracting for such service and in providing such
28 service, and except for failure to use ordinary care, or for intentional acts,
29 the administrator, each governing body, each public agency, each wireless
30 carrier and their employees and agents shall not be liable for the payment
31 of damages resulting from the performance of installing, maintaining or
32 providing enhanced wireless 911 service.

33 Sec. 10. K.S.A. 12-5301 is hereby repealed.

34 Sec. 11. This act shall take effect and be in force from and after its
35 publication in the statute book.

36
37
38
39
40
41
42
43