

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and inserting the following:

**Sec. 1. 25 MRSA §2921, sub-§2-B** is enacted to read:

**2-B. Cellular or wireless telecommunications service.** "Cellular or wireless telecommunications service" means commercial mobile service as defined in 47 United States Code, Section 332(d).

**Sec. 2. 25 MRSA §2921, sub-§12** is enacted to read:

**12. Interconnected voice over Internet protocol service.** "Interconnected voice over Internet protocol service" means a service that enables real-time, 2-way voice communications; requires a broadband connection from the user's location; and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

**Sec. 3. 25 MRSA §2921, sub-§13** is enacted to read:

**13. Prepaid wireless telephone service.** "Prepaid wireless telephone service" means a cellular or wireless telecommunications service that the customer pays for prior to activation of the service.

**Sec. 4. 25 MRSA §2921, sub-§14** is enacted to read:

**14. Prepaid wireless telephone service provider.** "Prepaid wireless telephone service provider" means a cellular or wireless telecommunications service provider that sells prepaid wireless telephone service at wholesale or retail.

**Sec. 5. 25 MRSA §2927, sub-§1-B,** as amended by PL 2003, c. 673, Pt. V, §4 and affected by §29, is further amended to read:

**1-B. Statewide E-9-1-1 surcharge.** The activities authorized under this chapter are funded through a special statewide E-9-1-1 surcharge levied on each residential and business telephone exchange line, including private branch exchange lines and Centrex lines, cellular or wireless telecommunications service subscriberscustomers, including prepaid wireless telephone service customers, interconnected voice over Internet protocol service customers and semipublic coin and public access lines. The statewide E-9-1-1 surcharge may not be imposed on more than 25 lines or numbers per customer billing account, except that this limitation does not apply to prepaid wireless telephone services. In the case of cellular or wireless telecommunications service subscriberscustomers, the place of residence of those subscriberscustomers must be determined according to the sourcing rules for mobile telecommunications services as set forth in Title 36, section 2556. The statewide E-9-1-1 surcharge is 50¢ per month per line or number or, in the case of prepaid wireless telephone services, 50¢ per month or 30-day increment of service per customer. The statewide E-9-1-1 surcharge must be billedcollected from the customer on a monthly basis by each local exchange telephone utility or, cellular or wireless telecommunications service

provider and interconnected voice over Internet protocol service provider and be shown separately as a statewide E-9-1-1 surcharge on the customer's bill, except that in the case of prepaid wireless telephone service, the collection of the statewide E-9-1-1 surcharge is governed by subsection 1-C.

**Sec. 6. 25 MRSA §2927, sub-§1-C** is enacted to read:

**1-C. Statewide E-9-1-1 surcharge; prepaid wireless service.** The statewide E-9-1-1 surcharge, referred to in this subsection as "the surcharge," must be collected from prepaid wireless telephone service customers by the prepaid wireless telephone service provider. The prepaid wireless telephone service provider is authorized to:

A. Collect the surcharge on a monthly basis from each customer whose account balance is equal to or greater than the amount of the surcharge;

B. Collect the surcharge, or contract with a retail seller of prepaid wireless telephone service to collect the surcharge, from the customer at the point-of-sale for each 30-day increment of prepaid wireless telephone service that is purchased at the time of sale; or

C. Collect the surcharge indirectly from customers by calculating the total surcharge owed by its customers and remitting that amount to the Treasurer of State in accordance with subsection 2-B. A prepaid wireless telephone service provider that elects the collection method specified in this paragraph must calculate the total surcharge owed by:

(1) Dividing its total intrastate prepaid wireless revenue for the month by the national average revenue per user for prepaid wireless service, as defined by the Public Utilities Commission by rule; and

(2) Multiplying the result obtained under subparagraph (1) by the amount of the surcharge.

**Sec. 7. 25 MRSA §2927, sub-§2-B,** as amended by PL 2001, c. 439, Pt. EEEE, §7, is further amended to read:

**2-B. Surcharge remittance.** Each local exchange telephone utility and, cellular or wireless telecommunications service provider, including a prepaid wireless telephone service provider, and interconnected voice over Internet protocol service provider shall remit the statewide E-9-1-1 surcharge revenues collected from its customers pursuant to this section on a monthly basis and within one month of the month collected to the Treasurer of State for deposit in a separate account known as the E-9-1-1 fund. Service providersEach telephone utility or service provider required to remit statewide E-9-1-1 surcharge revenues shall provide, on a form approved by the bureau, supporting data, including but not limited to the following:

A. The calculation used to arrive at the surcharge remittance amount;

B. The calculation used to arrive at the uncollectible amount of surcharge;

- C. The total surcharge;
- D. The month and year for which surcharge is remitted;
- E. The legal name of company and telephone number and, if applicable, the parent company name, address and telephone number; and
- F. The preparer's name and telephone number.

**Sec. 8. 25 MRSA §2927, sub-§6**, as amended by PL 1997, c. 409, §1, is further amended to read:

**6. Violations.** A telephone utility or, a cellular or wireless telecommunications service provider, including a prepaid wireless telephone service provider, or an interconnected voice over Internet protocol service provider subject to this section that intentionally and knowingly fails to remit the statewide E-9-1-1 surcharge revenues collected under this section commits a civil violation for which a forfeiture of not more than \$500 may be adjudged for each day that payment is not made after the due date.

**Sec. 9. 25 MRSA §2927, sub-§8** is enacted to read:

**8. Rules.** The Public Utilities Commission shall adopt rules necessary to implement the provisions of this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 10. 25 MRSA §2930, sub-§2**, as repealed and replaced by PL 1999, c. 209, §1, is amended to read:

**2. Telecommunications providers.** A telecommunications provider assisting in the implementation and operation of the statewide E-9-1-1 system, including, but not limited to, the development and maintenance of the network, the development and maintenance of any databases and the processing of calls, is subject to tort liability:

A. For property damages, bodily injury or death resulting from any defect in the E-9-1-1 system or inadequacy in the provision of E-9-1-1 service caused by the telecommunications provider's negligent acts or omissions in developing, establishing, implementing, maintaining or operating the E-9-1-1 system, up to a maximum amount for any and all claims arising out of a single occurrence not to exceed \$300,000 or the dollar amount that appears in Title 14, section 8105, subsection 1, whichever is greater; and

B. For property damages, bodily injury or death resulting from any defect in the E-9-1-1 system or inadequacy in the provision of E-9-1-1 service caused by the telecommunications provider's intentional, willful or reckless acts or omissions in developing, establishing, implementing, maintaining or operating the E-9-1-1 system, without limitation on the amount.

For purposes of this subsection, the term "telecommunications provider" means a local exchange carrier, a commercial mobile radio service provider, as defined in 47 United States Code, Title 47, Section 332(d), or an interconnected voice over Internet protocol service provider; an employee of a local exchange carrier

~~or, commercial mobile radio service provider or interconnected voice over Internet protocol service provider acting within the scope of the employee's employment; or an agent of a local exchange carrier or, commercial mobile radio service provider or interconnected voice over Internet protocol service provider acting within the scope of the agent's agency.~~

**Sec. 11. Report.** The Public Utilities Commission, Emergency Services Communication Bureau shall submit a report by January 15, 2009 to the joint standing committee of the Legislature having jurisdiction over telecommunications matters regarding the collection of the E-9-1-1 surcharge on prepaid wireless telephone service and interconnected voice over Internet protocol service. The report must include, but is not limited to, an accounting of E-9-1-1 surcharge revenues remitted to the State since the effective date of this Act and statistics describing the use of the 3 different collection methodologies available to prepaid wireless telephone service providers under the Maine Revised Statutes, Title 25, section 2927, subsection 1-C.’

## SUMMARY

This amendment replaces the bill. It amends the law governing the funding of the E-9-1-1 system in the following ways.

1. It clarifies that prepaid wireless telephone service, as a type of cellular or wireless telecommunications service, is subject to the monthly statewide E-9-1-1 surcharge.

2. It specifies 3 methods for providers of prepaid wireless telephone service to collect the statewide E-9-1-1 surcharge, collect the surcharge from each customer whose account balance is equal to or greater than the amount of the surcharge, collect the surcharge from the customer at the point of sale or collect the surcharge indirectly by calculating the total surcharged owed by dividing its monthly intrastate revenue by average revenue per user and multiplying the result by the amount of the surcharge.

3. It adds interconnected voice over Internet protocol service as a type of telephone service subject to the statewide E-9-1-1 surcharge and it amends the provision of the E-9-1-1 law regarding tort liability for telecommunications providers to grant interconnected voice over Internet protocol providers the same treatment as other telecommunications service providers.

4. It requires the Public Utilities Commission to adopt rules to implement the provisions of the E-9-1-1 funding law and to report to the joint standing committee of the Legislature having jurisdiction over telecommunications matters no later than January 15, 2009 regarding the collection of the E-9-1-1 surcharge on prepaid wireless telephone service and interconnected voice over Internet protocol service.

## FISCAL NOTE REQUIRED

(See attached)