

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 721

90TH GENERAL ASSEMBLY

Reported from the Committee on Local Government and Economic Development, February 17, 2000, with recommendation that the Senate Committee Substitute do pass.

2918S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 209.251, 209.253, 209.255, 209.258 and 209.259, RSMo Supp. 1999, relating to telecommunications for persons with disabilities, and to enact in lieu thereof five new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 209.251, 209.253, 209.255, 209.258 and 209.259, RSMo Supp. 1999, are repealed and five new sections enacted in lieu thereof, to be known as sections 209.251, 209.253, 209.255, 209.258 and 209.259, to read as follows:

209.251. As used in sections 209.251 to 209.259, the following terms mean:

(1) **"Adaptive telecommunications equipment", equipment that translates, enhances or otherwise transforms the receiving or sending of telecommunications into a form accessible to individuals with disabilities. The term adaptive telecommunications equipment includes adaptive telephone equipment and other types of adaptive devices such as computer input and output adaptations necessary for telecommunications access;**

(2) **"Basic [telephone] telecommunications access line", a [telephone] telecommunications line which provides service from the telephone company central office to the customer's premises which enables the customer to originate and terminate long distance and local [calling] telecommunications;**

[(2)] (3) **"Commission", the public service commission;**

(4) **"Consumer support and outreach", services that include, but are not limited to, assisting individuals with disabilities or their families or caregivers in the selection**

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

of the most appropriate adaptive telecommunications equipment to meet their needs, providing basic training and technical assistance in the installation and use of adaptive telecommunications equipment, and development and dissemination of information to increase awareness and use of adaptive telecommunications equipment;

(5) "Department", the department of labor and industrial relations;

(6) "Eligible subscriber", any individual who has been certified as deaf, hearing-impaired, speech-impaired or as having another disability that causes the inability to use [traditional telephone] telecommunications equipment and services by a licensed physician, audiologist, speech pathologist or a qualified [state] agency;

(7) "Missouri assistive technology advisory council" or "council", the body which directs the Missouri assistive technology program pursuant to sections 191.850 to 191.863, RSMo;

(8) "Program administrator", the entity or entities designated to design the statewide telecommunications equipment distribution program, develop and implement the program policies and procedures, assure delivery of consumer support and outreach and account for and pay all program expenses;

[(4)] (9) "Surcharge", an additional charge which is to be paid by local exchange telephone company subscribers pursuant to the rate recovery mechanism established pursuant to sections 209.255, 209.257 and 209.259 in order to implement the [program] programs described in sections 209.251 to 209.259;

(10) "Telecommunications", the transmission of any form of information including, but not limited to, voice, graphics, text, dynamic content, and data structures of all types whether they are in electronic, visual, auditory, optical or any other form;

[(5)] (11) "Telecommunications device for the deaf" or "TDD", a telecommunications device capable of allowing deaf, hearing-impaired or speech-impaired individuals to transmit messages over basic telephone access lines by sending and receiving typed messages.

209.253. 1. The commission shall [initiate an investigation to determine the most beneficial and cost-effective method to implement the provision of] **provide** a statewide dual-party system, using third-party intervention to connect deaf, hearing-impaired and speech-impaired persons and offices of organizations representing the deaf, hearing-impaired and speech-impaired with telecommunication devices for the deaf (TDDs) and the telephone system, making available reasonable access to telephone service to eligible subscribers. [In conducting this investigation the commission shall solicit the advice, counsel, and assistance of statewide nonprofit organizations of the deaf, the office of the public counsel and representatives of telecommunications companies. The commission shall complete this investigation within six months of July 10, 1990.]

2. The [commission] **Missouri assistive technology council** shall [initiate an

investigation to determine the most beneficial and cost-effective method to implement the provision of] **provide** a statewide telecommunications equipment distribution program making available reasonable access to [telephone] **basic telecommunications** service for eligible subscribers who are unable to use traditional [telephone] **telecommunications** equipment due to disability. [In conducting this investigation the commission shall solicit the advice, counsel and assistance of statewide nonprofit organizations for individuals with disabilities, the office of the public counsel and representatives of telecommunications companies. The commission shall complete such investigation within six months of August 28, 1996.

3. Within sixty days of the completion of the investigations provided in subsections 1 and 2 of this section, the division of purchasing, on behalf of the commission, shall issue a request for competitive bids to provide a statewide dual-party relay service and equipment distribution program which meets the specifications and criteria determined by such investigations. The request for competitive bids shall contain the date, as determined by the division of purchasing, by which all bids shall be submitted and the division of purchasing shall not accept or consider any bids received after that date.

4. Within sixty days of the date provided in subsection 3 of this section requiring bids to be submitted, the division of purchasing shall open all bids and shall thereafter award a contract to the best bidder and shall in all instances reserve the right to reject any and all bids. A bond satisfactory to the division shall be given by the party to whom the contract is awarded, to secure the faithful performance of such contract.]

3. The program administrator of the statewide telecommunications equipment distribution program shall:

- (1) Provide consumer support and outreach;**
- (2) Develop administrative procedures to assure an appropriate match between an individual with a disability and adaptive telecommunications equipment;**
- (3) Provide a full range of adaptive telecommunications equipment to meet the needs of individuals with all types of disabilities;**
- (4) Procure and distribute adaptive telecommunications equipment in the most cost-effective manner possible; and**
- (5) Expend no less than ten percent of total expenditures for consumer support and outreach and no more than twenty percent of total expenditures for program administration in any fiscal year.**

4. Missouri public or non-public organizations shall be used to deliver consumer support and outreach and administrative services in all contracts and sub-contracts for a statewide telecommunications equipment distribution program.

5. The Missouri assistive technology advisory council shall be the program administrator for the statewide telecommunications equipment distribution program.

6. The Missouri assistive technology advisory council may promulgate rules

necessary to implement and administer the telecommunications equipment distribution program, but no rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

7. The Missouri assistive technology advisory council may enter into contracts as necessary to carry out the telecommunications equipment distribution program, including but not limited to contracts with disability organizations.

[5.] **8.** Nothing in sections 209.251 to 209.259 shall be construed to require the state to purchase, install or maintain equipment on an eligible subscriber's premises which will enable the eligible subscriber to participate in the **dual-party relay** system.

9. Nothing in sections 209.251 to 209.259 shall be construed to require the state to provide adaptive telecommunications equipment at no cost to all eligible subscribers. The Missouri assistive technology advisory council shall adopt procedures to limit eligibility based on financial means, existing access to adaptive telecommunications equipment, prior usage of the equipment distribution program, and other factors deemed appropriate by the program administrator. The scope of the program shall be limited to reasonable access to basic telecommunications as defined by the program administrator, subject to appropriations.

209.255. 1. The commission shall establish a rate recovery mechanism to recover the costs of implementing and maintaining the [program] **programs** provided for in section 209.253, which shall be applied to each basic telephone access line. Any surcharge established by such rate recovery mechanism shall not be imposed upon more than one hundred basic telephone access lines per subscriber per location. Any surcharge established by such rate recovery mechanism shall not be imposed on any telephone line used to provide pay telephone service. The surcharge may appear on the bill of each local exchange telephone subscriber identified separately as a deaf relay service and equipment distribution program fund surcharge. The commission shall not vary the amount of the surcharge between telephone companies nor between the class or grade of customers of any telephone company. The surcharge provided for in this section shall be exempt from the taxes provided for in chapter 144, RSMo, and the surcharge shall not be construed as gross receipts or revenue of the company collecting such for the purpose of local taxation.

2. Each basic telephone access line subscriber is liable for the payment of any surcharge provided for in subsection 1 of this section. The local exchange telephone company shall not be liable for any uncollected surcharge, nor shall it have any obligation to initiate any action to enforce the collection of the surcharge.

209.258. 1. All remaining deaf relay service and equipment distribution program fund surcharge money collected by local exchange telephone companies pursuant to section 209.257 shall be paid to the director of revenue in a manner prescribed by the public service

commission. The director of revenue shall remit such payments to the state treasurer.

2. The state treasurer shall credit such payments to a special fund, which is hereby created, to be known as the "Deaf Relay Service and Equipment Distribution Program Fund" which fund shall be devoted solely to the payment of expenditures actually incurred in operation of the statewide dual-party relay service and equipment distribution program authorized by section 209.253, including expenses associated with the administration of the dual-party relay service and equipment distribution program or incurred by members of any advisory committee appointed by the commission **or Missouri assistive technology advisory council** to help [it administer the dual-party relay service and] **in the administration of the statewide telecommunications** equipment distribution program authorized by section 209.253.

3. Any unexpended balance in the fund at the end of the fiscal year shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund, but shall be applicable by appropriation of the general assembly to the payment of expenditures for the dual-party relay service and equipment distribution program in the succeeding fiscal year.

4. [Any unexpended balance in the deaf relay service fund on August 28, 1996, shall be transferred to the deaf relay service and equipment distribution program fund which is created in subsection 2 of this section.] **The commission shall annually request, through a separate budget line item, appropriations from the deaf relay service and equipment distribution program fund to deliver the dual-party relay service. The Missouri assistive technology advisory council shall annually request, through a separate budget line item of its departmental budget, appropriations from the deaf relay service and equipment distribution program fund to deliver the telecommunications equipment distribution program.**

5. The current surcharge rate shall not increase for a period of two years after August 28, 2000, subject to change in federal requirements for deaf relay services.

209.259. 1. From the date of implementing the deaf relay service and equipment distribution fund surcharge, the commission shall review such surcharge no less frequently than every two years but no more than annually and shall order changes in the amount of the surcharge as necessary to assure available funds for the provision of the [program] **programs** established in section 209.253.

2. The Missouri assistive technology council shall annually provide the department with information on actual expenditures for the equipment distribution program along with projections for future need to assist in surcharge review. On August 28, 2000, the department shall make its initial recommendation to the commission regarding the amount of the surcharge established in section 209.255 necessary for funding of the equipment distribution program. Thereafter, the

department may annually make a recommendation to the commission regarding the amount of the surcharge for that program. The commission shall, based on the department's recommendation, issue an order revising the surcharge established in section 209.255 as necessary to fund the equipment distribution program. The department's recommendation shall be based on the estimated number of access lines and anticipated budget for the coming fiscal year. The amount of the surcharge recommended by the department shall be sufficient to recover the annual costs of implementing and maintaining the equipment distribution program.

3. Concurrent with the review of the surcharge, the commission shall review the percentage deducted and retained by the local exchange telephone company provided in section 209.257 and if necessary shall order adjustments to the percentage to assure a just and reasonable compensation to the local exchange telephone company. Where the review of the surcharge determines that excess funds are available, the commission may order the suspension of the deaf relay service and equipment distribution program fund surcharge for a period which the commission deems appropriate.

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