

To: Senator Jay Scott Emler, Chair
Members of the Senate Committee on Utilities

From: Callie Jill Denton
Kansas Trial Lawyers Association

Date: February 6, 2006

Re: HB 2590 VoIP Enhanced 911 Act

I appear before you today on behalf of the Kansas Trial Lawyers Association, a statewide nonprofit organization of attorneys who represent consumers and advocate for the safety of families and the preservation of Kansas' civil justice system. I appreciate the opportunity to provide you with testimony on HB 2590 enacting the VoIP enhanced 911 act.

KTLA is neutral on HB 2590 overall but wants to draw the Committee's attention to amendments made by the House Committee of the Whole to New Section 8, page 5, lines 3-4. The House COW amendments return the standard of care required of VoIP providers of 911 services to "ordinary care", which is the same standard required of wireless providers under K.S.A. 12-5333 (attached). KTLA supports the House COW amendment and urges the committee to retain it.

Prior to the House COW amendment, the bill's standard of care for VoIP providers of 911 services was "gross negligence", which means that VoIP providers would not be accountable for installing, maintaining, or providing VoIP enhanced 911 services unless they acted in an intentional manner with reckless disregard. This standard is not appropriate when Kansans are depending on VoIP providers for reliable 911 services. The "ordinary care" standard instead requires VoIP providers to be reasonably prudent, which is the same standard required of wireless providers and more suited to the critical role 911 services play in assuring Kansans can quickly summon fire, police, and emergency medical care.

KTLA brought our concerns to the attention of House Utilities Committee members and the amendment was adopted as "friendly" during House floor debate. We urge the Senate Utilities Committee to retain the amendment if it chooses to advance HB 2590.

12-5333

Chapter 12.--CITIES AND MUNICIPALITIES

Article 53.--EMERGENCY TELEPHONE SERVICES

12-5333. Wireless enhanced 911 service declared governmental power; limitation on liability. The wireless enhanced 911 service described in the wireless enhanced 911 act is within the governmental power and authority of the secretary, local collection point administrator, governing bodies and public agencies. Except as provided by the Kansas tort claims act, in contracting for such service and in providing such service, and except for failure to use ordinary care, or for intentional acts, the secretary, local collection point administrator, each governing body, each public agency, each wireless carrier and their employees and agents shall not be liable for the payment of damages resulting from the performance of installing, maintaining or providing wireless enhanced 911 service.

History: L. 2004, ch. 72, § 13; Apr. 22.