



125th MAINE LEGISLATURE

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Legislative Document

No. 1311

S.P. 408

In Senate, March 29, 2011

**An Act To Specify That Providers of Voice Over Internet Protocol
Services and Internet Protocol Enabled Services Do Not Constitute
Telephone Utilities**

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.
Cosponsored by Representative FITTS of Pittsfield and
Senators: COURTNEY of York, GOODALL of Sagadahoc, PATRICK of Oxford,
PLOWMAN of Penobscot, ROSEN of Hancock, Representatives: CURTIS of Madison, DION
of Portland, WILLETTE of Presque Isle.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 35-A MRSA §102, sub-§9-B** is enacted to read:

3 **9-B. Internet protocol enabled service or IP enabled service.** "Internet protocol
4 enabled service" or "IP enabled service" means a service, capability, functionality or
5 application provided using Internet protocol, or any successor protocol, that enables an
6 end user to send or receive a communication in Internet protocol format or any successor
7 format, regardless of technology, but not including a service included within the
8 definition of interconnected voice over Internet protocol service as defined in Title 25,
9 section 2921, subsection 12.

10 **Sec. 2. 35-A MRSA §102, sub-§18-A,** as enacted by PL 2003, c. 153, §2, is
11 amended to read:

12 **18-A. Telephone service.** "Telephone service" is the offering of a service that
13 transmits communications by telephone, whether the communications are accomplished
14 with or without the use of transmission wires. "Telephone service" does not include a
15 service that transmits communications by interconnected voice over Internet protocol, as
16 defined in Title 25, section 2921, subsection 12.

17 **Sec. 3. 35-A MRSA §102, sub-§19,** as amended by PL 2009, c. 612, §3, is
18 further amended to read:

19 **19. Telephone utility.** "Telephone utility" includes every person, its lessees,
20 trustees, receivers or trustees appointed by any court, that provides telephone service for
21 compensation inside this State. "Telephone utility" also includes a dark fiber provider.
22 "Telephone utility" does not include any person or entity that is excluded from the
23 definition of "public utility" as defined in subsection 13, subject to the provisions of
24 subsection 13, paragraphs A to C, or any person or entity that provides a service that
25 transmits communications by interconnected voice over Internet protocol as defined in
26 Title 25, section 2921, subsection 12.

27 **Sec. 4. 35-A MRSA §2102, sub-§5** is enacted to read:

28 **5. Interconnected voice over Internet protocol services.** Notwithstanding any
29 other provision of law to the contrary, the commission or any department, agency or
30 political subdivision of this State may not regulate the entry, rates or other terms of
31 service of interconnected voice over Internet protocol service as defined in Title 25,
32 section 2921, subsection 12 or internet protocol enabled service. This subsection does
33 not divest the commission of its authority with respect to the rates, terms or conditions of
34 any local exchange telephone service over which the commission exercised its lawful
35 jurisdiction prior to January 1, 2009. This subsection does not affect the authority of the
36 State or its agencies to enforce such requirements as are otherwise expressly provided for
37 by federal law, including, but not limited to, connection to 9-1-1 facilities, the collection
38 of enhanced 9-1-1 fees, telecommunications relay service fees or federal universal service
39 fund fees on interconnected voice over Internet protocol services that may be determined
40 to apply or to affect any rights or duties the State or its agencies may have under the

1 provisions of 47 United States Code, Section 251 or 252. This section does not affect the
2 application or enforcement of other statutes or rules that apply generally to the conduct of
3 business in the State, including consumer protection or unfair or deceptive trade practices
4 requirements of general applicability. This subsection does not affect or modify any
5 obligations for the provision of video service by any party under applicable law.

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SUMMARY

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This bill establishes that interconnected voice over Internet protocol service is not a
8 telephone service and that a voice over Internet protocol provider is not a telephone
9 utility.