

By: Representative DeLano

To: Public Utilities

HOUSE BILL NO. 231

1 AN ACT TO BRING FORWARD SECTION 19-5-313, MISSISSIPPI CODE OF  
2 1972, WHICH RELATES TO THE EMERGENCY TELEPHONE SERVICE (911)  
3 CHARGES, AND SECTIONS 19-5-331, 19-5-333, 19-5-335, 19-5-337,  
4 19-5-339, 19-5-341 AND 19-5-343, MISSISSIPPI CODE OF 1972, WHICH  
5 RELATE TO THE ENHANCED WIRELESS EMERGENCY TELEPHONE SERVICE  
6 (E911), FOR THE PURPOSE OF AMENDMENT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 19-5-313, Mississippi Code of 1972, is  
9 brought forward as follows:

10 19-5-313. (1) The board of supervisors may levy an  
11 emergency telephone service charge in an amount not to exceed One  
12 Dollar (\$1.00) per residential telephone subscriber line per  
13 month, One Dollar (\$1.00) per Voice over Internet Protocol  
14 subscriber account per month, and Two Dollars (\$2.00) per  
15 commercial telephone subscriber line per month for exchange  
16 telephone service. Any emergency telephone service charge shall  
17 have uniform application and shall be imposed throughout the  
18 entirety of the district to the greatest extent possible in  
19 conformity with availability of such service in any area of the  
20 district. Those districts which exist on the date of enactment of



21 Chapter 539, Laws of 1993, shall convert to the following  
22 structure for service charge levy: If the current charge is five  
23 percent (5%) of the basic tariff service rate, the new collection  
24 shall be Eighty Cents (\$.80) per month per residential subscriber  
25 line and One Dollar and Sixty Cents (\$1.60) per month per  
26 commercial subscriber line. The collections may be adjusted as  
27 outlined in Chapter 539, Laws of 1993, and within the limits set  
28 forth herein.

29 (2) If the proceeds generated by the emergency telephone  
30 service charge exceed the amount of monies necessary to fund the  
31 service, the board of supervisors may authorize such excess funds  
32 to be expended by the county and the municipalities in the  
33 counties to perform the duties and pay the costs relating to  
34 identifying roads, highways and streets, as provided by Section  
35 65-7-143. The board of supervisors shall determine how the funds  
36 are to be distributed in the county and among municipalities in  
37 the county for paying the costs relating to identifying roads,  
38 highways and streets. The board of supervisors may temporarily  
39 reduce the service charge rate or temporarily suspend the service  
40 charge if the proceeds generated exceed the amount that is  
41 necessary to fund the service and/or to pay costs relating to  
42 identifying roads, highways and streets. Such excess funds may  
43 also be used in the development of county or district  
44 communications and paging systems when used primarily for the  
45 alerting and dispatching of public safety entities and for other



46 administrative costs such as management personnel, maintenance  
47 personnel and related building and operational requirements. Such  
48 excess funds may be placed in a depreciation fund for emergency  
49 and obsolescence replacement of equipment necessary for the  
50 operation of the overall 911 emergency telephone and alerting  
51 systems.

52 (3) No such service charge shall be imposed upon more than  
53 twenty-five (25) exchange access facilities or Voice over Internet  
54 Protocol lines per person per location. Trunks or service lines  
55 used to supply service to CMRS providers shall not have a service  
56 charge levied against them. Every billed service user shall be  
57 liable for any service charge imposed under this section until it  
58 has been paid to the service supplier. The duty of the service  
59 supplier to collect any such service charge shall commence upon  
60 the date of its implementation, which shall be specified in the  
61 resolution for the installation of such service. Any such  
62 emergency telephone service charge shall be added to and may be  
63 stated separately in the billing by the service supplier to the  
64 service user.

65 (4) The service supplier shall have no obligation to take  
66 any legal action to enforce the collection of any emergency  
67 telephone service charge. However, the service supplier shall  
68 annually provide the board of supervisors and board of  
69 commissioners with a list of the amount uncollected, together with  
70 the names and addresses of those service users who carry a balance



71 that can be determined by the service supplier to be nonpayment of  
72 such service charge. The service charge shall be collected at the  
73 same time as the tariff rate or, for nontariff services, at the  
74 time of payment, in accordance with the regular billing practice  
75 of the service supplier. Good faith compliance by the service  
76 supplier with this provision shall constitute a complete defense  
77 to any legal action or claim which may result from the service  
78 supplier's determination of nonpayment and/or the identification  
79 of service users in connection therewith.

80 (5) The amounts collected by the service supplier  
81 attributable to any emergency telephone service charge shall be  
82 due the county treasury monthly. The amount of service charge  
83 collected each month by the service supplier shall be remitted to  
84 the county no later than sixty (60) days after the close of the  
85 month. A return, in such form as the board of supervisors and the  
86 service supplier agree upon, shall be filed with the county,  
87 together with a remittance of the amount of service charge  
88 collected payable to the county. The service supplier shall  
89 maintain records of the amount of service charge collected for a  
90 period of at least two (2) years from date of collection. The  
91 board of supervisors and board of commissioners shall receive an  
92 annual audit of the service supplier's books and records with  
93 respect to the collection and remittance of the service charge.  
94 From the gross receipts to be remitted to the county, the service  
95 supplier shall be entitled to retain as an administrative fee, an



96 amount equal to one percent (1%) thereof. From and after March  
97 10, 1987, the service charge is a county fee and is not subject to  
98 any sales, use, franchise, income, excise or any other tax, fee or  
99 assessment and shall not be considered revenue of the service  
100 supplier for any purpose.

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

105 **SECTION 2.** Section 19-5-331, Mississippi Code of 1972, is  
106 brought forward as follows:

107 19-5-331. As used in Sections 19-5-331 through 19-5-341, the  
108 following words and phrases have the meanings ascribed in this  
109 section unless the context clearly indicates otherwise:

110 (a) The terms "board" and "CMRS Board" mean the  
111 Commercial Mobile Radio Service Emergency Telephone Services  
112 Board.

113 (b) The term "automatic number identification" or "ANI"  
114 means an Enhanced 911 Service capability that enables the  
115 automatic display of the ten-digit wireless telephone number used  
116 to place a 911 call and includes "pseudo-automatic number  
117 identification" or "pseudo-ANI," which means an Enhanced 911  
118 Service capability that enables the automatic display of the  
119 number of the cell site and an identification of the CMRS  
120 provider.



121           (c) The term "commercial mobile radio service" or  
122 "CMRS" means commercial mobile radio service under Sections 3(27)  
123 and 332(d) of the Federal Telecommunications Act of 1996, 47 USCS  
124 Section 151 et seq., and the Omnibus Budget Reconciliation Act of  
125 1993, Public Law 103-66. The term includes the term "wireless"  
126 and service provided by any wireless real time two-way voice  
127 communication device, including radio-telephone communications  
128 used in cellular telephone service, personal communication  
129 service, or the functional or competitive equivalent of a  
130 radio-telephone communications line used in cellular telephone  
131 service, a personal communication service, specialized mobile  
132 radio service, or a network radio access line. The term does not  
133 include service whose customers do not have access to 911 or to a  
134 911-like service, to a communication channel suitable only for  
135 data transmission, to a wireless roaming service or other nonlocal  
136 radio access line service, or to a private telecommunications  
137 system.

138           (d) The term "commercial mobile radio service provider"  
139 or "CMRS provider" means a person or entity who provides  
140 commercial mobile radio service or CMRS service.

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



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

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

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

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

157 (j) The term "Enhanced 911," "E911," "Enhanced E911  
158 system" or "E911 system" means an emergency telephone system that  
159 provides the caller with emergency 911 system service, that  
160 directs 911 calls to appropriate public safety answering points by  
161 selective routing based on the geographical location from which  
162 the call originated, and that provides the capability for  
163 automatic number identification and other features that the  
164 Federal Communications Commission (FCC) may require in the future.

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

167 (l) The term "FCC Order" means Federal Communications  
168 Commission orders, rules and regulations issued with respect to



169 implementation of Basic 911 or Enhanced 911 and other emergency  
170 communication services.

171 (m) The term "place of primary use" means the street  
172 address representative of where the customer's use of mobile  
173 telecommunications services primarily occurs, which must be either  
174 the residential street address or the primary business street  
175 address of the customer.

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

178 (o) The term "technical proprietary information" means  
179 technology descriptions, technical information or trade secrets  
180 and the actual or developmental costs thereof which are developed,  
181 produced or received internally by a CMRS provider or by a CMRS  
182 provider's employees, directors, officers or agents.

183 **SECTION 3.** Section 19-5-333, Mississippi Code of 1972, is  
184 brought forward as follows:

185 19-5-333. (1) There is created a Commercial Mobile Radio  
186 Service (CMRS) Board, consisting of eight (8) members to be  
187 appointed by the Governor with the advice and consent of the  
188 Senate. The members of the board shall be appointed as follows:

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

192 (b) One (1) member from the Central Public Service  
193 Commission District selected from two (2) nominees submitted to





194 the Governor by the Mississippi Chapter of the Association of  
195 Public Safety Communication Officers;

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

199 (d) Two (2) members who are wireless provider  
200 representatives;

201 (e) One (1) member who is a consumer representing the  
202 state at large with no affiliation to the three (3) trade  
203 associations or the wireless providers;

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

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

210 The initial terms of the board members, as appointed after  
211 July 1, 2002, shall be staggered as follows: the members  
212 appointed under paragraph (d) shall serve a term of two (2) years;  
213 the member appointed under paragraph (e) shall serve a term of one  
214 (1) year. After the expiration of the initial terms, the term for  
215 all members shall be four (4) years.

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

217 (a) To collect and distribute a CMRS emergency  
218 telephone service charge on each CMRS customer whose place of



219 primary use is within the state. The rate of such CMRS service  
220 charge shall be One Dollar (\$1.00) per month per CMRS connection.  
221 In the case of prepaid wireless service, the rate and methodology  
222 for collecting and remitting the 911 charge is governed by Section  
223 19-5-343. The CMRS service charge shall have uniform application  
224 and shall be imposed throughout the state. The board is  
225 authorized to receive all revenues derived from the CMRS service  
226 charge levied on CMRS connections in the state and collected  
227 pursuant to Section 19-5-335.

228 (b) To establish and maintain the CMRS Fund as an  
229 insured, interest-bearing account into which the board shall  
230 deposit all revenues derived from the CMRS service charge levied  
231 on CMRS connections in the state and collected pursuant to Section  
232 19-5-335. The revenues which are deposited into the CMRS Fund  
233 shall not be monies or property of the state and shall not be  
234 subject to appropriation by the Legislature. Interest derived  
235 from the CMRS Fund shall be divided equally to pay reasonable  
236 costs incurred by providers in compliance with the requirements of  
237 Sections 19-5-331 through 19-5-341 and to compensate those  
238 persons, parties or firms employed by the CMRS Board as  
239 contemplated in paragraph (d) of this subsection. The interest  
240 income is not subject to the two percent (2%) cap on  
241 administrative spending established in Section 19-5-335(3).



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

245 (i) Out of the funds collected by the board,  
246 thirty percent (30%) shall be deposited into the CMRS Fund, and  
247 shall be used to defray the administrative expenses of the board  
248 in accordance with Section 19-5-335(3) and to pay the actual costs  
249 incurred by such CMRS providers in complying with the wireless  
250 E911 service requirements established by the FCC Order and any  
251 rules and regulations which are or may be adopted by the FCC  
252 pursuant to the FCC Order, including, but not limited to, costs  
253 and expenses incurred for designing, upgrading, purchasing,  
254 leasing, programming, installing, testing or maintaining all  
255 necessary data, hardware and software required in order to provide  
256 such service as well as the incremental costs of operating such  
257 service. Sworn invoices must be presented to the board in  
258 connection with any request for payment and approved by a majority  
259 vote of the board prior to any such disbursement, which approval  
260 shall not be withheld or delayed unreasonably. In no event shall  
261 any invoice for payment be approved for the payment of costs that  
262 are not related to compliance with the wireless E911 service  
263 requirements established by the FCC Order and any rules and  
264 regulations which are or may be adopted by the FCC pursuant to the  
265 FCC Order, and any rules and regulations which may be adopted by  
266 the FCC with respect to implementation of wireless E911 services.



267                   (ii) The remainder of all funds collected by the  
268 board, which shall not be less than seventy percent (70%) of the  
269 total funds collected by the board, shall be distributed by the  
270 board monthly based on the number of CMRS connections in each ECD  
271 for use in providing wireless E911 service, including capital  
272 improvements, and in their normal operations. For purposes of  
273 distributing the funds to each ECD, every CMRS provider shall  
274 identify to the CMRS Board the ECD to which funds should be  
275 remitted based on zip code plus four (4) designation, as required  
276 by the federal Uniform Sourcing Act.

277           An ECD board that has within its jurisdiction zip code  
278 designations that do not adhere to county lines shall assist CMRS  
279 providers in determining the appropriate county to which funds  
280 should be distributed.

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

285           (e) To obtain from an independent, third-party auditor  
286 retained by the board annual reports to the board no later than  
287 sixty (60) days after the close of each fiscal year, which shall  
288 provide an accounting for all CMRS service charges deposited into  
289 the CMRS Fund during the preceding fiscal year and all  
290 disbursements to ECDs during the preceding fiscal year. The board  
291 shall provide a copy of the annual reports to the Chairmen of the



292 Public Utilities Committees of the House of Representatives and  
293 Senate.

294 (f) To retain an independent, third-party accountant  
295 who shall audit CMRS providers at the discretion of the CMRS Board  
296 to verify the accuracy of each CMRS providers' service charge  
297 collection. The information obtained by the audits shall be used  
298 solely for the purpose of verifying that CMRS providers accurately  
299 are collecting and remitting the CMRS service charge and may be  
300 used for any legal action initiated by the board against CMRS  
301 providers.

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

306 (h) To promulgate such rules and regulations as may be  
307 necessary to effect the provisions of Sections 19-5-331 through  
308 19-5-341.

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

311 (j) To maintain a registration database of all CMRS  
312 providers and to impose an administrative fine on any provider  
313 that fails to comply with the registration requirements in Section  
314 19-5-335.

315 (3) The CMRS service charge provided in subsection (2) (a) of  
316 this section and the service charge provided in Section 19-5-357



317 to fund the training of public safety telecommunicators shall be  
318 the only charges assessed to CMRS customers relating to emergency  
319 telephone services.

320 (4) The board shall serve without compensation; however,  
321 members of the board shall be entitled to be reimbursed for actual  
322 expenses and travel costs associated with their service in an  
323 amount not to exceed the reimbursement authorized for state  
324 officers and employees in Section 25-3-41, Mississippi Code of  
325 1972.

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

332 **SECTION 4.** Section 19-5-335, Mississippi Code of 1972, is  
333 brought forward as follows:

334 19-5-335. (1) Each CMRS provider shall act as a collection  
335 agent for the CMRS Fund and shall, as part of the provider's  
336 normal monthly billing process, collect the CMRS service charges  
337 levied upon CMRS connections pursuant to Section 19-5-333(2) (a)  
338 from each CMRS connection to whom the billing provider provides  
339 CMRS service and shall, not later than thirty (30) days after the  
340 end of the calendar month in which such CMRS service charges are  
341 collected, remit to the board the net CMRS service charges so



342 collected after deducting the fee authorized by subsection (2) of  
343 this section. Each billing provider shall list the CMRS service  
344 charge as a separate entry on each bill which includes a CMRS  
345 service charge.

346 (2) Each CMRS provider shall be entitled to deduct and  
347 retain from the CMRS service charges collected by such provider  
348 during each calendar month an amount not to exceed one percent  
349 (1%) of the gross aggregate amount of such CMRS service charges so  
350 collected as reimbursement for the costs incurred by such provider  
351 in collecting, handling and processing such CMRS service charges.

352 (3) The board shall be entitled to retain from the CMRS  
353 service charges collected during each calendar month an amount not  
354 to exceed two percent (2%) of the money allocated to the CMRS Fund  
355 as reimbursement for the costs incurred by the board in  
356 administering Sections 19-5-331 through 19-5-341 including, but  
357 not limited to, retaining and paying the independent, third-party  
358 auditor to review and disburse the cost recovery funds and to  
359 prepare the reports contemplated by Sections 19-5-331 through  
360 19-5-341.

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

- 363 (a) The company name of the provider;  
364 (b) The marketing name of the provider;  
365 (c) The publicly traded name of the provider;



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

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

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

376 **SECTION 5.** Section 19-5-337, Mississippi Code of 1972, is  
377 brought forward as follows:

378 19-5-337. All technical proprietary information submitted to  
379 the board or to the independent, third-party auditor as provided  
380 by Section 19-5-333(2) (d) shall be retained by the board and such  
381 auditor in confidence and shall be subject to review only by the  
382 board. Further, notwithstanding any other provision of the law,  
383 no technical proprietary information so submitted shall be subject  
384 to subpoena or otherwise released to any person other than to the  
385 submitting CMRS provider, the board and the aforesaid independent,  
386 third-party auditor without the express permission of the  
387 administrator and the submitting CMRS provider. General  
388 information collected by the aforesaid independent, third-party  
389 auditor shall only be released or published in aggregate amounts  
390 which do not identify or allow identification of numbers of





391 subscribers of revenues attributable to an individual CMRS  
392 provider.

393         **SECTION 6.** Section 19-5-339, Mississippi Code of 1972, is  
394 brought forward as follows:

395         19-5-339. In accordance with the Federal Communication  
396 Commission Order, no CMRS provider shall be required to provide  
397 wireless Enhanced 911 Service until such time as (a) the provider  
398 receives a request for such service from the administrator of a  
399 Public Safety Answering Point (PSAP) that is capable of receiving  
400 and utilizing the data elements associated with the service; (b)  
401 funds are available pursuant to Section 19-5-333; and (c) the  
402 local exchange carrier is able to support the wireless Enhanced  
403 911 system.

404         **SECTION 7.** Section 19-5-341, Mississippi Code of 1972, is  
405 brought forward as follows:

406         19-5-341. Wireless emergency telephone service shall not be  
407 used for personal use and shall be used solely for the use of  
408 communications by the public. Any person who knowingly uses or  
409 attempts to use wireless emergency telephone service for a purpose  
410 other than obtaining public safety assistance, or who knowingly  
411 uses or attempts to use wireless emergency telephone service in an  
412 effort to avoid any CMRS charges, is guilty of a misdemeanor and  
413 shall be subject to a fine of not more than Five Hundred Dollars  
414 (\$500.00) or imprisonment of not more than thirty (30) days in the  
415 county jail, or both such fine and imprisonment. If the value of



416 the CMRS charge or service obtained in a manner prohibited by this  
417 section exceeds One Hundred Dollars (\$100.00), the offense may be  
418 prosecuted as a felony and punishable by a fine of not more than  
419 Five Thousand Dollars (\$5,000.00) and imprisonment of not more  
420 than three (3) years, or both such fine and imprisonment.

421 **SECTION 8.** Section 19-5-343, Mississippi Code of 1972, is  
422 brought forward as follows:

423 19-5-343. (1) **Definitions.** For purposes of this section,  
424 the following terms shall have the following meanings:

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

427 (b) "Department" means the Mississippi Department of  
428 Revenue.

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

432 (d) "Prepaid wireless telecommunications service" means  
433 a wireless telecommunications service that allows a caller to dial  
434 911 to access the 911 system, which service must be paid for in  
435 advance and is sold in predetermined units or dollars of which the  
436 number declines with use in a known amount.

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



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

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

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

448 (2) **Collection and remittance of E911 charge.** (a) Amount  
449 of Charge. The prepaid wireless E911 charge shall be One Dollar  
450 (\$1.00) per retail transaction.

451 (b) Collection of charge. The prepaid wireless E911  
452 charge shall be collected by the seller from the consumer with  
453 respect to each retail transaction occurring in this state. The  
454 amount of the prepaid wireless E911 charge shall be either  
455 separately stated on an invoice, receipt or other similar document  
456 that is provided to the consumer by the seller, or otherwise  
457 disclosed to the consumer.

458 (c) Application of charge. For purposes of paragraph  
459 (b) of this subsection, a retail transaction that is effected in  
460 person by a consumer at a business location of the seller shall be  
461 treated as occurring in this state if that business location is in  
462 this state, and any other retail transaction shall be treated as  
463 occurring in this state if the retail transaction is treated as



464 occurring in this state for purposes of Section  
465 27-65-19(1) (d) (v) 3.c.

466 (d) Liability for charge. The prepaid wireless E911  
467 charge is the liability of the consumer and not of the seller or  
468 of any provider, except that the seller shall be liable to remit  
469 all prepaid wireless E911 charges that the seller collects from  
470 consumers as provided in subsection (3), including all such  
471 charges that the seller is deemed to have collected where the  
472 amount of the charge has not been separately stated on an invoice,  
473 receipt, or other similar document provided to the consumer by the  
474 seller.

475 (e) Exclusion of E911 charge from base of other taxes  
476 and fees. The amount of the prepaid wireless E911 charge that is  
477 collected by a seller from a consumer, whether or not such amount  
478 is separately stated on an invoice, receipt or other similar  
479 document provided to the consumer by the seller, shall not be  
480 included in the base for measuring any tax, fee, surcharge or  
481 other charge that is imposed by this state, any political  
482 subdivision of this state or any intergovernmental agency.

483 (f) Resetting of charge. The prepaid wireless E911  
484 charge shall be increased or reduced, as applicable, upon any  
485 change to the state E911 charge on postpaid wireless  
486 telecommunications service under Section 19-5-333. Such increase  
487 or reduction shall be effective on the effective date of the  
488 change to the postpaid charge or, if later, the first day of the



489 first calendar month to occur at least sixty (60) days after the  
490 enactment of the change to the postpaid charge. The department  
491 shall provide not less than thirty (30) days of advance notice of  
492 such increase or reduction on the commission's website.

493       (3) **Administration of E911 charge.** (a) Time and manner of  
494 payment. Prepaid wireless E911 charges collected by sellers shall  
495 be remitted to the department at the times and in the manner  
496 provided by Chapter 65 of Title 27 with respect to sales and use  
497 taxes. The department shall establish registration and payment  
498 procedures that substantially coincide with the registration and  
499 payment procedures that apply to Chapter 65 of Title 27.

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

504       (c) Audit and appeal procedures. The audit and appeal  
505 procedures applicable to Chapter 65 of Title 27 shall apply to  
506 prepaid wireless E911 charges.

507       (d) Exemption documentation. The department shall  
508 establish procedures by which a seller of prepaid wireless  
509 telecommunications service may document that a sale is not a  
510 retail transaction, which procedures shall substantially coincide  
511 with the procedures for documenting sale for resale transactions  
512 for sales and use tax purposes under Chapter 65 of Title 27.



513           (e) Disposition of remitted charges. The department  
514 shall pay all remitted prepaid wireless E911 charges over to the  
515 Commercial Mobile Radio Service Emergency Telephone Services Board  
516 within thirty (30) days of receipt, for use by the board in  
517 accordance with the purposes permitted by Section 19-5-333, after  
518 deducting an amount, not to exceed two percent (2%) of collected  
519 charges, that shall be retained by the department to reimburse its  
520 direct costs of administering the collection and remittance of  
521 prepaid wireless E911 charges. The amount of the distribution  
522 shall be determined by dividing the population of the  
523 communications district by the state population, and then  
524 multiplying that quotient times the total revenues remitted to the  
525 department after deducting the amount authorized in this  
526 subsection.

527           (4) **No Liability.** (a) No liability regarding 911 service.  
528 No provider or seller of prepaid wireless telecommunications  
529 service shall be liable for damages to any person resulting from  
530 or incurred in connection with the provision of, or failure to  
531 provide, 911 or E911 service, or for identifying, or failing to  
532 identify, the telephone number, address, location or name  
533 associated with any person or device that is accessing or  
534 attempting to access 911 or E911 service.

535           (b) No provider of prepaid wireless service shall be  
536 liable for damages to any person or entity resulting from or  
537 incurred in connection with the provider's provision of assistance



538 to any investigative or law enforcement officer of the United  
539 States, this or any other state, or any political subdivision of  
540 this or any other state, in connection with any investigation or  
541 other law enforcement activity by such law enforcement officer  
542 that the provider believes in good faith to be lawful.

543 (c) Incorporation of postpaid 911 liability protection.  
544 In addition to the protection from liability provided by  
545 paragraphs (a) and (b) of this subsection, each provider and  
546 seller shall be entitled to the further protection from liability,  
547 if any, that is provided to providers and sellers of wireless  
548 telecommunications service that is not prepaid wireless  
549 telecommunications service pursuant to Section 19-5-361.

550 (5) **Exclusivity of prepaid wireless E911 charge.** The  
551 prepaid wireless E911 charge imposed by this section shall be the  
552 only E911 governmental funding obligation imposed with respect to  
553 prepaid wireless telecommunications service in this state, and no  
554 tax, fee, surcharge or other charge shall be imposed by this  
555 state, any political subdivision of this state, or any  
556 intergovernmental agency, for E911 funding purposes, upon any  
557 provider, seller or consumer with respect to the sale, purchase,  
558 use or provision of prepaid wireless telecommunications service.

559 (6) Notwithstanding any other method or formula of  
560 collection and/or distribution of the emergency telephone service  
561 charges as specified in this section and as such collection and/or  
562 distribution method or formula is specified in this section, a



563 provider may collect and distribute the said charges in any other  
564 manner applicable to satisfy the intent and requirements of this  
565 section.

566           **SECTION 9.** This act shall take effect and be in force from  
567 and after July 1, 2018.

