

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1257

Introduced by

Representative Porter

1 A BILL for an Act to amend and reenact sections 57-40.6-01 and 57-40.6-04 of the North
2 Dakota Century Code, relating to prepaid wireless telephone tax for emergency services.

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

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

6 **57-40.6-01. Definitions.** In this chapter, unless the context or subject matter otherwise
7 requires:

8 1. "Active prepaid wireless telephone" means a prepaid wireless telephone that has
9 been used or activated by a customer during the month to complete a telephone
10 call for which the customer's card or account was decremented.

11 2. "Automated notification system" means that portion of a telecommunications
12 system that provides rapid notice of emergency situations to the public.

13 ~~2.~~ 3. "Emergency services communication system" means a statewide, countywide, or
14 citywide radio system, land lines communication network, wireless service
15 network, or enhanced 911 (E911) telephone system, which provides rapid public
16 access for coordinated dispatching of services, personnel, equipment, and facilities
17 for law enforcement, fire, medical, or other emergency services.

18 ~~3.~~ 4. "FCC order" means federal communications commission order 94-102 [961
19 Federal Register 40348] and any other FCC order that affects the provision of
20 wireless enhanced 911 service.

21 5. "Prepaid wireless telephone service" means wireless telephone service that is
22 activated by payment in advance, is of a finite dollar amount or for a finite set of
23 minutes, and unless an additional finite dollar amount or finite set of minutes is
24 paid in advance, terminates either upon use by a customer and delivery by the

1 wireless carrier of an agreed-upon amount of service corresponding to the total
2 dollar amount paid in advance or within a certain period of time following initial
3 purchase or activation.

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

9 5. 7. "Subscriber service address" means, for purposes of wire line subscribers, the
10 address where the telephone subscriber's wire line telephone device is used and,
11 for purposes of wireless subscribers, the place of primary use, as that term is
12 defined in the Mobile Telecommunications Sourcing Act [Pub. L. 106-252; 4 U.S.C.
13 124(8)].

14 6. 8. "Telephone access line" means the principal access to the telephone company's
15 switched network including an outward dialed trunk or access register.

16 7. 9. "Telephone exchange access service" means service to any wire line telephone
17 access line identified by a unique telephone number that provides local wire line
18 access to the telecommunications network to a service subscriber and which
19 enables the subscriber to access the emergency services communications system
20 by dialing the digits 9-1-1 on the subscriber's telephone device.

21 8. 10. "Unpublished" means information that is not published or available from directory
22 assistance.

23 9. 11. "Wireless access line" means each active wireless telephone number assigned to
24 a commercial mobile radio service subscriber, including end users of resellers.

25 10. 12. "Wireless enhanced 911 service" means the service required to be provided by
26 wireless service providers pursuant to the FCC order.

27 11. 13. "Wireless service" means commercial mobile radio service as defined in 47 U.S.C.
28 332(d)(1) and includes:

29 a. Services commonly referred to as wireless; ~~and,~~

30 b. Services provided by any wireless real time two-way voice communication
31 device, including radio-telephone communications used in:

- 1 (1) Cellular telephone service;
- 2 (2) Personal communications service; or
- 3 (3) The functional or competitive equivalent of a radio-telephone
- 4 communications line used in cellular telephone service, personal
- 5 communications service, or a network radio access line.

6 c. Prepaid wireless telephone service.

- 7 ~~12.~~ 14. "Wireless service provider" means any entity authorized by the federal
8 communications commission to provide wireless service within the state of North
9 Dakota.

10 **SECTION 2. AMENDMENT.** Section 57-40.6-04 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **57-40.6-04. Fee collection procedure.**

- 13 1. A resolution adopted under section 57-40.6-02 must include adequate procedures
14 for the administration and collection of the fee, including a provision for
15 reimbursement to the telephone exchange access service provider and the
16 wireless service provider for the actual costs of administration in collection of the
17 fee, not to exceed five percent of the fee collected. The resolution must also
18 include a provision that the fee be paid by the telephone exchange access service
19 provider and the wireless service provider within thirty days after it is collected from
20 the subscriber.
- 21 2. In the case of prepaid wireless telephone service, unless the fee is paid by another
22 wireless provider, the service provider shall remit the fee based upon the address
23 associated with the point of purchase, the customer billing address, or the location
24 associated with the mobile telephone number for each active prepaid wireless
25 telephone that has a sufficient positive balance as of the last day of each month, if
26 that information is available.