



SPONSOR: Rep. DiPinto ; Sen. Adams

HOUSE OF REPRESENTATIVES

141st GENERAL ASSEMBLY

HOUSE BILL NO. 283

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 100 AND 101 OF TITLE 16 OF THE DELAWARE CODE TO PROVIDE FOR STATE PLANS FOR THE IMPLEMENTATION OF WIRELESS E-911 SERVICE AND AN INTEGRATED WIRELINE AND WIRELESS E-911 SYSTEM AND FOR THE FUNDING THEREOF.

1 WHEREAS, an integrated wireline and wireless Enhanced 911 ("E-911") Statewide emergency
2 communications service, which automatically routes a wireline or wireless call to the appropriate
3 answering location and which subsequently provides a display of a caller's telephone number and location,
4 would further the safety, health, and welfare of the State's citizens and would assist in saving the lives of
5 the people of Delaware; and

6 WHEREAS, the implementation of wireless E-911 emergency calling service is feasible and
7 should be implemented; and

8 WHEREAS, the goal of the integrated wireline and wireless E-911 program is to enable the
9 orderly development, installation, and operation of emergency telephone communication systems
10 Statewide; and

11 WHEREAS, the State should prefer methods of locating E-911 callers which respect the privilege
12 and assure protection of personal information; and

13 WHEREAS, these systems are to be operated under governmental management and control for the
14 public benefit; and

15 WHEREAS, all residential and business wireline and wireless telephone users benefit from the
16 development and operation of an efficient and effective, integrated wireline and wireless E-911 emergency
17 calling service.

18 NOW, THEREFORE:

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members
20 elected to each house thereof concurring therein):

21 Section 1. Amend § 10001 of Title 16 of the Delaware Code by deleting the word “a” between the words
22 “establish” and “911-Enhanced” and replacing it with the phrase “an integrated wireline and wireless”.

23 Section 2. Amend § 10002 of Title 16 of the Delaware Code by deleting subsections (3) and (4) and inserting the
24 following new definitions:

25 “(3) ‘911-Enhanced Emergency Reporting System capability’ shall mean the network and database functions
26 required to ensure that both the 911 call and the information identifying the telephone number of the caller
27 and associated geographic location of the caller are automatically and simultaneously forwarded to the
28 public safety answering point.

29 (4) ‘E-911 State plan’ means a document to be prepared, maintained, and kept current by the Board regarding
30 the operation, maintenance, upgrading and funding of a Statewide-integrated E-911 system.

31 (5) ‘Board’ means the Enhanced 911 Emergency Reporting System Service Board.

32 (6) ‘Commission’ shall mean the Public Service Commission.

33 (7) ‘Emergency Medical Dispatch (EMD) Center’ shall mean any dispatch center that receives 911 calls
34 requesting emergency medical assistance, processes those call or dispatches emergency medical service
35 resources.

36 (8) ‘FCC E-911 Order’ means all orders issued by the Federal Communications Commission pursuant to the
37 proceeding entitled "Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911
38 Emergency Calling Systems" (CC Docket No. 94-102; RM-8413), or any successor proceeding, regarding
39 the delivery of wireless automatic number identification and wireless automatic location information as of
40 the dates and according to the other criteria established therein.

41 (9) ‘Fund’ means the 911 Emergency Reporting System Service Fund created by Chapter 101 of this Title.

42 (10) ‘Provider’ shall mean a telecommunications service provider, including a wireless provider.

43 (11) ‘Public safety answering point’ or ‘PSAP’ shall have the same meaning as ‘911-Enhanced Report Center.’

44 (12) ‘Secretary’ shall mean the Secretary of the Department of Public Safety.

- 45 (13) ‘Wireless automatic location information’ means the delivery or receipt of the approximate geographic
46 location, as specified in the FCC E-911 Order, of the wireless device being used to place a call to a 911
47 system or to a wireless E-911 system.
- 48 (14) ‘Wireless automatic number identification’ means the delivery or receipt of the telephone number when
49 available assigned to the wireless device being used to place a call to a 911 system or to a wireless E-911
50 system.
- 51 (15) ‘Wireless E-911 system’ means an E-911 system which permits wireless service users dialing 911 to be
52 connected to a public safety answering point for the reporting of police, fire, medical or other emergency
53 situations and which permits the wireless number identification and/or associated location information to be
54 automatically forwarded at the same time to the public safety answering point.
- 55 (16) ‘Wireless E-911 service’ means enhanced 911 service provided by a wireless provider, pursuant to the FCC
56 E-911 Order.
- 57 (17) ‘Wireless E-911 State plan’ or ‘wireless plan’ means a document to be prepared, maintained, and kept
58 current by the Board providing for all aspects of the development, implementation, operation, and
59 maintenance of a Statewide wireless E-911 system, including the exclusive authority to approve wireless
60 provider service agreements, advise regarding technical standards, formulate technical plans and determine
61 permitted uses of and amounts disbursed from the 911-Enhanced Emergency Reporting Fund to wireless
62 carriers as of January 1, 2002 pursuant to Section 10104 of Title 16 of the Delaware Code.
- 63 (18) ‘Wireless provider’ means a person engaged in the business of providing wireless service to end-use
64 customers and resellers of such service in this State.
- 65 (19) ‘Wireless service’ means commercial mobile radio service as defined under sections 3(27) and 332(d) of the
66 Communications Act of 1934, as amended by the Federal Telecommunications Act of 1996 (47 U.S.C. §
67 151 *et seq.*).
- 68 (20) ‘Wireless service customer’ means a person who is billed by a wireless provider for wireless service within
69 the State.
- 70 (21) ‘Wireline’ means telecommunications service provided in part over fixed physical access facilities, such as
71 wires and cables, between residences or businesses and a telephone company switching office.”.

72 Section 3. Amend § 10004(a) and (b) of Title 16 by inserting the word “wireline” after the word “supplying” and

73 before the word “telephone” in both subsections.

74 Section 4. Amend § 10004 of Title 16 by inserting a new subsection (c) as follows:

75 “(c) The Public Service Commission shall review telephone rates charged by any provider which as of June
76 1, 2001 had E-911 costs embedded in such rates and shall assure that such rates are adjusted as of
77 January 1, 2002 to account for the removal of the embedded costs from them.”.

78 Section 5. Amend § 10005 of Title 16 by deleting it in its entirety and inserting the following:

79 “§10005. Creation of Enhanced 911 Emergency Service Board.

80 (a) There is hereby established an Enhanced 911 Emergency Reporting System Service Board.

81 (b) The Board shall act in an advisory capacity to the Governor, the Secretary and the General
82 Assembly on all matters related to the E-911 system, service and funding thereof.

83 (c) The Board shall be comprised of 7 members appointed by the Governor with the advice and
84 consent of the Senate. The Governor shall designate a chairperson who shall serve an unlimited
85 term at the pleasure of the Governor. At least 3 members shall have technical or financial
86 expertise on telecommunications issues and at least one member shall be a representative from
87 the Delaware Association of County Governments. The term of each member, excluding the
88 chairperson who shall serve at the pleasure of the Governor, shall be for 3 years except that for
89 the initial members of the Board, 2 members shall be appointed for a term of 1 year, 2
90 members shall be appointed for a term of 2 years, and 2 members shall be appointed for a term
91 of 3 years.

92 (d) Members of the Board shall serve without compensation except that they shall be reimbursed
93 for reasonable and necessary expenses incidental to their duties as members of the Board.

94 (e) The Department of Public Safety shall provide administrative support to the Board and may
95 seek reimbursement from the Fund for reasonable costs incurred with administering the Board
96 and Fund.

97 (f) The Board’s duties and responsibilities shall include the following.

98 (1) The Board shall develop and adopt a comprehensive E-911 State plan by November 1, 2001 which shall
99 cover a period of not less than 3 years and which shall include a wireless E-911 State plan. The plan
100 shall be reviewed, updated and prioritized on an annual basis.

- 101 (2) No later than March 1 of each year, beginning in 2002, the Board shall provide an annual report to the
102 Governor, Secretary, Office of Information Services, or its successor agency, and General Assembly,
103 which shall, at a minimum, include a summary of the progress on the wireless E-911 system, an
104 evaluation of the E-911 system as a whole, the capital improvements and expenditures proposed for the
105 upcoming fiscal year, expected revenues from the surcharges in the next fiscal year, and a summary of
106 the revenues and expenses for the prior fiscal year. In no event shall the proposed annual expenses
107 associated with the E-911 system exceed the anticipated annual revenues of the Fund.
- 108 (3) The Board shall develop, evaluate, establish, recommend, and adopt a wireless E-911 State plan
109 pursuant to the FCC E-911 Order. The wireless plan shall cover a period of not less than 3 years and
110 shall provide for the systematic deployment of wireless E-911 service across the State.
- 111 (4) The Board shall conduct a public meeting in each of the three counties in this State prior to the adoption
112 of the E-911 State plan and the wireless E-911 State plan.
- 113 (5) When the wireless E-911 State plan is fully implemented, the Board shall insure that wireless service in
114 all communities is or can be selectively routed to one or more public safety answering points.
- 115 (6) The Board shall conduct a comprehensive review of the entire E-911 system no later than November 15,
116 2004, and every 3 years thereafter, and make a written report on its findings and recommendations
117 regarding the adequacy of the System, service thereunder and funding to the Governor, Secretary,
118 Office of Information Services, or its successor agency, and General Assembly. The Board is authorized
119 to retain the services of professionals, as needed, to assist it in its duties under this subsection.
- 120 (g) Actions by the Board shall be by a majority vote of the entire membership of the Board. All voting
121 shall be done in person and at regular or special meetings of the Board.
- 122 (h) The Board shall work in concert with the Department of Public Safety, providers, emergency
123 service providers, counties and municipal governments offering 911 service and any other
124 appropriate department, agency or committee focusing on Statewide emergency service affected by
125 the development and maintenance of the E-911 System.
- 126 (i) The Board may exercise all powers and conduct such activities as are necessary in carrying out its
127 responsibilities under this chapter and chapter 101 of this Title.

128 Section 6. Amend Chapter 100 of Title 16 by inserting new §§ 10007-10010 as follows:

129 “§10007. Compliance with Wireless E-911 Service Plan.

130 After the Board has developed a Wireless E-911 State plan consistent with the FCC E-911
131 Order, all PSAPs and wireless providers shall provide wireless E-911 service in accordance with the
132 plan, unless granted an extension by the Secretary or by any other operation of law. The Secretary shall
133 have the power and authority to enforce compliance with the wireless E-911 State plan and may adopt
134 rules and regulations necessary to carry out such enforcement.

135 § 10008. Limitation of Liability.

136 No person involved in the provision of E-911 or 911 service who in good faith receives,
137 develops, collects, or processes information for the enhanced 911 data bases, relays, transfers, operates,
138 maintains or provides enhanced 911 services or system capabilities, or provides emergency telephone
139 and radio communications for ambulance, police, and fire departments, shall be liable for damages in
140 any civil action for any act or omission that results in death, injury or loss to person or property unless
141 such action or inaction constitutes gross negligence or an intentional tort.

142 §10009. Provider Records.

143 Upon request from and pursuant to a non-disclosure agreement with the Board, each provider
144 shall provide any information requested by the Board relating to subscribers, provider-specific revenues,
145 expenses and automatic location information. Such information shall remain the property of the
146 provider and shall be used only to develop and implement the wireline or wireless E-911 State plans or
147 to provide emergency response services or for any other lawful purpose. The Board shall be authorized
148 to enter into non-disclosure agreements with providers prior to the provision of such information.

149 § 10010. Confidentiality of Information and Release of Information.

150 (a) Identifying information of provider subscribers, provider-specific revenues and expenses, trade
151 secrets, commercial information and other such information shall be treated as confidential and,
152 notwithstanding other provisions of law, shall not be subject to public disclosure by the State or its
153 representatives.

154 (b) No provider shall be liable for releasing subscriber information for purposes of complying with the
155 requirements of this chapter or chapter 101 of this Title.”.

156 Section 7. Amend § 10101 of Title 16 of the Delaware Code by deleting it in its entirety and inserting the

157 following:

158 “§ 10101. Purpose.

159 The State shall create a special fund designated as the Enhanced 911 Emergency Reporting System
160 Fund which shall be used to reimburse the State, counties, local governments and providers of
161 telecommunications services in this State for costs associated with the E-911 Emergency Reporting System.”.

162 Section 8. Amend § 10102 of Title 16 of the Delaware Code by deleting subsections (5) and (6) and inserting the
163 following new definitions:

164 “(5) ‘Board’ shall mean the Enhanced 911 Emergency Reporting System Service Board.

165 (7) ‘Business telephone service’ shall mean network access telephone service where the use of such service
166 is primarily for business purposes.

167 (8) ‘FCC E-911 Order’ shall have the same meaning assigned to such term in § 10002(8) of this Title.

168 (9) ‘Fund’ shall mean the E-911 Emergency Reporting System Fund.

169 (10) ‘Provider’ shall have the same meaning assigned to such term in § 10002(10) of this Title.

170 (11) ‘Residential telephone service’ shall mean network access telephone service where the use of such
171 service is primarily for social or domestic purposes.

172 (12) ‘Secretary’ shall mean the Secretary of the Department of Public Safety.

173 (13) ‘Wholesale services’ shall mean services that a provider furnishes to another provider, rather than to
174 end-use customers.

175 (14) ‘Wireless E-911 State plan’ shall have the same meaning assigned to such term in §10002(17) of this
176 Title.

177 (15) ‘Wireless provider’ shall have the same meaning assigned to such term in § 10002(18) of this Title.

178 (16) ‘Wireless service’ shall have the same meaning assigned to such term in § 10002(19) of this Title.”.

179 Section 9. Amend Chapter 101 of Title 16 of the Delaware Code by deleting § 10103 in its entirety and inserting
180 new §§ 10103-10105 as follows:

181 “§ 10103. E-911 Emergency Reporting System Fund.

182 (a) The Fund shall be funded by means of a monthly surcharge of up to 60 cents per month imposed by
183 providers on subscribers of telecommunications services in this State as follows.

- 184 (1) Residential telephone service. The surcharge shall be imposed by each provider providing such
185 service on all Delaware residential subscribers per residence exchange access line or per Basic
186 Rate Interface (“BRI”) ISDN arrangement, where the residence exchange access service is
187 provided via a BRI ISDN arrangement. The surcharge shall not be applied to residence
188 exchange access lines provided to Lifeline subscribers.
- 189 (2) Business telephone service. The surcharge shall be imposed by each provider providing such
190 service on all Delaware business subscribers per business exchange access line and trunk or per
191 BRI ISDN arrangement where the business exchange access service is provided via a BRI
192 ISDN arrangement. Each Centrex access line shall be charged the equivalent of 1/9 of the
193 surcharge; provided, however, that where a Centrex customer has fewer than 9 lines, the
194 maximum monthly charge for those lines will be the surcharge imposed on each business
195 exchange access line or trunk divided by the customer’s Centrex lines. Each Primary Rate
196 Interface ISDN system shall be charged a rate equal to five times the surcharge. The surcharge
197 shall not be applied to lines provided under wholesale arrangements.
- 198 (3) Wireless service. The surcharge shall be imposed by each wireless provider on all wireless
199 service customers for each wireless telephone number for which they are billed by such
200 provider.
- 201 (b) The surcharge amounts shall be deposited into the Fund as described below, along with any other
202 State funds the General Assembly may from time to time appropriate.
- 203 (c) The provider shall impose the surcharge on the person purchasing the service but shall collect it on
204 behalf of the State. The surcharges collected by a provider shall not be subject to taxes or charges
205 levied by the State or any political subdivision thereof, nor shall they be considered revenue of the
206 provider for any purpose.
- 207 (d) Each provider imposing the surcharge shall state such surcharge as a clearly identifiable, separate
208 item on all subscriber invoices rendered after January 1, 2002.
- 209 (e) The surcharge shall not apply to wholesale services.

- 210 (f) All surcharges collected by providers pursuant to this chapter shall be remitted to the State and
211 deposited in the Fund on a monthly basis. Providers utilizing multiple customer billing cycles may
212 send a single remittance each month.
- 213 (g) Each provider collecting such surcharges shall be entitled to recover the actual incremental costs of
214 billing, collecting and remitting such surcharges, as well as the costs of compliance with any
215 memorandum of understanding as described in subsection (h) below, through a credit against them.
216 This cost is defined as the additional incremental expense incurred by the provider that is in
217 addition to the normal expense of billing and collecting the charges for the provision of the
218 provider's normal telephone service. Where moneys collected by the provider are equal to or less
219 than the total charge for the telephone service provided to subscribers or customers by that
220 provider, not including the surcharge, all moneys collected will be applied to the charges for the
221 actual telephone service provided.
- 222 (h) Each provider collecting such surcharges shall not be responsible for uncollectable surcharges. The
223 State may also enter into a memorandum of understanding with each provider which shall include,
224 but need not be limited to, the terms related to the collection and distribution of funds pursuant to
225 this chapter and provide for reporting to the Board the names and addresses of subscribers that fail
226 to pay the surcharge. However, nothing in this chapter shall be construed to prevent the State or the
227 Board from taking appropriate actions to collect such surcharges designated by a provider as
228 uncollectable.
- 229 (i) Each provider collecting such surcharge is fulfilling a governmental function and in so doing is
230 immune from suit for damages of any kind and is not liable for refunds except to the extent that the
231 provider has failed to collect or remit surcharges to the Fund in accordance with the requirements of
232 this chapter.
- 233 (j) The Fund is created as a non-appropriated special fund. Balances in the Fund on June 30 of each
234 year shall carry forward and shall not revert to the General Fund.

235 § 10104 Disbursements from the Fund.

- 236 (a) Disbursements from the Fund shall be made for the following purposes.

- 237 (1) Nonrecurring costs, including but not limited to, costs for purchasing and installing the
238 customer premises terminal equipment (“CPE”) required to establish or upgrade public safety
239 answering points, purchasing E-911 network equipment or upgrading equipment as required to
240 ensure proper functioning of the E-911 service and related software, developing wireless data
241 bases, and initial training in the use of CPE equipment.
- 242 (2) Recurring costs, including but not limited to, costs for network access fees and other telephone
243 charges, software, equipment, data base management, maintenance and improvement, public
244 education, language translation services, ongoing training in the use of CPE equipment and
245 network and equipment maintenance.
- 246 (3) Expenses of the Board and the Department of Public Safety incurred under this chapter for the
247 purposes of administering the Fund and expenses incurred in connection with the Board’s
248 responsibilities under chapter 100 of this Title.
- 249 (b) Each county shall receive an amount from the Fund equal to 50 cents per month, less the costs
250 identified in § 10103(g) above, for each wireline residential customer from which the monthly
251 surcharge is collected in that county or the amount received by that county in calendar year 2000
252 from telephone providers from E-911 surcharges, whichever is greater. Disbursements from the
253 Fund shall be made to the counties by the 15th day of the month following the month in which the
254 wireline residential surcharges are deposited into the Fund by the provider. The amount disbursed
255 to a county for any calendar year shall be subject to a true up at the end of the such year to reflect
256 the amount received by the county in calendar year 2000 from E-911 surcharges but only in the
257 event that such amount is greater than the amount disbursed from the Fund to the county in the
258 current calendar year. The counties may use these revenues to offset the costs incurred by them in
259 connection with the administration, staffing, street addressing, necessary capital equipment, and
260 training necessary to support the provision of E-911 Emergency Reporting Service.
- 261 (c) Upon a wireless providers receipt of a request for wireless E-911 service from the State, a wireless
262 provider also shall:
- 263 (1) Be reimbursed for any recurring costs associated with the development, implementation,
264 operation, and maintenance of wireless E-911 service in the geographic area served.

- 265 (2) Be reimbursed for any nonrecurring costs associated with the development, implementation,
266 operation, and maintenance of wireless E-911 service in the geographic area served.
- 267 (3) In no event shall any expenditure be reimbursed for payment of costs that are not related to a
268 wireless provider's compliance with requirements established by the wireless E-911 State plan
269 and the FCC E-911 Order, or incurred at the request of the State.
- 270 (d) Disbursements may not be made for:
- 271 (1) Personnel costs for public safety answering points except as set forth in subsection (b) above.
- 272 (2) Construction, purchase, renovation or furnishings for real estate to house public safety
273 answering points, except as set forth in subsection (b) above.
- 274 (3) Vehicles, including ambulances, fire engines or other emergency vehicles, associated
275 equipment and utilities.
- 276 (4) Two-way radios.
- 277 (e) Pro rata sharing of Fund amounts. If the total amount of money in the Fund after paying the amounts due to the
278 counties under § 10104(b) is insufficient to pay reimbursable costs at any given time, each entity requesting
279 reimbursement shall receive a pro rata share of the total amount in the Fund at such time. Any remaining unpaid
280 reimbursable costs shall be carried forward for payment as soon as sufficient funds become available.
- 281 (f) Providers may request reimbursement on a monthly basis and payments from the Fund to providers shall be
282 made by the State Treasurer within sixty (60) days of receipt of such request.
- 283 (g) The annual expenditures from the Fund shall not exceed the annual revenues deposited into it.

284 § 10105. Regulations.

285 The Secretary is authorized to adopt such regulations as are necessary to carry out the purpose of this
286 chapter.”.

287 Section 10. Sections 1-6 and 10 of this Act shall become effective upon enactment. Sections 7-9 of this Act shall
288 become effective on January 1, 2002.