

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2307

Introduced by

Senators Krebsbach, Heitkamp, Kringstad

Representatives Clark, Dorso, Kroeber

1 A BILL for an Act to create and enact sections 57-40.6-02.1 and 57-40.6-02.2 of the North
2 Dakota Century Code, relating to a wireless 911 service fee and service fund; to amend and
3 reenact sections 57-40.6-01, 57-40.6-06, 57-40.6-07, and 57-40.6-08 of the North Dakota
4 Century Code, relating to wireless 911 service fees, definitions, and communications; and to
5 provide a continuing appropriation.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 57-40.6-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **57-40.6-01. Definitions.** In this chapter, unless the context or subject matter otherwise
10 requires:

- 11 1. "Commercial mobile radio service provider" means any provider of wireless
12 telephone service or any communications service capable of accessing a public
13 safety answering point by dialing the digits 9-1-1.
- 14 2. "Emergency services communication system" means a statewide, countywide, or
15 citywide radio system, land lines communication network, or emergency 911
16 telephone system, which provides rapid public access for coordinated dispatching
17 of services, personnel, equipment, and facilities for law enforcement, fire, medical,
18 or other emergency services.
- 19 3. "Enhanced 911 wireless service" has the meaning provided by the federal
20 communications commission under a two-phase implementation of a wireless
21 enhanced 911 technology. Phase I provides for a commercial mobile radio service
22 subscriber's telephone number and the location of the cell site transmitting the call
23 to those public safety answering points which request enhanced 911 wireless
24 service. Phase II requires commercial mobile radio service providers to be able to

1 identify the location of the commercial mobile radio service subscriber within one
2 hundred twenty-five meters at least sixty-seven percent of the time by October 1,
3 2001.

4 4. "Public safety answering point" means a communications facility operated on a
5 twenty-four-hour basis which first receives 911 calls from persons in a 911 service
6 area and which may, as appropriate, directly dispatch public safety services or
7 extend, transfer, or relay 911 calls to appropriate public safety agencies.

8 ~~2.~~ 5. "Telephone access line" means the principal land-line or fixed-line access to the
9 telephone telecommunications company's switched network including an outward
10 dialed trunk or access register.

11 6. "Wireless telephone service" means commercial mobile radio service as defined
12 by 47 U.S.C. 332(d)(1) and includes any of the following:

13 a. Services commonly referred to as wireless.
14 b. Services provided by wireless real time two-way voice communication
15 devices, including radio-telephone communications used in:

- 16 (1) Cellular telephone services;
17 (2) Personal communications services; or
18 (3) The functional or competitive equivalent of a radio-telephone
19 communications line used in cellular telephone services, a personal
20 communications services, or a network radio access line.

21 **SECTION 2.** Section 57-40.6-02.1 of the North Dakota Century Code is created and
22 enacted as follows:

23 **Wireless 911 service fee, administration, collection.** A wireless 911 service fee is
24 imposed at a rate of one dollar per month on each commercial mobile radio service telephone
25 service number provided within the state, except for those issued to the federal government or
26 agencies of the federal government. The tax commissioner shall administer this section and
27 the fee imposed. The commissioner may adopt rules not inconsistent with this chapter
28 necessary for its administration, including appropriate penalties and interest for late payment of
29 the fee. The fee must be collected and remitted as follows:

- 1 1. Each commercial mobile radio service provider shall add the wireless 911 service
2 fee to its subscribers' billings, separately stating the amount of the 911 wireless
3 service fee.
- 4 2. The commercial mobile radio service provider shall collect the 911 service fee and
5 may retain two percent of the fees collected by the provider for the purpose of
6 defraying the administrative costs of collecting and remitting the fees.
- 7 3. The commercial mobile radio service provider shall remit the balance of the
8 wireless service fees collected to the tax commissioner on or before the last day of
9 the month following the month the fees were collected.
- 10 4. The tax commissioner may retain one percent of the fees received for the services
11 rendered in connection with their collection and disbursement and transfer this
12 amount to the state treasurer at the end of each month for deposit in the state
13 general fund.
- 14 5. The tax commissioner shall transfer the balance of the fees received under this
15 section to the state treasurer at the end of each month for deposit in the wireless
16 911 service fund.

17 **SECTION 3.** Section 57-40.6-02.2 of the North Dakota Century Code is created and
18 enacted as follows:

19 **Wireless 911 service fund - Allocation - Continuing appropriation.** Revenues
20 deposited in the wireless 911 service fund are provided as a standing and continuing
21 appropriation to the state treasurer for allocation as follows:

- 22 1. Twenty-five percent of the revenues must be allocated monthly in equal shares to
23 political subdivisions operating a public safety answering point. Political
24 subdivisions served by the state public safety answering point must be treated as
25 one public safety answering point for the purposes of this subsection and must be
26 allocated a portion of the revenues based upon the proportion each of those
27 political subdivision's telephone access lines bears to the total number of
28 telephone access lines served by the state public safety answering point.
29 Revenue received under this subsection must be used by the political subdivision
30 for establishing and operating a 911 emergency services communication system
31 including enhanced 911 wireless service.

1 2. Seventy-five percent of the revenues must be allocated monthly to political
2 subdivisions responsible for the emergency services communication system in
3 each political subdivision based upon the proportion the population served by the
4 emergency services communication system bears to the total population of the
5 state served by emergency services communication systems, as indicated by the
6 most current census. However, these funds and the interest earned must be held
7 in escrow by the state treasurer for each political subdivision until the governing
8 board of the political subdivision certifies that it has formally begun the
9 implementation of phase I or phase II of enhanced 911 wireless service as defined
10 by the federal communications commission. The certification must include
11 documentation of agreements between political subdivisions or public safety
12 answering points and commercial mobile service providers which authorize the
13 purchase of equipment or services necessary to implement enhanced 911 wireless
14 service. The funds must be designated for the implementation of enhanced 911
15 wireless service and allocated by political subdivisions on the basis of actual costs
16 incurred by public safety answering points and commercial mobile radio service
17 providers.

18 **SECTION 4. AMENDMENT.** Section 57-40.6-06 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **57-40.6-06. Data base.** ~~In 911 systems that have been approved by the state~~
21 ~~emergency service communication system advisory committee, any~~ Any telecommunications
22 company providing emergency 911 service shall provide upon request, on an annual basis,
23 current customer names, addresses, and telephone numbers to each public ~~service~~ safety
24 answering point within each 911 system ~~and shall update the information according to a~~
25 ~~schedule prescribed by the state 911 advisory committee's standards and guidelines.~~

26 Information provided under this section must be provided in accordance with the transactional
27 record disclosure requirements of the federal Electronics Communications Privacy Act of 1986,
28 18 U.S.C. 2703 (C)(1)(B)(iv).

29 **SECTION 5. AMENDMENT.** Section 57-40.6-07 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **57-40.6-07. Use of the furnished information.** Names, addresses, and telephone
2 numbers provided to a 911 public ~~service~~ safety answering point under section 57-40.6-06 are
3 private data and may be used only for verifying the location or identity, or both, for response
4 purposes only, of a person calling a 911 answering point for emergency help. The information
5 furnished may not be used or disclosed by the public ~~service~~ safety answering point or its
6 agents or employees for any other purpose except those specifically required by state law or
7 under a court order issued for good cause shown after notice to the submitting
8 telecommunications company or commercial mobile radio service provider, or upon written
9 consent granted by the submitting telecommunications company or commercial mobile radio
10 service provider.

11 **SECTION 6. AMENDMENT.** Section 57-40.6-08 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **57-40.6-08. Emergency services communication system or emergency**
14 **instructions - Liability.**

- 15 1. A public agency, public safety agency, commercial mobile radio service provider,
16 or local exchange telecommunications company that provides access to an
17 emergency services communication system ~~at or below cost,~~ or any officer, agent,
18 or employee of any public agency, public safety agency, commercial mobile radio
19 service provider, or local exchange telecommunications company, is not liable for
20 any civil damages as a result of any act or omission except willful and wanton
21 misconduct or gross negligence in connection with developing, adopting,
22 operating, or implementing any plan or system as provided under this chapter.
- 23 2. A person who gives emergency instructions through a an emergency services
24 communication system as provided under this chapter, to persons rendering
25 services in an emergency at another location, or any person following such
26 instructions in rendering such services, is not liable for any civil damages as a
27 result of issuing or following the instructions, unless issuing or following the
28 instructions constitutes willful and wanton misconduct or gross negligence.
- 29 3. This section does not waive, limit, or modify any existing immunity or other defense
30 of the state or any political subdivision, or any of its agencies, departments,

1 commissions, boards, officers, or employees, nor does it create any claim for relief
2 against any of these entities.

3 4. A public agency, public safety agency, commercial mobile radio service provider,
4 or local exchange telecommunications company that provides access to an
5 emergency services communications system or any officer, agency, or employee
6 of any public agency, public safety agency, commercial mobile radio service
7 provider, or local exchange telecommunications company and its data base vendor
8 is not liable for any civil damages resulting from the release of a wireless
9 customer's telephone number or other subscriber information provided to any
10 public safety answering point.

11 5. All proprietary information of commercial mobile radio service providers, including
12 a commercial mobile radio service provider's customer lists and information
13 concerning a commercial mobile radio service provider's actual or estimated costs
14 and revenues, submitted to a public agency, public safety agency, political
15 subdivision, or state agency may be released or published in aggregate amounts
16 that do not identify or allow identification of number of subscribers, costs, or
17 revenues of an individual commercial mobile radio service provider.