

By: Senator(s) Browning

To: Public Utilities

SENATE BILL NO. 2938  
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 19-5-303, 19-5-313, 19-5-319,  
2 19-5-331 THROUGH 19-5-341, 19-5-359 AND 19-5-361, MISSISSIPPI CODE  
3 OF 1972, WHICH RELATE TO EMERGENCY 911 TELECOMMUNICATIONS SERVICES  
4 AND PROVIDE FOR THE COLLECTION OF SERVICE CHARGES; TO AMEND  
5 REENACTED SECTION 19-5-303, MISSISSIPPI CODE OF 1972, TO REVISE  
6 THE DEFINITIONS OF CERTAIN TERMS AS THEY RELATE TO THE EMERGENCY  
7 911 TELECOMMUNICATIONS LAW; TO AMEND REENACTED SECTION 19-5-313,  
8 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COLLECTION OF A FEE FOR  
9 VOICE OVER INTERNET PROTOCOL (VOIP); TO AMEND REENACTED SECTION  
10 19-5-333, MISSISSIPPI CODE OF 1972, TO REVISE THE MEMBERSHIP OF  
11 THE COMMERCIAL MOBILE RADIO SERVICE (CMRS) BOARD; TO AMEND  
12 REENACTED SECTION 19-5-361, MISSISSIPPI CODE OF 1972, TO INCLUDE  
13 VOIP SERVICE SUPPLIERS IN THE PROVISION THAT PROVIDES LIABILITY  
14 LIMITATIONS TO OTHER EMERGENCY SERVICE SUPPLIERS; TO AMEND SECTION  
15 19-5-371, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THE  
16 REENACTED SECTIONS; TO CREATE A NEW SECTION TO PROVIDE FOR THE  
17 COLLECTION AND REMITTANCE OF PREPAID WIRELESS E911 CHARGES, AND TO  
18 PROVIDE LIABILITY PROTECTIONS TO PROVIDERS AND SELLERS OF PREPAID  
19 WIRELESS TELECOMMUNICATIONS SERVICES; TO CREATE A NEW SECTION TO  
20 REQUIRE CERTAIN EMERGENCY TELECOMMUNICATORS TO COMPLETE CONTINUING  
21 EDUCATION COURSES; AND FOR RELATED PURPOSES.

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

23 **SECTION 1.** Section 19-5-303, Mississippi Code of 1972, is  
24 reenacted and amended as follows:

25 19-5-303. For purposes of Sections 19-5-301 through  
26 19-5-317, the following words and terms shall have the following  
27 meanings, unless the context clearly indicates otherwise:

28 (a) "Exchange access facilities" shall mean all lines  
29 provided by the service supplier for the provision of local  
30 exchange service as defined in existing general subscriber  
31 services tariffs.

32 (b) "Tariff rate" shall mean the rate or rates billed  
33 by a service supplier as stated in the service supplier's tariffs  
34 and approved by the Public Service Commission, which represent the  
35 service supplier's recurring charges for exchange access



36 facilities, exclusive of all taxes, fees, licenses or similar  
37 charges whatsoever.

38 (c) "District" shall mean any communications district  
39 created pursuant to Section 19-5-301 et seq., or by local and  
40 private act of the State of Mississippi.

41 (d) "Service supplier" shall mean any person providing  
42 exchange telephone service to any service user throughout the  
43 county.

44 (e) "Service user" shall mean any person, not otherwise  
45 exempt from taxation, who is provided exchange telephone service  
46 in the county or state.

47 (f) "E911" shall mean Enhanced Universal Emergency  
48 Number Service or Enhanced 911 Service, which is a telephone  
49 exchange communications service whereby a Public Safety Answering  
50 Point (PSAP) designated by the county or local communications  
51 district may receive telephone calls dialed to the abbreviated  
52 telephone number 911. E911 Service includes lines and equipment  
53 necessary for the answering, transferring and dispatching of  
54 public emergency telephone calls originated by persons within the  
55 serving area who dial 911. Enhanced 911 Service includes the  
56 displaying of the name, address and other pertinent caller  
57 information as may be supplied by the service supplier.

58 (g) "Basic 911" shall mean a telephone service  
59 terminated in designated Public Safety Answering Points accessible  
60 by the public through telephone calls dialed to the abbreviated  
61 telephone number 911. Basic 911 is a voice service and does not  
62 display address or telephone number information.

63 (h) "Shared tenant services (STS)" shall mean any  
64 telephone service operation supplied by a party other than a  
65 regulated local exchange telephone service supplier for which a  
66 charge is levied. Such services shall include, but not be limited  
67 to, apartment building systems, hospital systems, office building  
68 systems and other systems where dial tone is derived from



69 connection of tariffed telephone trunks or lines connected to a  
70 private branch exchange telephone system.

71 (i) "Private branch exchange (PBX)" shall mean any  
72 telephone service operation supplied by a party other than a  
73 regulated local exchange telephone service supplier for which a  
74 charge is not levied. Such services are those where tariffed  
75 telephone trunks or lines are terminated into a central switch  
76 which is used to supply dial tone to telephones operating within  
77 that system.

78 (j) "Off-premise extension" shall mean any telephone  
79 connected to a private branch exchange or a shared tenant service  
80 which is in a different building or location from the main  
81 switching equipment and, therefore, has a different physical  
82 address.

83 (k) "Centrex" or "ESSX" shall mean any variety of  
84 services offered in connection with any tariffed telephone service  
85 in which switching services and other dialing features are  
86 provided by the regulated local exchange telephone service  
87 supplier.

88 (l) "Commercial mobile radio service" or "CMRS" shall  
89 mean commercial mobile radio service under Sections 3(27) and  
90 332(d) of the Federal Telecommunications Act of 1996, 47 USCS  
91 Section 151 et seq., and the Omnibus Budget Reconciliation Act of  
92 1993, Public Law 103-66. The term includes the term "wireless"  
93 and service provided by any wireless real-time, two-way voice  
94 communication device, including radio-telephone communications  
95 used in cellular telephone service, personal communication  
96 service, or the functional or competitive equivalent of a  
97 radio-telephone communications line used in cellular telephone  
98 service, a personal communication service, or a network radio  
99 access line. The term does not include service whose customers do  
100 not have ready access to 911 \* \* \*, to a communication channel  
101 suitable only for data transmission, to a wireless roaming service



102 or other nonlocal radio access line service, or to a private  
103 telecommunications system.

104 (m) "Telecommunicator" shall mean any person engaged in  
105 or employed as a telecommunications operator by any public safety,  
106 fire or emergency medical agency whose primary responsibility is  
107 the receipt or processing of calls for emergency services provided  
108 by public safety, fire or emergency medical agencies or the  
109 dispatching of emergency services provided by public safety, fire  
110 or emergency medical agencies and who receives or disseminates  
111 information relative to emergency assistance by telephone or  
112 radio.

113 (n) "Public safety answering point (PSAP)" shall mean  
114 any designated point of contact between the public and the  
115 emergency services such as a 911 answering point or, in the  
116 absence of 911 emergency telephone service, any other designated  
117 point of contact where emergency telephone calls are routinely  
118 answered and dispatched or transferred to another agency.

119 (o) "Local exchange telephone service" shall mean all  
120 lines provided by a service supplier as defined in existing  
121 general subscriber tariffs.

122 (p) "911 emergency communication" means any FCC  
123 mandated 911 communication, message, signal or transmission made  
124 to a public safety answering point.

125 (q) "Voice over Internet Protocol service" means any  
126 technology that permits a voice conversation using a voice  
127 connection to a computer, whether through a microphone, a  
128 telephone or other device, which sends a digital signal over the  
129 Internet through a broadband connection to be converted back to  
130 the human voice at a distant terminal and that delivers or is  
131 required by law to deliver a call to a public safety answering  
132 point. Voice over Internet Protocol service shall also include  
133 interconnected Voice over Internet Protocol service, which is  
134 service that enables real-time, two-way voice communications,



135 requires a broadband connection from the user's location, requires  
136 Internet protocol compatible customer premises equipment, and  
137 allows users to receive calls that originate on the public service  
138 telephone network and to terminate calls to the public switched  
139 telephone network.

140 (r) "Voice over Internet Protocol service supplier"  
141 means a person or entity who provides Voice over Internet Protocol  
142 service to subscribers for a fee.

143 **SECTION 2.** Section 19-5-313, Mississippi Code of 1972, is  
144 reenacted and amended as follows:

145 19-5-313. (1) The board of supervisors may levy an  
146 emergency telephone service charge in an amount not to exceed One  
147 Dollar (\$1.00) per residential telephone subscriber line per  
148 month, One Dollar (\$1.00) per Voice over Internet Protocol  
149 subscriber account per month, and Two Dollars (\$2.00) per  
150 commercial telephone subscriber line per month for exchange  
151 telephone service. Any emergency telephone service charge shall  
152 have uniform application and shall be imposed throughout the  
153 entirety of the district to the greatest extent possible in  
154 conformity with availability of such service in any area of the  
155 district. Those districts which exist on the date of enactment of  
156 Chapter 539, Laws of 1993, shall convert to the following  
157 structure for service charge levy: If the current charge is five  
158 percent (5%) of the basic tariff service rate, the new collection  
159 shall be Eighty Cents (\$.80) per month per residential subscriber  
160 line and One Dollar and Sixty Cents (\$1.60) per month per  
161 commercial subscriber line. The collections may be adjusted as  
162 outlined in Chapter 539, Laws of 1993, and within the limits set  
163 forth herein.

164 (2) If the proceeds generated by the emergency telephone  
165 service charge exceed the amount of monies necessary to fund the  
166 service, the board of supervisors may authorize such excess funds  
167 to be expended by the county and the municipalities in the



168 counties to perform the duties and pay the costs relating to  
169 identifying roads, highways and streets, as provided by Section  
170 65-7-143. The board of supervisors shall determine how the funds  
171 are to be distributed in the county and among municipalities in  
172 the county for paying the costs relating to identifying roads,  
173 highways and streets. The board of supervisors may temporarily  
174 reduce the service charge rate or temporarily suspend the service  
175 charge if the proceeds generated exceed the amount that is  
176 necessary to fund the service and/or to pay costs relating to  
177 identifying roads, highways and streets. Such excess funds may  
178 also be used in the development of county or district  
179 communications and paging systems when used primarily for the  
180 alerting and dispatching of public safety entities and for other  
181 administrative costs such as management personnel, maintenance  
182 personnel and related building and operational requirements. Such  
183 excess funds may be placed in a depreciation fund for emergency  
184 and obsolescence replacement of equipment necessary for the  
185 operation of the overall 911 emergency telephone and alerting  
186 systems.

187 (3) No such service charge shall be imposed upon more than  
188 twenty-five (25) exchange access facilities or Voice over Internet  
189 Protocol lines per person per location. Trunks or service lines  
190 used to supply service to CMRS providers shall not have a service  
191 charge levied against them. Every billed service user shall be  
192 liable for any service charge imposed under this section until it  
193 has been paid to the service supplier. The duty of the service  
194 supplier to collect any such service charge shall commence upon  
195 the date of its implementation, which shall be specified in the  
196 resolution for the installation of such service. Any such  
197 emergency telephone service charge shall be added to and may be  
198 stated separately in the billing by the service supplier to the  
199 service user.



200 (4) The service supplier shall have no obligation to take  
201 any legal action to enforce the collection of any emergency  
202 telephone service charge. However, the service supplier shall  
203 annually provide the board of supervisors and board of  
204 commissioners with a list of the amount uncollected, together with  
205 the names and addresses of those service users who carry a balance  
206 that can be determined by the service supplier to be nonpayment of  
207 such service charge. The service charge shall be collected at the  
208 same time as the tariff rate or, for nontariff services, at the  
209 time of payment, in accordance with the regular billing practice  
210 of the service supplier. Good faith compliance by the service  
211 supplier with this provision shall constitute a complete defense  
212 to any legal action or claim which may result from the service  
213 supplier's determination of nonpayment and/or the identification  
214 of service users in connection therewith.

215 (5) The amounts collected by the service supplier  
216 attributable to any emergency telephone service charge shall be  
217 due the county treasury monthly. The amount of service charge  
218 collected each month by the service supplier shall be remitted to  
219 the county no later than sixty (60) days after the close of the  
220 month. A return, in such form as the board of supervisors and the  
221 service supplier agree upon, shall be filed with the county,  
222 together with a remittance of the amount of service charge  
223 collected payable to the county. The service supplier shall  
224 maintain records of the amount of service charge collected for a  
225 period of at least two (2) years from date of collection. The  
226 board of supervisors and board of commissioners shall receive an  
227 annual audit of the service supplier's books and records with  
228 respect to the collection and remittance of the service charge.  
229 From the gross receipts to be remitted to the county, the service  
230 supplier shall be entitled to retain as an administrative fee, an  
231 amount equal to one percent (1%) thereof. From and after March  
232 10, 1987, the service charge is a county fee and is not subject to



233 any sales, use, franchise, income, excise or any other tax, fee or  
234 assessment and shall not be considered revenue of the service  
235 supplier for any purpose.

236 (6) In order to provide additional funding for the district,  
237 the board of commissioners may receive federal, state, county or  
238 municipal funds, as well as funds from private sources, and may  
239 expend such funds for the purposes of Section 19-5-301 et seq.

240 **SECTION 3.** Section 19-5-319, Mississippi Code of 1972, is  
241 reenacted as follows:

242 19-5-319. (1) Automatic number identification (ANI),  
243 automatic location identification (ALI) and geographic automatic  
244 location identification (GeoALI) information that consist of the  
245 name, address and telephone number of telephone or wireless  
246 subscribers shall be confidential, and the dissemination of the  
247 information contained in the 911 automatic number and location  
248 database is prohibited except for the following purpose: the  
249 information will be provided to the Public Safety Answering Point  
250 (PSAP) on a call-by-call basis only for the purpose of handling  
251 emergency calls or for training, and any permanent record of the  
252 information shall be secured by the Public Safety Answering Point  
253 (PSAP) and disposed of in a manner which will retain that  
254 security, except upon court order or subpoena from a court of  
255 competent jurisdiction or as otherwise provided by law.

256 (2) All emergency telephone calls and telephone call  
257 transmissions received pursuant to Section 19-5-301 et seq., and  
258 all recordings of the emergency telephone calls, shall remain  
259 confidential and shall be used only for the purposes as may be  
260 needed for law enforcement, fire, medical rescue or other  
261 emergency services. These recordings shall not be released to any  
262 other parties without court order or subpoena from a court of  
263 competent jurisdiction.

264 (3) PSAP and emergency response entities shall maintain and,  
265 upon request, release a record of the date of call, time of call,





266 the time the emergency response entity was notified, and the  
267 identity of the emergency response entity. The emergency response  
268 entity shall maintain and, upon request, release a record of the  
269 date and time the call was received by the emergency response  
270 entity and the time the emergency response entity arrived on the  
271 scene. Requests for release of records must be made in writing  
272 and must specify the information desired. Requestors shall pay  
273 the cost of providing the information requested in accordance with  
274 the Mississippi Public Records Act of 1983, Section 25-61-1 et  
275 seq. The identity of any caller or person or persons who are the  
276 subject of any call, or the address, phone number or other  
277 identifying information about any such person, shall not be  
278 released except as provided in subsection (2) of this section.

279 **SECTION 4.** Section 19-5-331, Mississippi Code of 1972, is  
280 reenacted as follows:

281 19-5-331. As used in Sections 19-5-331 through 19-5-341, the  
282 following words and phrases have the meanings ascribed in this  
283 section unless the context clearly indicates otherwise:

284 (a) The terms "board" and "CMRS Board" mean the  
285 Commercial Mobile Radio Service Emergency Telephone Services  
286 Board.

287 (b) The term "automatic number identification" or "ANI"  
288 means an Enhanced 911 Service capability that enables the  
289 automatic display of the ten-digit wireless telephone number used  
290 to place a 911 call and includes "pseudo-automatic number  
291 identification" or "pseudo-ANI," which means an Enhanced 911  
292 Service capability that enables the automatic display of the  
293 number of the cell site and an identification of the CMRS  
294 provider.

295 (c) The term "commercial mobile radio service" or  
296 "CMRS" means commercial mobile radio service under Sections 3(27)  
297 and 332(d) of the Federal Telecommunications Act of 1996, 47 USCS  
298 Section 151 et seq., and the Omnibus Budget Reconciliation Act of



299 1993, Public Law 103-66. The term includes the term "wireless"  
300 and service provided by any wireless real time two-way voice  
301 communication device, including radio-telephone communications  
302 used in cellular telephone service, personal communication  
303 service, or the functional or competitive equivalent of a  
304 radio-telephone communications line used in cellular telephone  
305 service, a personal communication service, specialized mobile  
306 radio service, or a network radio access line. The term does not  
307 include service whose customers do not have access to 911 or to a  
308 911-like service, to a communication channel suitable only for  
309 data transmission, to a wireless roaming service or other nonlocal  
310 radio access line service, or to a private telecommunications  
311 system.

312 (d) The term "commercial mobile radio service provider"  
313 or "CMRS provider" means a person or entity who provides  
314 commercial mobile radio service or CMRS service.

315 (e) The term "CMRS connection" means each mobile  
316 handset telephone number assigned to a CMRS customer with a place  
317 of primary use in the State of Mississippi.

318 (f) The term "CMRS Fund" means the Commercial Mobile  
319 Radio Service Fund required to be established and maintained  
320 pursuant to Section 19-5-333.

321 (g) The term "CMRS service charge" means the CMRS  
322 emergency telephone service charge levied and maintained pursuant  
323 to Section 19-5-333 and collected pursuant to Section 19-5-335.

324 (h) The term "distribution formula" means the formula  
325 specified in Section 19-5-333(c) by which monies generated from  
326 the CMRS service charge are distributed on a percentage basis to  
327 emergency communications districts and to the CMRS Fund.

328 (i) The term "ECD" means an emergency communications  
329 district created pursuant to Section 19-5-301 et seq., or by local  
330 and private act of the State of Mississippi.



331           (j) The term "Enhanced 911," "E911," "Enhanced E911  
332 system" or "E911 system" means an emergency telephone system that  
333 provides the caller with emergency 911 system service, that  
334 directs 911 calls to appropriate public safety answering points by  
335 selective routing based on the geographical location from which  
336 the call originated, and that provides the capability for  
337 automatic number identification and other features that the  
338 Federal Communications Commission (FCC) may require in the future.

339           (k) The term "exchange access facility" means an  
340 "exchange access facility" as defined by Section 19-5-303.

341           (l) The term "FCC Order" means Federal Communications  
342 Commission orders, rules and regulations issued with respect to  
343 implementation of Basic 911 or Enhanced 911 and other emergency  
344 communication services.

345           (m) The term "place of primary use" means the street  
346 address representative of where the customer's use of mobile  
347 telecommunications services primarily occurs, which must be either  
348 the residential street address or the primary business street  
349 address of the customer.

350           (n) The term "service supplier" means a "service  
351 supplier" as defined by Section 19-5-303.

352           (o) The term "technical proprietary information" means  
353 technology descriptions, technical information or trade secrets  
354 and the actual or developmental costs thereof which are developed,  
355 produced or received internally by a CMRS provider or by a CMRS  
356 provider's employees, directors, officers or agents.

357           **SECTION 5.** Section 19-5-333, Mississippi Code of 1972, is  
358 reenacted and amended as follows:

359           19-5-333. (1) There is created a Commercial Mobile Radio  
360 Service (CMRS) Board, consisting of eight (8) members to be  
361 appointed by the Governor with the advice and consent of the  
362 Senate. The members of the board shall be appointed as follows:



363 (a) One (1) member from the Northern Public Service  
364 Commission District selected from two (2) nominees submitted to  
365 the Governor by the Mississippi 911 Coordinators Association;

366 (b) One (1) member from the Central Public Service  
367 Commission District selected from two (2) nominees submitted to  
368 the Governor by the Mississippi Chapter of the Association of  
369 Public Safety Communication Officers;

370 (c) One (1) member from the Southern Public Service  
371 Commission District selected from two (2) nominees submitted to  
372 the Governor by the National Emergency Numbering Association;

373 (d) Two (2) members who are wireless provider  
374 representatives;

375 (e) One (1) member who is a consumer representing the  
376 state at large with no affiliation to the three (3) trade  
377 associations or the wireless providers; \* \* \*

378 (f) One (1) member who is a member of the Mississippi  
379 Law Enforcement Officers Association selected from two (2)  
380 nominees submitted to the Governor by the association; and

381 (g) One (1) member who is a member of the Mississippi  
382 Association of Supervisors selected from two (2) nominees  
383 submitted to the Governor by the association.

384 The initial terms of the board members, as appointed after  
385 July 1, 2002, shall be staggered as follows: the members  
386 appointed under paragraph (d) shall serve a term of two (2) years;  
387 the member appointed under paragraph (e) shall serve a term of one  
388 (1) year. After the expiration of the initial terms, the term for  
389 all members shall be four (4) years.

390 (2) The board shall have the following powers and duties:

391 (a) To collect and distribute a CMRS emergency  
392 telephone service charge on each CMRS customer whose place of  
393 primary use is within the state. The rate of such CMRS service  
394 charge shall be One Dollar (\$1.00) per month per CMRS connection.  
395 In the case of prepaid wireless service, the rate and methodology



396 for collecting and remitting the 911 charge is governed by Section  
397 13 of this act. The CMRS service charge shall have uniform  
398 application and shall be imposed throughout the state. The board  
399 is authorized to receive all revenues derived from the CMRS  
400 service charge levied on CMRS connections in the state and  
401 collected pursuant to Section 19-5-335.

402 (b) To establish and maintain the CMRS Fund as an  
403 insured, interest-bearing account into which the board shall  
404 deposit all revenues derived from the CMRS service charge levied  
405 on CMRS connections in the state and collected pursuant to Section  
406 19-5-335. The revenues which are deposited into the CMRS Fund  
407 shall not be monies or property of the state and shall not be  
408 subject to appropriation by the Legislature. Interest derived  
409 from the CMRS Fund shall be divided equally to pay reasonable  
410 costs incurred by providers in compliance with the requirements of  
411 Sections 19-5-331 through 19-5-341 and to compensate those  
412 persons, parties or firms employed by the CMRS Board as  
413 contemplated in paragraph (d) of this subsection. The interest  
414 income is not subject to the two percent (2%) cap on  
415 administrative spending established in Section 19-5-335(3).

416 (c) To establish a distribution formula by which the  
417 board will make disbursements of the CMRS service charge in the  
418 following amounts and in the following manner:

419 (i) Out of the funds collected by the board,  
420 thirty percent (30%) shall be deposited into the CMRS Fund, and  
421 shall be used to defray the administrative expenses of the board  
422 in accordance with Section 19-5-335(3) and to pay the actual costs  
423 incurred by such CMRS providers in complying with the wireless  
424 E911 service requirements established by the FCC Order and any  
425 rules and regulations which are or may be adopted by the FCC  
426 pursuant to the FCC Order, including, but not limited to, costs  
427 and expenses incurred for designing, upgrading, purchasing,  
428 leasing, programming, installing, testing or maintaining all



429 necessary data, hardware and software required in order to provide  
430 such service as well as the incremental costs of operating such  
431 service. Sworn invoices must be presented to the board in  
432 connection with any request for payment and approved by a majority  
433 vote of the board prior to any such disbursement, which approval  
434 shall not be withheld or delayed unreasonably. In no event shall  
435 any invoice for payment be approved for the payment of costs that  
436 are not related to compliance with the wireless E911 service  
437 requirements established by the FCC Order and any rules and  
438 regulations which are or may be adopted by the FCC pursuant to the  
439 FCC Order, and any rules and regulations which may be adopted by  
440 the FCC with respect to implementation of wireless E911 services.

441 (ii) The remainder of all funds collected by the  
442 board, which shall not be less than seventy percent (70%) of the  
443 total funds collected by the board, shall be distributed by the  
444 board monthly based on the number of CMRS connections in each ECD  
445 for use in providing wireless E911 service, including capital  
446 improvements, and in their normal operations. For purposes of  
447 distributing the funds to each ECD, every CMRS provider shall  
448 identify to the CMRS Board the ECD to which funds should be  
449 remitted based on zip code plus four (4) designation, as required  
450 by the federal Uniform Sourcing Act.

451 An ECD board that has within its jurisdiction zip code  
452 designations that do not adhere to county lines shall assist CMRS  
453 providers in determining the appropriate county to which funds  
454 should be distributed.

455 (d) To contract for the services of accountants,  
456 attorneys, consultants, engineers and any other persons, firms or  
457 parties the board deems necessary to effectuate the purposes of  
458 Sections 19-5-331 through 19-5-341.

459 (e) To obtain from an independent, third-party auditor  
460 retained by the board annual reports to the board no later than  
461 sixty (60) days after the close of each fiscal year, which shall



462 provide an accounting for all CMRS service charges deposited into  
463 the CMRS Fund during the preceding fiscal year and all  
464 disbursements to ECDs during the preceding fiscal year. The board  
465 shall provide a copy of the annual reports to the Chairmen of the  
466 Public Utilities Committees of the House of Representatives and  
467 Senate.

468 (f) To retain an independent, third-party accountant  
469 who shall audit CMRS providers at the discretion of the CMRS Board  
470 to verify the accuracy of each CMRS providers' service charge  
471 collection. The information obtained by the audits shall be used  
472 solely for the purpose of verifying that CMRS providers accurately  
473 are collecting and remitting the CMRS service charge and may be  
474 used for any legal action initiated by the board against CMRS  
475 providers.

476 (g) To levy interest charges at the legal rate of  
477 interest established in Section 75-17-1 on any amount due and  
478 outstanding from any CMRS provider who fails to remit service  
479 charges in accordance with Section 19-5-335(1).

480 (h) To promulgate such rules and regulations as may be  
481 necessary to effect the provisions of Sections 19-5-331 through  
482 19-5-341.

483 (i) To make the determinations and disbursements as  
484 provided by Section 19-5-333(2) (c).

485 (j) To maintain a registration database of all CMRS  
486 providers and to impose an administrative fine on any provider  
487 that fails to comply with the registration requirements in Section  
488 19-5-335.

489 (3) The CMRS service charge provided in subsection (2) (a) of  
490 this section and the service charge provided in Section 19-5-357  
491 to fund the training of public safety telecommunicators shall be  
492 the only charges assessed to CMRS customers relating to emergency  
493 telephone services.



494 (4) The board shall serve without compensation; however,  
495 members of the board shall be entitled to be reimbursed for actual  
496 expenses and travel costs associated with their service in an  
497 amount not to exceed the reimbursement authorized for state  
498 officers and employees in Section 25-3-41, Mississippi Code of  
499 1972.

500 (5) It is the Legislature's intent to ensure that the State  
501 of Mississippi shall be Phase I compliant by July 1, 2005. For  
502 purposes of this subsection, Phase I compliant means the mandate  
503 by the FCC that requires any carrier when responding to a PSAP to  
504 define and deliver data related to the cell site location and the  
505 caller's call-back number.

506 **SECTION 6.** Section 19-5-335, Mississippi Code of 1972, is  
507 reenacted as follows:

508 19-5-335. (1) Each CMRS provider shall act as a collection  
509 agent for the CMRS Fund and shall, as part of the provider's  
510 normal monthly billing process, collect the CMRS service charges  
511 levied upon CMRS connections pursuant to Section 19-5-333(2) (a)  
512 from each CMRS connection to whom the billing provider provides  
513 CMRS service and shall, not later than thirty (30) days after the  
514 end of the calendar month in which such CMRS service charges are  
515 collected, remit to the board the net CMRS service charges so  
516 collected after deducting the fee authorized by subsection (2) of  
517 this section. Each billing provider shall list the CMRS service  
518 charge as a separate entry on each bill which includes a CMRS  
519 service charge.

520 (2) Each CMRS provider shall be entitled to deduct and  
521 retain from the CMRS service charges collected by such provider  
522 during each calendar month an amount not to exceed one percent  
523 (1%) of the gross aggregate amount of such CMRS service charges so  
524 collected as reimbursement for the costs incurred by such provider  
525 in collecting, handling and processing such CMRS service charges.





526 (3) The board shall be entitled to retain from the CMRS  
527 service charges collected during each calendar month an amount not  
528 to exceed two percent (2%) of the money allocated to the CMRS Fund  
529 as reimbursement for the costs incurred by the board in  
530 administering Sections 19-5-331 through 19-5-341 including, but  
531 not limited to, retaining and paying the independent, third-party  
532 auditor to review and disburse the cost recovery funds and to  
533 prepare the reports contemplated by Sections 19-5-331 through  
534 19-5-341.

535 (4) Each CMRS provider shall register with the CMRS Board  
536 and shall provide the following information upon registration:

537 (a) The company name of the provider;

538 (b) The marketing name of the provider;

539 (c) The publicly traded name of the provider;

540 (d) The physical address of the company headquarters  
541 and of the main office located in the State of Mississippi; and

542 (e) The names and addresses of the providers' board of  
543 directors/owners.

544 Each CMRS provider shall notify the board of any change in  
545 the information prescribed in paragraphs (a) through (e). The  
546 board may suspend the disbursement of cost recovery funds to, and  
547 may impose an administrative fine in an amount not to exceed Ten  
548 Thousand Dollars (\$10,000.00) on any provider which fails to  
549 comply with the provisions of this subsection.

550 **SECTION 7.** Section 19-5-337, Mississippi Code of 1972, is  
551 reenacted as follows:

552 19-5-337. All technical proprietary information submitted to  
553 the board or to the independent, third-party auditor as provided  
554 by Section 19-5-333(2) (d) shall be retained by the board and such  
555 auditor in confidence and shall be subject to review only by the  
556 board. Further, notwithstanding any other provision of the law,  
557 no technical proprietary information so submitted shall be subject  
558 to subpoena or otherwise released to any person other than to the



559 submitting CMRS provider, the board and the aforesaid independent,  
560 third-party auditor without the express permission of the  
561 administrator and the submitting CMRS provider. General  
562 information collected by the aforesaid independent, third-party  
563 auditor shall only be released or published in aggregate amounts  
564 which do not identify or allow identification of numbers of  
565 subscribers of revenues attributable to an individual CMRS  
566 provider.

567       **SECTION 8.** Section 19-5-339, Mississippi Code of 1972, is  
568 reenacted as follows:

569       19-5-339. In accordance with the Federal Communication  
570 Commission Order, no CMRS provider shall be required to provide  
571 wireless Enhanced 911 Service until such time as (a) the provider  
572 receives a request for such service from the administrator of a  
573 Public Safety Answering Point (PSAP) that is capable of receiving  
574 and utilizing the data elements associated with the service; (b)  
575 funds are available pursuant to Section 19-5-333; and (c) the  
576 local exchange carrier is able to support the wireless Enhanced  
577 911 system.

578       **SECTION 9.** Section 19-5-341, Mississippi Code of 1972, is  
579 reenacted as follows:

580       19-5-341. Wireless emergency telephone service shall not be  
581 used for personal use and shall be used solely for the use of  
582 communications by the public. Any person who knowingly uses or  
583 attempts to use wireless emergency telephone service for a purpose  
584 other than obtaining public safety assistance, or who knowingly  
585 uses or attempts to use wireless emergency telephone service in an  
586 effort to avoid any CMRS charges, is guilty of a misdemeanor and  
587 shall be subject to a fine of not more than Five Hundred Dollars  
588 (\$500.00) or imprisonment of not more than thirty (30) days in the  
589 county jail, or both such fine and imprisonment. If the value of  
590 the CMRS charge or service obtained in a manner prohibited by this  
591 section exceeds One Hundred Dollars (\$100.00), the offense may be



592 prosecuted as a felony and punishable by a fine of not more than  
593 Five Thousand Dollars (\$5,000.00) and imprisonment of not more  
594 than three (3) years, or both such fine and imprisonment.

595         **SECTION 10.** Section 19-5-359, Mississippi Code of 1972, is  
596 reenacted as follows:

597         19-5-359. (1) Any service supplier operating within the  
598 State of Mississippi shall be required to provide access to the  
599 locally designated PSAP by dialing the three (3) digits "911" from  
600 any telephone subscriber line within such service area. Where  
601 technically available, each service supplier shall, at a county's  
602 request, provide "Enhanced 911" services. Where this capability  
603 does not technically exist, "Basic 911" shall be available as a  
604 minimum.

605         (2) From and after December 31, 1993, any person,  
606 corporation or entity operating a "shared tenant service" type of  
607 telephone system shall be required to provide as a minimum the  
608 location and telephone number information for each and every  
609 extension or user on such "shared tenant" system to the regulated  
610 local exchange telephone service provider where the service  
611 provider can utilize such information in the delivery of "Enhanced  
612 911" emergency telephone service. This information shall consist  
613 of data in a format that is compatible with the service supplier's  
614 requirements in order to provide such location and telephone  
615 number information automatically in the event a call to 911 is  
616 placed from such a system. It shall be the responsibility of the  
617 operator or provider of "STS" telephone services to maintain the  
618 data pertaining to each extension operating on such system.

619         (3) Any CMRS providers operating within the State of  
620 Mississippi shall be required to have all trunks or service lines  
621 supplying all cellular sites and personal communications network  
622 sites contain the word "cellular" in the service supplier listing  
623 for each trunk or service line to facilitate operator  
624 identification of cellular and PCN telephone calls placed to 911.



625 (4) Any service suppliers engaged in the offering or  
626 operating of "Centrex" or "ESSX" telephone service within the  
627 State of Mississippi shall cause the actual location of all  
628 extensions operating in this service to be displayed at the PSAP  
629 whenever a 911 call is placed from said extension. This feature  
630 shall not be required in areas where Enhanced 911 is not in  
631 operation but shall be required should such area upgrade to  
632 Enhanced 911 service.

633 (5) Any local exchange telephone service suppliers offering  
634 "quick-serve" or "soft" dial tone shall provide address location  
635 information to the PSAP operating in the area where the  
636 "quick-serve" or "soft" dial tone is in operation so that the PSAP  
637 may have this address information displayed should a call to 911  
638 be placed from such location. It shall be the responsibility of  
639 the service supplier to determine in which emergency service  
640 number area the "quick-serve" or "soft" dial tone is located.

641 (6) Any service suppliers operating within the State of  
642 Mississippi and providing Enhanced 911 telephone service shall  
643 have a reasonable time period, not to exceed five (5) years, to  
644 comply with data and operational standards as they are set forth  
645 by the National Emergency Number Association. This time period  
646 shall apply to data format, equipment supplied for PSAP use and  
647 for the length of time required for data updates relating to  
648 service user address information, emergency service number updates  
649 and other data updates as may be required.

650 **SECTION 11.** Section 19-5-361, Mississippi Code of 1972, is  
651 reenacted and amended as follows:

652 19-5-361. Any Emergency 911 \* \* \* service supplier, Emergency  
653 911 Voice over Internet Protocol service supplier, and Emergency  
654 911 CMRS provider operating within the State of Mississippi, its  
655 employees, directors, officers, agents and subcontractors, shall be  
656 entitled to receive the limitations of liability as provided to the



657 state, or any agency or local government of the state, pursuant to  
658 Section 11-46-15, Mississippi Code of 1972.

659 **SECTION 12.** Section 19-5-371, Mississippi Code of 1972, is  
660 amended as follows:

661 19-5-371. Sections 19-5-303, 19-5-313, 19-5-319, 19-5-331,  
662 19-5-333, 19-5-335, 19-5-337, 19-5-339, 19-5-341, 19-5-359 and  
663 19-5-361 shall stand repealed from and after July 1, 2014.

664 **SECTION 13.** (1) **Definitions.** For purposes of this section,  
665 the following terms shall have the following meanings:

666 (a) "Consumer" means a person who purchases prepaid  
667 wireless telecommunications service in a retail transaction.

668 (b) "Department" means the Mississippi Department of  
669 Revenue.

670 (c) "Prepaid wireless E911 charge" means the charge  
671 that is required to be collected by a seller from a consumer in  
672 the amount established under subsection (2).

673 (d) "Prepaid wireless telecommunications service" means  
674 a wireless telecommunications service that allows a caller to dial  
675 911 to access the 911 system, which service must be paid for in  
676 advance and is sold in predetermined units or dollars of which the  
677 number declines with use in a known amount.

678 (e) "Provider" means a person who provides prepaid  
679 wireless telecommunications service pursuant to a license issued  
680 by the Federal Communications Commission.

681 (f) "Retail transaction" means the purchase of prepaid  
682 wireless telecommunications service from a seller for any purpose  
683 other than resale.

684 (g) "Seller" means a person who sells prepaid wireless  
685 telecommunications service to another person.

686 (h) "Wireless telecommunications service" means  
687 commercial mobile radio service as defined by Section 20.3 of  
688 Title 47 of the Code of Federal Regulations, as amended.



689           (2) **Collection and remittance of E911 charge.** (a) Amount  
690 of Charge. The prepaid wireless E911 charge shall be One Dollar  
691 (\$1.00) per retail transaction.

692           (b) Collection of charge. The prepaid wireless E911  
693 charge shall be collected by the seller from the consumer with  
694 respect to each retail transaction occurring in this state. The  
695 amount of the prepaid wireless E911 charge shall be either  
696 separately stated on an invoice, receipt or other similar document  
697 that is provided to the consumer by the seller, or otherwise  
698 disclosed to the consumer.

699           (c) Application of charge. For purposes of paragraph  
700 (b) of this subsection, a retail transaction that is effected in  
701 person by a consumer at a business location of the seller shall be  
702 treated as occurring in this state if that business location is in  
703 this state, and any other retail transaction shall be treated as  
704 occurring in this state if the retail transaction is treated as  
705 occurring in this state for purposes of Section  
706 27-65-19(1) (e) (v) 3.c.

707           (d) Liability for charge. The prepaid wireless E911  
708 charge is the liability of the consumer and not of the seller or  
709 of any provider, except that the seller shall be liable to remit  
710 all prepaid wireless E911 charges that the seller collects from  
711 consumers as provided in subsection (3), including all such  
712 charges that the seller is deemed to have collected where the  
713 amount of the charge has not been separately stated on an invoice,  
714 receipt, or other similar document provided to the consumer by the  
715 seller.

716           (e) Exclusion of E911 charge from base of other taxes  
717 and fees. The amount of the prepaid wireless E911 charge that is  
718 collected by a seller from a consumer, whether or not such amount  
719 is separately stated on an invoice, receipt or other similar  
720 document provided to the consumer by the seller, shall not be  
721 included in the base for measuring any tax, fee, surcharge or



722 other charge that is imposed by this state, any political  
723 subdivision of this state or any intergovernmental agency.

724 (f) Resetting of charge. The prepaid wireless E911  
725 charge shall be increased or reduced, as applicable, upon any  
726 change to the state E911 charge on postpaid wireless  
727 telecommunications service under Section 19-5-333. Such increase  
728 or reduction shall be effective on the effective date of the  
729 change to the postpaid charge or, if later, the first day of the  
730 first calendar month to occur at least sixty (60) days after the  
731 enactment of the change to the postpaid charge. The department  
732 shall provide not less than thirty (30) days of advance notice of  
733 such increase or reduction on the commission's Web site.

734 (3) **Administration of E911 charge.** (a) Time and manner of  
735 payment. Prepaid wireless E911 charges collected by sellers shall  
736 be remitted to the department at the times and in the manner  
737 provided by Chapter 65 of Title 27 with respect to sales and use  
738 taxes. The department shall establish registration and payment  
739 procedures that substantially coincide with the registration and  
740 payment procedures that apply to Chapter 65 of Title 27.

741 (b) Seller administrative deduction. A seller shall be  
742 permitted to deduct and retain two percent (2%) of prepaid  
743 wireless E911 charges that are collected by the seller from  
744 consumers.

745 (c) Audit and appeal procedures. The audit and appeal  
746 procedures applicable to Chapter 65 of Title 27 shall apply to  
747 prepaid wireless E911 charges.

748 (d) Exemption documentation. The department shall  
749 establish procedures by which a seller of prepaid wireless  
750 telecommunications service may document that a sale is not a  
751 retail transaction, which procedures shall substantially coincide  
752 with the procedures for documenting sale for resale transactions  
753 for sales and use tax purposes under Chapter 65 of Title 27.



754           (e) Disposition of remitted charges. The department  
755 shall pay all remitted prepaid wireless E911 charges over to the  
756 Commercial Mobile Radio Service Emergency Telephone Services Board  
757 within thirty (30) days of receipt, for use by the board in  
758 accordance with the purposes permitted by Section 19-5-333, after  
759 deducting an amount, not to exceed two percent (2%) of collected  
760 charges, that shall be retained by the department to reimburse its  
761 direct costs of administering the collection and remittance of  
762 prepaid wireless E911 charges. The amount of the distribution  
763 shall be determined by dividing the population of the  
764 communications district by the state population, and then  
765 multiplying that quotient times the total revenues remitted to the  
766 department after deducting the amount authorized in this  
767 subsection.

768           (4) **No Liability.** (a) No liability regarding 911 service.  
769 No provider or seller of prepaid wireless telecommunications  
770 service shall be liable for damages to any person resulting from  
771 or incurred in connection with the provision of, or failure to  
772 provide, 911 or E911 service, or for identifying, or failing to  
773 identify, the telephone number, address, location or name  
774 associated with any person or device that is accessing or  
775 attempting to access 911 or E911 service.

776           (b) No provider of prepaid wireless service shall be  
777 liable for damages to any person or entity resulting from or  
778 incurred in connection with the provider's provision of assistance  
779 to any investigative or law enforcement officer of the United  
780 States, this or any other state, or any political subdivision of  
781 this or any other state, in connection with any investigation or  
782 other law enforcement activity by such law enforcement officer  
783 that the provider believes in good faith to be lawful.

784           (c) Incorporation of postpaid 911 liability protection.  
785 In addition to the protection from liability provided by  
786 paragraphs (a) and (b) of this subsection, each provider and





787 seller shall be entitled to the further protection from liability,  
788 if any, that is provided to providers and sellers of wireless  
789 telecommunications service that is not prepaid wireless  
790 telecommunications service pursuant to Section 19-5-361.

791 (5) **Exclusivity of prepaid wireless E911 charge.** The  
792 prepaid wireless E911 charge imposed by this section shall be the  
793 only E911 governmental funding obligation imposed with respect to  
794 prepaid wireless telecommunications service in this state, and no  
795 tax, fee, surcharge or other charge shall be imposed by this  
796 state, any political subdivision of this state, or any  
797 intergovernmental agency, for E911 funding purposes, upon any  
798 provider, seller or consumer with respect to the sale, purchase,  
799 use or provision of prepaid wireless telecommunications service.

800 (6) Notwithstanding any other method or formula of  
801 collection and/or distribution of the emergency telephone service  
802 charges as specified in this section and as such collection and/or  
803 distribution method or formula is specified in this section, a  
804 provider may collect and distribute the said charges in any other  
805 manner applicable to satisfy the intent and requirements of this  
806 section.

807 **SECTION 14.** (1) After any telecommunicator has received his  
808 or her initial minimum standard of training and has been issued  
809 the "Certification of Minimum Standards," such telecommunicator  
810 shall complete forty-eight (48) hours of continuing education  
811 courses every three (3) years. The continuing education courses,  
812 required pursuant to this subsection, must be approved by the  
813 Board of Emergency Telecommunications Standards and Training.

814 (2) The Board of Emergency Telecommunications Standards and  
815 Training shall reimburse each agency for the expense incurred by  
816 telecommunicators who attend approved continuing education courses  
817 as required by this section.

818 (3) For purposes of this section, "telecommunicator" means  
819 any person engaged in or employed as a telecommunications operator



820 by any public safety, fire or emergency medical agency whose  
821 primary responsibility is the receipt or processing of calls for  
822 emergency services provided by public safety, fire or emergency  
823 medical agencies or the dispatching of emergency services provided  
824 by public safety, fire or emergency medical agencies and who  
825 receives or disseminates information relative to emergency  
826 assistance by telephone or radio.

827         **SECTION 15.** This act shall take effect and be in force from  
828 and after July 1, 2010.

