

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 651
97TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, January 30, 2014, with recommendation that the Senate Committee Substitute do pass.

5010S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 392.415, 392.461, and 392.611, RSMo, and to enact in lieu thereof three new sections relating to communications services.

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

Section A. Sections 392.415, 392.461, and 392.611, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 392.415,
3 392.461, and 392.611, to read as follows:

392.415. 1. Upon request, a telecommunications carrier or commercial
2 mobile service provider as identified in 47 U.S.C. Section 332(d)(1) and 47 CFR
3 Parts 22 or 24 shall provide call location information concerning the user of a
4 telecommunications service or a wireless communications service, in an
5 emergency situation, to a law enforcement official or agency in order to respond
6 to a call for emergency service by a subscriber, customer, or user of such service,
7 or to provide caller location information (or do a ping locate) in an emergency
8 situation that involves danger of death or serious physical injury to any person
9 where disclosure of communications relating to the emergency is required without
10 delay.

11 2. No cause of action shall lie in any court of law against any
12 telecommunications carrier or telecommunications service or commercial mobile
13 service provider, or other provider of communications-related service, or its
14 officers, employees, agents, or other specified persons, for:

15 **(1)** Providing any information, facilities, or assistance to a law
16 enforcement official or agency in response to requests made under the
17 circumstances of subsection 1 of this section [or for];

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

18 **(2)** Providing such information, facilities, or assistance through any plan
19 or system required by sections 190.300 to 190.340; **or**

20 **(3) Any loss, damage, or other injury, whether to person or**
21 **property, resulting from a disruption or loss of communication services**
22 **during an emergency situation, except in cases of gross negligence,**
23 **recklessness, or intentional misconduct.**

24 **3.** Notwithstanding any other provision of law, nothing in this section
25 prohibits a telecommunications carrier, commercial mobile service provider, or
26 other provider of communications-related service from establishing protocols by
27 which such carrier or provider could voluntarily disclose call location information.

 392.461. A telecommunications company may, upon written notice to the
2 commission, elect to be exempt from certain retail rules relating to:

3 (1) The provision of telecommunications service to retail customers and
4 established by the commission which include provisions already mandated by the
5 Federal Communications Commission, including, but not limited to, federal rules
6 regarding customer proprietary network information, verification of orders for
7 changing telecommunications service providers (slamming), submission or
8 inclusion of charges on customer bills (cramming); or

9 (2) The installation, provisioning, or termination of retail service.

10 Notwithstanding any other provision of this section, a telecommunications
11 company shall not be exempt from any commission rule established under
12 authority delegated to the state commission pursuant to federal statute, rule or
13 order, including, but not limited to, universal service funds, number pooling and
14 conservation efforts, or any authority delegated to the state commission to
15 facilitate or enforce any interconnection obligation or other intercarrier issue,
16 including, but not limited to, intercarrier compensation, network configuration
17 or other such matters. Notwithstanding other provisions of this chapter or
18 chapter 386, a telecommunications company may, upon written notice to the
19 commission, elect to be exempt from any requirement to file or maintain with the
20 commission any tariff or schedule of rates, rentals, charges, privileges, facilities,
21 rules, regulations, or forms of contract, whether in whole or in part, for
22 telecommunications services offered or provided to residential or business retail
23 end user customers and instead shall publish generally available retail prices for
24 those services available to the public by posting such prices on a publicly
25 accessible website. A telecommunications company may include in a tariff filed
26 with the commission any, all, or none of the rates, terms, or conditions for any,

27 all, or none of its retail telecommunications services. Nothing in this section
28 shall affect the rights and obligations of any entity, including the commission,
29 established pursuant to federal law, including 47 U.S.C. Sections 251 and 252,
30 any state law, rule, regulation, or order related to wholesale rights and
31 obligations, or any tariff or schedule that is filed with and maintained by the
32 commission.

392.611. 1. A telecommunications company certified under this chapter
2 or holding a state charter authorizing it to engage in the telephone business shall
3 not be subject to any statute in chapter 386 or this chapter (nor any rule
4 promulgated or order issued under such chapters) that imposes duties,
5 obligations, conditions, or regulations on retail telecommunications services
6 provided to end user customers, except to the extent it elects to remain subject
7 to certain statutes, rules, or orders by notification to the
8 commission. Telecommunications companies shall remain subject to general,
9 nontelecommunications-specific statutory provisions other than those in chapters
10 386 and this chapter to the extent applicable. Telecommunications companies
11 shall:

12 (1) Collect from their end users the universal service fund surcharge in
13 the same competitively neutral manner as other telecommunications companies
14 and interconnected voice over internet protocol service providers, remit such
15 collected surcharge to the universal service fund administrator, and receive, as
16 appropriate, funds disbursed from the universal service fund, which may be used
17 to support the provision of local voice service;

18 (2) Report to the commission such intrastate telecommunications service
19 revenues as are necessary to calculate the commission assessment, universal
20 service fund surcharge, and telecommunications programs under section 209.255;
21 and

22 (3) Continue to comply with the provisions of section 392.415 pertaining
23 to the provision of location information in emergency situations.

24 2. Broadband and other internet protocol-enabled services shall not be
25 subject to regulation under chapter 386 or this chapter, except that
26 interconnected voice over internet protocol service shall continue to be subject to
27 section 392.550. Nothing in this subsection extends, modifies, or restricts the
28 provisions of subsection 3 of this section. As used in this subsection, "other
29 internet protocol-enabled services" means any services, capabilities,
30 functionalities, or applications using existing internet protocol, or any successor

31 internet protocol, that enable an end user to send or receive a communication in
32 existing internet protocol format, or any successor internet protocol format,
33 regardless of whether the communication is voice, data, or video.

34 3. Notwithstanding any other provision of this section, a
35 telecommunications company shall not be exempt from any commission rule
36 established under authority delegated to the state commission under federal
37 statute, rule, or order, including, but not limited to, universal service funds,
38 number pooling, and conservation efforts. Notwithstanding any other provision
39 of this section, nothing in this section extends, modifies, or restricts any authority
40 delegated to the state commission under federal statute, rule, or order to require,
41 facilitate, or enforce any interconnection obligation or other intercarrier issue
42 including, but not limited to, intercarrier compensation, network configuration or
43 other such matters. Notwithstanding any other provision of this section, nothing
44 in this section extends, modifies, or restricts any authority the commission may
45 have arising under state law relating to interconnection obligations or other
46 intercarrier issue including, but not limited to, intercarrier compensation,
47 network configuration, or other such matters.

48 4. After August 28, [2013] **2014**, telecommunications companies seeking
49 to provide telecommunications service may, in lieu of the process and
50 requirements for certification set out in other sections, elect to obtain certification
51 by following the same registration process set out in subsection 3 of section
52 392.550, substituting telecommunications service for interconnected voice over
53 internet protocol service in the requirements specified in subdivisions (1) to (8)
54 of subsection 3 of section 392.550.

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