

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

IN RE: PETITION OF TRACFONE WIRELESS, INC. :  
FOR DESIGNATION AS AN ELIGIBLE :  
TELECOMMUNICATIONS CARRIER IN THE : DOCKET NO. 4153  
STATE OF RHODE ISLAND FOR THE LIMITED :  
PURPOSE OF OFFERING LIFELINE SERVICE TO :  
QUALIFIED HOUSEHOLDS :

TRACFONE WIRELESS, INC.'S RESPONSE TO  
COMMISSION'S FIRST SET OF DATA REQUESTS

TracFone Wireless, Inc. provides the following responses to the Commission's First Set  
of Data Requests.

Respectfully submitted,



Robin L. Main  
HINCKLEY, ALLEN & SNYDER LLP  
50 Kennedy Plaza, Suite 1500  
Providence, RI 02903-2319  
Telephone: (401) 457-5278  
Facsimile: (401) 457-5279

Mitchell F. Brecher (*admitted pro hac vice*)  
Debra McGuire Mercer  
GREENBERG TRAUIG, LLP  
2101 L Street, NW  
Suite 1000  
Washington, D.C. 20037  
Telephone: (202) 331-3100  
Facsimile: (202) 331-3101  
brecherm@gtlaw.com  
mercerdm@gtlaw.com

*Counsel for TracFone Wireless, Inc.*

June 24, 2010

- 1-1. Please provide TracFone's status of applying for a certification from each Public Service Answering Point where TracFone intends to provide Lifeline service confirming that TracFone is in compliance with providing basic 911 and E911 access.**

**Response**

TracFone has received statewide PSAP certification from the Rhode Island E911 Uniform Emergency Telephone System in February 2010. The certification was signed by William Gasbarro, Contracts and Specifications Officer.

- 1-2. Please indicate whether TracFone is seeking a waiver from the requirement in Commission ETC Rule II.A.9, II.C and III.c regarding Linkup service.**

**Response**

The Commission ETC Rules listed in Request 1-2, provide that a petition for ETC designation demonstrate that the company provides Linkup services and that ETCs must participate in federal and Rhode Island Linkup programs. TracFone has filed a petition for waiver of the rules regarding Linkup. As explained in the petition for waiver, the Federal Communications Commission ("FCC") Order granting TracFone forbearance from the facilities requirement for ETCs is limited to Lifeline service. Moreover, TracFone does not impose activation or connection charges -- charges which are offset by Linkup support. Thus, there is no need for TracFone to offer Linkup.

- 1-3. Has TracFone been in contact with the Department of Human Service and/or Department of Administration, Division of Planning regarding the initial certification and annual verification procedures of its Lifeline customers? If not, please do so within thirty (30) days and certify to the Commission that TracFone will comply with any of those departments' administrative requirements or whether TracFone will undertake the verification procedures itself and utilize statistical analysis for annual verification.**

**Response**

TracFone has not been in contact with the Department of Human Service or the Department of Administration, Division of Planning. However, TracFone will contact those agencies as soon as possible.

**1-4. Has TracFone experienced any problems in any jurisdictions in which it has received ETC certification regarding customer “gaming” or “double dipping” in Lifeline programs despite the self-certification under penalties of perjury that were accepted by the FCC?**

**Response**

TracFone is not aware of any particular jurisdiction in which there is a problem with “gaming” or “double dipping” in Lifeline programs (*i.e.*, obtaining Lifeline-supported service from multiple providers). TracFone is concerned about potential fraud in the Lifeline program, but this is not an issue unique to TracFone. No ETCs have access to information regarding whether their customers are receiving Lifeline benefits from another ETC. As such, there is no process to cross check if a customer is receiving Lifeline service from another provider.

As one of the conditions in the FCC Order granting TracFone forbearance of the facilities-based requirement that normally applies to ETCs, TracFone, at the time of enrollment and annually thereafter, obtains a self-certification under penalty of perjury from every Lifeline customer that the customer is head of household and only receives Lifeline-supported service from TracFone. This FCC-imposed condition of forbearance is unique to TracFone. Therefore, TracFone is better positioned than other ETCs to prevent so-called “double dipping.”

**1-5. Please explain how TracFone intends to comply with the requirements of R.I.G.L. § 39-1-62 and R.I.G.L. § 39-21.2 (H 2009-7397Aaa – Article 9 Sub A as amended).**

**Response**

TracFone understands that H 2010-7257 (attached as Exhibit 1-5) reflects the current law in Rhode Island regarding the prepaid wireless E911 charge. Under the Prepaid Wireless E911

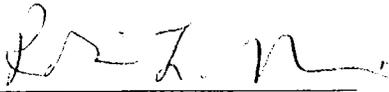
Charge Act, as set forth in H 2010-7257, sellers of prepaid wireless telecommunications services are required to collect the E911 charge from consumers. TracFone will comply with H 2010-7257, by collecting the E911 charge from its customers who purchase service directly from TracFone and remitting the amounts collected to the Division of Taxation.

## CERTIFICATE OF SERVICE

I hereby certify that I have this 24th day of June, 2010, served the foregoing TRACFONE WIRELESS, INC.'S RESPONSE COMMISSION STAFF'S FIRST SET OF DATA REQUESTS upon all parties of record in this proceeding by causing a copy to be sent by electronic mail and U.S. mail to the following addresses:

Mitchell F. Brecher  
Debra McGuire Mercer  
Greenberg Traurig, LLP  
2101 L Street, N.W.  
Suite 1000  
Washington, DC 20037  
brecherm@gtlaw.com  
mercerd@gtlaw.com

Jon Hagopian, Esq.  
Dept. of Attorney General  
150 South Main St.  
Providence RI 02903  
jhagopian@riag.ri.gov  
Jlanni@ripuc.state.ri.us  
bkent@ripuc.state.ri.us  
Mtobin@riag.ri.gov



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# **Exhibit 1-5**

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- 911 EMERGENCY

Introduced By: Representatives Kennedy, Williams, Naughton, Lima, and Lally

Date Introduced: January 28, 2010

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-1-62 of the General Laws in Chapter 39-1 entitled "Public  
2 Utilities Commission" is hereby amended to read as follows:

3 **39-1-62. E-911 Geographic Information System (GIS) and Technology Fund. -- (a)**  
4 Preamble. - To allow the Rhode Island E-911 Emergency Telephone System agency to associate  
5 latitude and longitude coordinates provided by wireless carriers with physical locations  
6 throughout the state, the agency must establish and maintain a GIS database of street addresses  
7 and landmarks. The database will allow local emergency response personnel to dispatch police,  
8 fire and rescue personnel to a specific address or landmark of a cellular caller in the event the  
9 caller is unaware of his or her location, or is physically unable to communicate it. Because more  
10 than half of the 530,000 9-1-1 phone calls received in 2003 came from cellular phones, it is  
11 critical that the GIS database be developed and maintained in order to improve caller location  
12 identification and reduce emergency personnel response times.

13 (b) Definitions. - As used in this section, the following terms have the following  
14 meanings:

15 (1) "System" means Emergency 911 Uniform Telephone System.

16 (2) "Agency" means Rhode Island 911 Emergency Telephone System.

17 (3) "Division" means the Division of Public Utilities and Carriers.

18 (4) "GIS and Technology Fund" means the programs and funding made available to the  
19 Emergency 911 Uniform Telephone System to assist in paying the costs of the GIS database

1 development project and GIS systems maintenance, which will enable the system to locate  
2 cellular phone callers by geocoding all addresses and landmarks in cities and towns throughout  
3 the state. GIS and Technology Fund also includes programs and funding to create system  
4 redundancy, fund the construction of a new E-911 facility, and operate and maintain other state-  
5 of-the-art equipment in public safety agencies.

6 (5) "Prepaid wireless E-911 telecommunications service" means a wireless  
7 telecommunications service that allows a caller to dial 911 to access the 911 system, which  
8 service must be paid for in advance and is sold in predetermined units or dollars of which the  
9 number declines with use in a known amount.

10 (c) Purpose. - The purpose of the GIS and Technology Fund shall be to:

11 (1) Implement and maintain a geographic information system database to assist in  
12 locating wireless phone callers for emergency purposes in a manner consistent and in  
13 coordination with the Rhode Island geographic information system administered by the Division  
14 of Planning as provided for in section 42-11-10(g)(3); and

15 (2) Create system redundancy to ensure the reliability of 9-1-1 service to the public;

16 (3) Operate and maintain other state-of-the-art equipment in public safety agencies; and

17 (4) Fund the construction of a new E-911 facility.

18 (d) Authority. - The agency shall establish, by rule or regulation, an appropriate funding  
19 mechanism to recover from the general body of ratepayers the costs of funding GIS and  
20 technology projects.

21 (1) The general assembly shall determine the amount of a monthly surcharge to be levied  
22 upon each wireless instrument, device or means including ~~prepaid~~ cellular, telephony, Internet,  
23 Voice Over Internet Protocol (VoIP), satellite, computer, radio, communication, data, or any  
24 other wireless instrument, device or means that has access to, connects with, interfaces with or is  
25 capable of delivering two-way interactive communications services to the Rhode Island E-911  
26 Uniform Emergency Telephone System. Prepaid wireless E-911 telecommunications services shall  
27 not be included in this act, but shall be governed by chapter 21.2 of title 39. The agency will  
28 provide the general assembly with information and recommendations regarding the necessary  
29 level of funding to effectuate the purposes of this article. The surcharge shall be billed monthly  
30 by each wireless telecommunications services provider as defined in section 39-21.1-3, which  
31 shall not include prepaid wireless E-911 telecommunications service, and shall be payable to the  
32 wireless telecommunications services provider by the subscriber ~~or prepaid service customer~~ of  
33 the telecommunications services. Each telecommunication services provider shall establish a  
34 special (escrow) account to which it shall deposit on a monthly basis the amounts collected as a

1 surcharge under this section. The money collected by each wireless telecommunication services  
2 provider shall be transferred within sixty (60) days after its inception of wireless, ~~prepaid~~  
3 cellular, telephony, Voice Over Internet Protocol (VoIP), satellite, computer, Internet, or  
4 communications, information or data services in this state and every month thereafter. Any  
5 money not transferred in accordance with this paragraph shall be assessed interest at the rate set  
6 forth in section 44-1-7 from the date the money should have been transferred. State, local and  
7 quasi-governmental agencies shall be exempt from the surcharge. The surcharge shall be  
8 deposited in restricted receipt account, hereby created within the agency and known as the GIS  
9 and Technology Fund, to pay any and all costs associated with the provisions of subsection (c).  
10 Beginning July 1, 2007, the surcharge shall be deposited in the general fund as general revenues  
11 to pay any and all costs associated with the provisions of subsection (c). The GIS and Technology  
12 Fund restricted receipt account shall be terminated June 30, 2008. The amount of the surcharge  
13 under this section shall not exceed thirty-five cents (\$.35) per wireless phone.

14 (2) The surcharge is hereby determined to be twenty-six cents (\$.26) per wireless phone,  
15 ~~prepaid~~ cellular, telephony, Voice Over Internet Protocol (VoIP), satellite, computer, data or data  
16 only wireless lines or Internet communication or data instrument, device or means which has  
17 access to, connects with, activates or interfaces with or any combination of the above with the  
18 Rhode Island E-911 Uniform Emergency Telephone System per month and shall be in addition to  
19 the wireless surcharge charged under section 39-21.1-14. The twenty-six cents (\$.26) is to be  
20 billed to all wireless telecommunication service providers, subscribers or ~~prepaid service~~  
21 ~~customers~~ upon the inception of services.

22 (3) The amount of the surcharge shall not be subject to the sales and use tax imposed  
23 under chapter 18 of title 44 nor be included within the gross earnings of the telecommunications  
24 corporation providing telecommunications service for the purpose of computing the tax under  
25 chapter 13 of title 44.

26 ~~(4) With respect to prepaid wireless telecommunication service providers and customers,~~  
27 ~~and notwithstanding anything to the contrary contained in this section, the surcharge shall be~~  
28 ~~collected and remitted to the division of taxation by the prepaid wireless telecommunication~~  
29 ~~service provider under one of three (3) methods:~~

30 ~~(i) The prepaid wireless telecommunication service provider shall collect the surcharge~~  
31 ~~on a monthly basis, from each active prepaid wireless telecommunication service customer whose~~  
32 ~~account balance is equal to or greater than the amount of the service charges; or~~

33 ~~(ii) The prepaid wireless telecommunication service provider shall collect the surcharge,~~  
34 ~~on a monthly basis, at the point of sale; or~~

1           ~~(iii) The prepaid wireless telecommunication service provider shall divide the total~~  
2 ~~earned prepaid wireless telephone revenue received by the prepaid wireless telecommunication~~  
3 ~~service provider within the monthly reporting period by fifty dollars (\$50.00), and multiply the~~  
4 ~~quotient by the amount of the surcharge.~~

5           ~~The surcharge amount or an equivalent number of air time minutes may be reduced from~~  
6 ~~a prepaid wireless telecommunication service customer's account when direct billing is not~~  
7 ~~possible.~~

8           (e) Administration. - The division of taxation shall collect monthly from the wireless  
9 telecommunications service providers as defined in section 39-21.1-3, and which shall not include  
10 prepaid wireless E911 telecommunications service, the amounts of the surcharge collected from  
11 their subscribers ~~or prepaid customers~~. The division of taxation shall deposit such collections in  
12 the general fund as general revenues for use in developing and maintaining the geographic  
13 information system database, creating system redundancy, funding the construction of a new E-  
14 911 facility and operating and maintaining other state-of-the-art equipment for public safety  
15 agencies. The agency is further authorized and encouraged to seek matching funds from all local,  
16 state, and federal public or private entities and shall coordinate its activities and share all  
17 information with the state Division of Planning.

18           (f) Effective date. - The effective date of assessment for the GIS and Technology Fund  
19 shall be July 1, 2004.

20           (g) Nothing in this section shall be construed to constitute rate regulation of wireless  
21 communications services carriers, nor shall this section be construed to prohibit wireless  
22 communications services carriers from charging subscribers for any wireless service or feature.

23           (h) Except as otherwise provided by law, the agency shall not use, disclose or otherwise  
24 make available call location information for any purpose other than as specified in subsection (c).

25           (i) The attorney general shall, at the request of the E-911 uniform emergency telephone  
26 system division, or any other agency that may replace it, or on its own initiative, commence  
27 judicial proceedings in the superior court against any telecommunication services provider as  
28 defined in section 39-21.1-3(11) providing communication services to enforce the provisions of  
29 this chapter.

30           SECTION 2. Sections 39-21.1-3 and 39-21.1-14 of the General Laws in Chapter 39-21.1  
31 entitled "911 Emergency Telephone Number Act" are hereby amended to read as follows:

32           **39-21.1-3. Definitions.** - As used in this chapter:

33           (1) "Automatic location identification (ALI)" means the system capability to identify  
34 automatically the geographical location of the telephone being used by the caller and to provide a

1 display of the location information at a public safety answering point.

2 (2) "Automatic number identification (ANI)" means the system capability to identify  
3 automatically the calling telephone number and to provide a display of that number at a public  
4 safety answering point.

5 (3) "Communications common carrier" means any person, party, or entity which  
6 provides communications services for profit by way of wire or radio. It includes re-sellers of  
7 such services.

8 (4) "Communications services" means the transmission of sounds, messages, data,  
9 information, codes, or signals between a point or points of origin and a point or points of  
10 reception.

11 (5) "Prepaid wireless 911 telecommunications service" means a wireless  
12 telecommunications service that allows a caller to dial 911 to access the 911 system, which  
13 service must be paid for in advance and is sold in predetermined units or dollars of which the  
14 number declines with use in a known amount.

15 ~~(5)(6)~~ "Private safety agency" means a private entity which provides emergency fire,  
16 ambulance, or medical services.

17 ~~(6)(7)~~ "Public agency" means the state government and any unit of local government or  
18 special purpose district located in whole or in part within the state which provides or has authority  
19 to provide firefighting, law enforcement, ambulance, medical, or other emergency services.

20 ~~(7)(8)~~ "Public safety agency" means a functional division of a public agency which  
21 provides firefighting, law enforcement, ambulance, medical, or other emergency services.

22 ~~(8)(9)~~ "Public safety answering point (PSAP)" means a communications facility operated  
23 on a twenty-four (24) hour basis, assigned responsibility to transmit 911 calls to other public  
24 safety agencies. It is the first point of reception of a 911 call by a public safety agency and serves  
25 the entire state.

26 ~~(9)(10)~~ "Relay method" means the method of responding to a telephone request for  
27 emergency service whereby a public safety answering point notes pertinent information and  
28 relays it by telephone to the appropriate public safety agency or other provider of emergency  
29 services for dispatch of an emergency service unit.

30 ~~(10)(11)~~ "Selective call routing" means a feature that routes a 911 call from a central  
31 office to the designated public safety answering point based upon the telephone number of the  
32 calling party.

33 ~~(11)(12)~~ "Telecommunication services provider", for purposes of this chapter and of  
34 chapter 21 of this title, means every person, party or entity which provides communications

1 services, telephony services, voice or data transmission services, and wireless prepaid services,  
2 including, but not limited to: audio, print information, Voice Over Internet Protocol (VoIP), data  
3 or visual information, communication or transmission or any combination thereof, for profit on a  
4 subscription, wireless prepaid service, wireless prepaid telephone calling arrangement or pay-for-  
5 services or any other basis by means of landline local telephone exchange, cellular telephone,  
6 wireless communication, radio, telephony, Internet, data, satellite, computer, prepaid wireless  
7 telephone, Voice Over Internet Protocols (VoIP) instruments, devices or means, or any other  
8 communication or data instruments devices or means which have access to, connect with, or  
9 interface with the E 9-1-1 Uniform Emergency Telephone System. Telecommunication service  
10 provider includes "telephone common carrier," "communications common carrier," "telephone  
11 companies," and "common carrier" as those terms are used in this chapter and in chapter 21 of  
12 this title, and "telecommunication common carrier" as defined in the Code of Federal Regulations  
13 at 47 CFR part 22, as amended from time to time and as defined in the NENA Master Glossary of  
14 9-1-1 Terminology as amended from time to time.

15 ~~(+2)~~(13) "Telephone common carrier" means any person, party, or entity which provides  
16 communications services for profit between a point of origin and a point of reception by way of a  
17 land-line wire connection between the two (2) points. It includes re-sellers of such services.

18 ~~(+3)~~(14) "The 911 authority" means the agency of the state government in which  
19 responsibility for administering the implementation and operation of 911 system is vested by the  
20 general assembly.

21 ~~(+4)~~(15) "Transfer method" means the method of responding to a telephone request for  
22 emergency service whereby a public safety answering point transfers the call directly to the  
23 appropriate public safety agency or other provider of emergency service for dispatch of an  
24 emergency service unit.

25 ~~(+5)~~(16) "Telephone service provider" means every person, party or entity that provides  
26 telephone services to subscribers or wireless prepaid customers including, but not limited to,  
27 "telephone common carrier" and "telecommunications service providers."

28 ~~(+6)~~(17) "Telephony or Telephony Services Provider" (see "Telephone Service  
29 Provider").

30 ~~(+7)~~(18) "Voice Over Internet Protocol (VoIP)" provides distinct packetized voice or  
31 data information in digital format using the Internet Protocol.

32 **39-21.1-14. Funding.** -- (a) A monthly surcharge of one dollar (\$1.00) is hereby levied  
33 upon each residence and business telephone line or trunk or path and data, telephony, Internet,  
34 Voice Over Internet Protocol (VoIP) wireline, line, trunk or path in the state including PBX

1 trunks and centrex equivalent trunks and each line or trunk serving, and upon each user interface  
2 number or extension number or similarly identifiable line, trunk, or path to or from a digital  
3 network (such as, but not exclusive of, integrated services digital network (ISDN), Flexpath or  
4 comparable digital private branch exchange, or connecting to or from a customer-based or  
5 dedicated telephone switch site (such as, but not exclusive of, a private branch exchange (PBX)),  
6 or connecting to or from a customer-based or dedicated central office (such as, but not exclusive  
7 of, a centrex system but exclusive of trunks and lines provided to wireless communication  
8 companies) that can access to, connect with or interface with the Rhode Island E-911 Uniform  
9 Emergency Telephone System (RI E-911). The surcharge shall be billed by each  
10 telecommunication services provider at the inception of services and shall be payable to the  
11 telecommunication services provider by the subscriber of the services. A monthly surcharge of  
12 one dollar (\$1.00) is hereby levied effective July 1, 2002, on each wireless instrument, device or  
13 means including prepaid, cellular, telephony, Internet, Voice Over Internet Protocol (VoIP),  
14 satellite, computer, radio, communication, data or data only wireless lines or any other wireless  
15 instrument, device or means which has access to, connects with, or activates or interfaces or any  
16 combination thereof with the E 911 Uniform Emergency Telephone System. The surcharge  
17 shall be in addition to the surcharge collected under section 39-1-62 and shall be billed by each  
18 telecommunication services provider and shall be payable to the telecommunication services  
19 provider by the subscriber ~~or prepaid services customer~~. Prepaid wireless telecommunications  
20 services shall not be included in this act, but shall be governed by chapter 21.2 of title 39. The E-  
21 911 Uniform Emergency Telephone System shall establish, by rule or regulation an appropriate  
22 funding mechanism to recover from the general body of ratepayers this surcharge.

23 (b) The amount of the surcharge shall not be subject to the tax imposed under chapter 18  
24 of title 44 nor be included within the telephone common carrier's gross earnings for the purpose  
25 of computing the tax under chapter 13 of title 44.

26 (c) Each telephone common carrier and each telecommunication services provider shall  
27 establish a special account to which it shall deposit on a monthly basis the amounts collected as a  
28 surcharge under this section.

29 (d) The money collected by each telecommunication services provider shall be  
30 transferred within sixty (60) days after its inception of wireline, wireless, prepaid, cellular,  
31 telephony, Voice Over Internet Protocol (VoIP), satellite, computer, Internet, or communications  
32 services in this state and every month thereafter, to the division of taxation, together with the  
33 accrued interest and shall be deposited in the general fund as general revenue. Any money not  
34 transferred in accordance with this paragraph shall be assessed interest at the rate set forth in

1 section 44-1-7 from the date the money should have been transferred.

2 (c) Every billed subscriber-user shall be liable for any surcharge imposed under this  
3 section until it has been paid to the telephone common carrier or telecommunication services  
4 provider. Any surcharge shall be added to and may be stated separately in the billing by the  
5 telephone common carrier or telecommunication services provider and shall be collected by the  
6 telephone common carrier or telecommunication services provider.

7 (f) Each telephone common carrier and telecommunication services provider shall  
8 annually provide the E 9-1-1 uniform emergency telephone system division or any other agency  
9 that may replace it, with a list of amounts uncollected together with the names and addresses of  
10 its subscriber-users who can be determined by the telephone common carrier or  
11 telecommunication services provider to have not paid the surcharge.

12 (g) Included within, but not limited to, the purposes for which the money collected may  
13 be used are rent, lease, purchase, improve, construct, maintenance, repair, and utilities for the  
14 equipment and site or sites occupied by the E 91-1 uniform emergency telephone system;  
15 salaries, benefits, and other associated personnel costs; acquisition, upgrade or modification of  
16 PSAP equipment to be capable of receiving E 91-1 information, including necessary computer  
17 hardware, software, and data base provisioning, addressing, and non-recurring costs of  
18 establishing emergency services; network development, operation and maintenance; data-base  
19 development, operation, and maintenance; on-premise equipment maintenance and operation;  
20 training emergency service personnel regarding use of E 91-1; educating consumers regarding  
21 the operations, limitations, role and responsible use of E 91-1; reimbursement to telephone  
22 common carriers or telecommunication services providers of rates or recurring costs associated  
23 with any services, operation, administration or maintenance of E 91-1 services as approved by  
24 the division; reimbursement to telecommunication services providers or telephone common  
25 carriers of other costs associated with providing E 91-1 services, including the cost of the design,  
26 development, and implementation of equipment or software necessary to provide E 91-1 service  
27 information to PSAP's, as approved by the division.

28 (h) [Deleted by P.L. 2000, ch. 55, art. 28, section 1.]

29 (i) Nothing in this section shall be construed to constitute rate regulation of wireless  
30 communication services carriers, nor shall this section be construed to prohibit wireless  
31 communication services carriers from charging subscribers for any wireless service or feature.

32 (j) [Deleted by P.L. 2006, ch. 246, art. 4, section 1].

33 SECTION 3. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND  
34 CARRIERS" is hereby amended by adding thereto the following chapter:

1 CHAPTER 21.2

2 PREPAID WIRELESS E911 CHARGE ACT

3 **39-21.2-1. Short title.** – This act may be cited as the “Prepaid Wireless E911 Charge Act  
4 of 2010.”

5 **39-21.2-2. Findings.** – The legislature finds that:

6 (1) Maintaining effective and efficient 911 systems across the state benefits all citizens;

7 (2) 911 fees imposed upon the consumers of telecommunications services that have the  
8 ability to dial 911 are an important funding mechanism to assist state and local governments with  
9 the deployment of enhanced 911 services to the citizens of this state;

10 (3) Prepaid wireless telecommunication services are an important segment of the  
11 telecommunications industry and have proven particularly attractive to low-income, low-volume  
12 consumers;

13 (4) Unlike traditional telecommunications services, prepaid wireless telecommunications  
14 services are not sold or used pursuant to term contracts or subscriptions, and monthly bill are not  
15 sent to consumers by prepaid wireless telecommunication services providers or retail vendors;

16 (5) Prepaid wireless consumers have the same access to emergency 911 services from  
17 their wireless devices as wireless consumers on term contracts, and prepaid wireless consumers  
18 benefit from the ability to access the 911 system by dialing 911;

19 (6) Consumers purchase prepaid wireless telecommunication services at a wide variety of  
20 general retail locations and other distribution channels, not just through service providers;

21 (7) Such purchases are made on a “cash-and-carry” or “pay-as-you-go” basis from  
22 retailers; and

23 (8) To ensure equitable contributions to the funding 911 systems from consumers of  
24 prepaid wireless telecommunication services, the collection and payment obligation of charges to  
25 support E911 should be imposed upon the consumer’s retail purchase of the prepaid wireless  
26 telecommunication service and should be in the form of single, statewide charge that is collected  
27 once at the time of purchase directly from the consumer, remitted to the state, and distributed to  
28 E911 authorities pursuant to state law.

29 **39-21.2-3. Definitions.** – For purposes of this act, the following terms shall have the  
30 following meanings:

31 (1) “Consumer” means a person who purchase prepaid wireless telecommunications  
32 service in a retail transaction.

33 (2) “Division” means the division of taxation.

34 (3) “Prepaid wireless E911 charge” means the charge that is required to be collected by a

1 seller from a consumer in the amount established under section 4 of this act.

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

6 (5) "Provider" means a person that provides prepaid wireless telecommunications service  
7 pursuant to a license issued by the Federal Communications Commission.

8 (6) "Retail transaction" means the purchase of prepaid wireless telecommunications  
9 service from a seller for any purpose other than resale.

10 (7) "Seller" means a person who sells prepaid wireless telecommunications service to  
11 another person.

12 (8) "Wireless telecommunications service" means commercial mobile radio service as  
13 defined by section 20.3 of title 47 of the code of Federal Regulations, as amended.

14 **39-21.2.4. Collection and remittance of E911 charge.** – (a) Amount of charge. The  
15 prepaid wireless E911 charge is hereby levied at the rate of two and one-half percent (2.5%) per  
16 retail transaction or, on and after the effective date of an adjusted amount per retail transaction  
17 that is established under subsection (f) of this section, such adjusted amount.

18 (b) Collection of charge. The prepaid wireless E911 charge shall be collected by the  
19 seller from the consumer with respect to each retail transaction occurring in this state. The  
20 amount of the prepaid wireless E911 charge shall be either separately stated on an invoice,  
21 receipt, or other similar document that is provided to the consumer by the seller, or otherwise  
22 disclosed to the consumer.

23 (c) Application of charge. For purposes of subsection (b) of this section, a retail  
24 transaction that is effected in person by a consumer at a business location of the seller shall be  
25 treated as occurring in this state if that business location is in this state, and any other retail  
26 transaction shall be treated as occurring in this state if the retail transaction is treated as occurring  
27 in this state for purposes of chapter 18 of title 44 of the general laws.

28 (d) Liability for charge. The prepaid wireless E911 charge is the liability of the consumer  
29 and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid  
30 wireless E911 charges that the seller collects from consumers as provided in section 39-21.2-5,  
31 including all such charges that the seller is deemed to collect where the amount of the charge has  
32 not been separately stated on an invoice, receipt, or other similar document provided to the  
33 consumer by the seller.

34 (e) Exclusion of E911 charge from base of other taxes and fees. The amount of the

1 prepaid wireless E911 charge that is collected by a seller from a consumer, if such amount is  
2 separately stated on an invoice, receipt, or other similar document provided to the consumer by  
3 the seller, shall not be included in the base for measuring any tax, fee, surcharge, or other charge  
4 that is imposed by this state, any political subdivision of this state, or any intergovernmental  
5 agency, including, but not limited to, the tax imposed under chapter 18 of title 44 nor be included  
6 within the telephone common carrier's gross earnings for the purpose of computing the tax under  
7 chapter 13 of title 44.

8 (f) Re-setting of charge. The prepaid wireless E911 charge shall be proportionately  
9 increased or reduced, as applicable, upon any change to the state E911 charge on postpaid  
10 wireless telecommunications service under section 39-21.1-14 or subdivision 39-1-62(d)(2). The  
11 adjusted amount shall be determined by dividing the sum of the surcharges imposed under section  
12 39-21.1-14 and subdivision 39-1-62(d)(2) by fifty dollars (\$50.00). Such increase or reduction  
13 shall be effective on the effective date of the change to the postpaid charge or, if later, the first  
14 day of the first calendar month to occur at least sixty (60) days after the enactment of the change  
15 to the postpaid charge. The division shall provide not less than thirty (30) days of advance notice  
16 of such increase or reduction on the division's website.

17 (g) Bundled transactions. When prepaid wireless telecommunications service is sold with  
18 one or more other products or services for a single, non-itemized price, then the percentage  
19 specified in subsection (a) of this section shall apply to the entire non-itemized prices unless the  
20 seller elects to apply such percentage (1) If the amount of prepaid wireless telecommunications  
21 service is disclosed to the consumer as a dollar amount, such dollar amount, or (2) If the retailer  
22 can identify the portion of the price that is attributable to the prepaid wireless telecommunications  
23 service, by reasonable and verifiable standards from its books and records that are kept in the  
24 regular course of business for other purposes, including, but not limited to, non-tax purposes,  
25 such portion.

26 **39-21.2-5. Administration of E911 charge.** – (a) Time and manner of payment. Prepaid  
27 wireless E911 charges collected by sellers shall be remitted to the division at the times and in the  
28 manner provided by the streamlined sales and use tax as described in 44-18.1-34. The division  
29 shall establish registration and payment procedures that substantially coincide with the  
30 registration and payment procedures that apply to the streamlined sales and use tax.

31 (b) Seller administrative deduction. A seller shall be permitted to deduct and retain three  
32 percent (3%) of prepaid wireless E911 charges that are collected by the seller from consumers.

33 (c) Audit and appeal procedures. The audit and appeal procedures applicable to sales and  
34 use tax under section 44-19-18 of the general laws shall apply to prepaid wireless E911 charges.

1           (d) Exemption documentation. The division shall establish procedures by which a seller  
2 of prepaid wireless telecommunications service may document that a sale is not a retail  
3 transaction, which procedures shall substantially coincide with the procedures form documenting  
4 sale for resale transactions for sales tax purposes under section 44-19-18 of the general laws.

5           (e) Disposition of remitted charges. The department shall pay all remitted prepaid  
6 wireless E911 charges over to the E-911 uniform emergency telephone system division within  
7 thirty (30) days of receipt, for use in accordance with the purposes permitted by chapter 39-21,  
8 after deducting an amount, not to exceed two percent (2%) of collected charges, that shall be  
9 retained by the division to reimburse its direct costs of administering the collection and  
10 remittance of prepaid wireless E911 charges.

11           **39-21.2-6. Liability.** – (a) No liability regarding 911 service. No provider or seller of  
12 prepaid wireless telecommunications service shall be liable for damages to any person resulting  
13 from or incurred in connection with the provision of, or failure to provide, 911 or E911 service, or  
14 for identifying, or failing to identify, the telephone number, address, location, or name associated  
15 with any person or device that is accessing or attempting to access 911 or E911 service.

16           (b) No liability regarding cooperation with law enforcement. No provider or seller of  
17 prepaid wireless telecommunications service shall be liable for damages to any person resulting  
18 from or incurred in connection with the provision of any lawful assistance to any investigative or  
19 law enforcement officer of the United States, this or any other state, or any political subdivision  
20 of this or any other state, in connection with any lawful investigation or other law enforcement  
21 activity by such law enforcement officer.

22           **39-21.2-7. Exclusivity of prepaid wireless E911 charge.** – The prepaid wireless E911  
23 charge imposed by this act shall be the only E911 funding obligation imposed with respect to  
24 prepaid wireless telecommunications service in this state, and no tax, fee, surcharge, or other  
25 charge shall be imposed by this state, any political subdivision of this state, or any  
26 intergovernmental agency, for E911 funding purposes, upon any provider, sellers, or consumer  
27 with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications  
28 service.

29           SECTION 4. This act shall take effect upon passage and shall apply to retail transactions  
30 occurring on and after October 1, 2010.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO PUBLIC UTILITIES AND CARRIERS -- 911 EMERGENCY

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- 1           This act would impose a fee upon a consumer's retail purchase of a prepaid wireless  
2 telecommunications device to help support the Emergency 911 system.
- 3           This act would take effect upon passage and would apply to retail transaction occurring  
4 on and after October 1, 2010.

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