

SENATE BILL NO. 1481

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR HENDERSON.

6107S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 190.460, RSMo, and to enact in lieu thereof one new section relating to wireless emergency telephone service charges.

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

Section A. Section 190.460, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 190.460,
3 to read as follows:

190.460. 1. As used in this section, the following
2 terms mean:

3 (1) **"Applicable percentage":**

4 (a) **For the purposes of subsection 2 of this section:**

5 a. **For the period beginning January 1, 2019, and**
6 **ending December 31, 2026, three percent; and**

7 b. **Beginning January 1, 2027, and thereafter, four**
8 **percent; and**

9 (b) **For the purposes of subdivision (2) of subsection**
10 **3 of this section:**

11 a. **For the period beginning February 1, 2019, and**
12 **ending December 31, 2026, three percent; and**

13 b. **Beginning January 1, 2027, and thereafter, four**
14 **percent;**

15 (2) **"Board", the Missouri 911 service board**
16 **established under section 650.325;**

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

17 [(2)] (3) "Consumer", a person who purchases prepaid
18 wireless telecommunications service in a retail transaction;

19 [(3)] (4) "Department", the department of revenue;

20 [(4)] (5) "Prepaid wireless service provider", a
21 provider that provides prepaid wireless service to an end
22 user;

23 [(5)] (6) "Prepaid wireless telecommunications
24 service", a wireless telecommunications service that allows
25 a caller to dial 911 to access the 911 system and which
26 service shall be paid for in advance and is sold in
27 predetermined units or dollars of which the number declines
28 with use in a known amount;

29 [(6)] (7) "Retail transaction", the purchase of
30 prepaid wireless telecommunications service from a seller
31 for any purpose other than resale. The purchase of more
32 than one item that provides prepaid wireless
33 telecommunication service, when such items are sold
34 separately, constitutes more than one retail transaction;

35 [(7)] (8) "Seller", a person who sells prepaid
36 wireless telecommunications service to another person;

37 [(8)] (9) "Wireless telecommunications service",
38 commercial mobile radio service as defined by 47 CFR 20.3,
39 as amended.

40 2. (1) Beginning January 1, 2019, there is hereby
41 imposed a prepaid wireless emergency telephone service
42 charge on each retail transaction. The amount of such
43 charge shall be equal to [three percent] **the applicable**
44 **percentage** of the amount of each retail transaction. [The
45 first fifteen dollars of each retail transaction shall not
46 be subject to the service charge.]

47 (2) When prepaid wireless telecommunications service
48 is sold with one or more products or services for a single,

nonitemized price, the prepaid wireless emergency telephone service charge set forth in subdivision (1) of this subsection shall apply to the entire nonitemized price unless the seller elects to apply such service charge in the following way:

(a) If the amount of the prepaid wireless telecommunications service is disclosed to the consumer as a dollar amount, **[three percent] the applicable percentage** of such dollar amount; or

(b) If the seller can identify the portion of the price that is attributable to the prepaid wireless telecommunications service by reasonable and verifiable standards from the seller's books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes, **[three percent] the applicable percentage** of such portion;

[The first fifteen dollars of each transaction under this subdivision shall not be subject to the service charge.]

(3) The prepaid wireless emergency telephone service charge shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless emergency telephone service charge shall be either separately stated on an invoice, receipt, or other similar document that is provided to the consumer by the seller or otherwise disclosed to the consumer.

(4) For purposes of this subsection, a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as

80 occurring in this state if the retail transaction is treated
81 as occurring under chapter 144.

82 (5) The prepaid wireless emergency telephone service
83 charge is the liability of the consumer and not of the
84 seller or of any provider; except that, the seller shall be
85 liable to remit all charges that the seller collects or is
86 deemed to collect.

87 (6) The amount of the prepaid wireless emergency
88 telephone service charge that is collected by a seller from
89 a consumer, if such amount is separately stated on an
90 invoice, receipt, or other similar document provided to the
91 consumer by the seller, shall not be included in the base
92 for measuring any tax, fee, surcharge, or other charge that
93 is imposed by this state, any political subdivision of this
94 state, or any intergovernmental agency.

95 3. (1) Prepaid wireless emergency telephone service
96 charges collected by sellers shall be remitted to the
97 department at the times and in the manner provided by state
98 law with respect to sales and use taxes. The department
99 shall establish registration and payment procedures that
100 substantially coincide with the registration and payment
101 procedures that apply under state law. On or after the
102 effective date of the service charge imposed under the
103 provisions of this section, the director of the department
104 of revenue shall perform all functions incident to the
105 administration, collection, enforcement, and operation of
106 the service charge, and the director shall collect, in
107 addition to the sales tax for the state of Missouri, all
108 additional service charges imposed in this section. All
109 service charges imposed under this section together with all
110 taxes imposed under the sales tax law of the state of
111 Missouri shall be collected together and reported upon such

forms and under such administrative rules and regulations as may be prescribed by the director, **provided that the director shall require a seller to report the number of retail transactions for which a prepaid wireless emergency telephone service charge is collected under this section, as well as the total dollar amount of each transaction and the total amount of prepaid wireless emergency telephone service charges collected.** All applicable provisions contained in sections 144.010 to 144.525 governing the state sales tax and section 32.057 shall apply to the collection of any service charges imposed under this section except as modified.

(2) Beginning on January 1, 2019, and ending on January 31, 2019, when a consumer purchases prepaid wireless telecommunications service in a retail transaction from a seller under this section, the seller shall be allowed to retain one hundred percent of the prepaid wireless emergency telephone service charges that are collected by the seller from the consumer. Beginning on February 1, 2019, a seller shall be permitted to deduct and retain **[three percent] the applicable percentage** of prepaid wireless emergency telephone service charges that are collected by the seller from consumers. **Notwithstanding any provision of law to the contrary, if the director of revenue determines that a seller has not collected the amount of prepaid wireless emergency telephone service charges required by this section, such seller shall not be permitted to deduct and retain any amount of such charges as allowed in this subdivision, nor shall the seller be permitted to deduct and retain any amount of sales tax allowable under section 144.140, for the reporting period for which the director has determined a deficiency.**

144 (3) The department shall establish procedures by which
145 a seller of prepaid wireless telecommunications service may
146 document that a sale is not a retail transaction, which
147 procedures shall substantially coincide with the procedures
148 for documenting sale for resale transactions for sales and
149 use purposes under state law.

150 (4) The department shall deposit all remitted prepaid
151 wireless emergency telephone service charges into the
152 general revenue fund for the department's use until eight
153 hundred thousand one hundred fifty dollars is collected to
154 reimburse its direct costs of administering the collection
155 and remittance of prepaid wireless emergency telephone
156 service charges. From then onward, the department shall
157 deposit all remitted prepaid wireless emergency telephone
158 service charges into the Missouri 911 service trust fund
159 created under section 190.420 within thirty days of receipt
160 for use by the board. After the initial eight hundred
161 thousand one hundred fifty dollars is collected, the
162 department may deduct an amount not to exceed one percent of
163 collected charges to be retained by the department to
164 reimburse its direct costs of administering the collection
165 and remittance of prepaid wireless emergency telephone
166 service charges.

167 (5) The board shall set a rate between twenty-five and
168 one hundred percent of the prepaid wireless emergency
169 telephone service charges deposited in the Missouri 911
170 service trust fund collected in counties without a charter
171 form of government, less the deductions authorized in
172 subdivision (4) of this subsection, that shall be remitted
173 to such counties in direct proportion to the amount of
174 charges collected in each county. The board shall set a
175 rate between sixty-five and one hundred percent of the

prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund collected in counties with a charter form of government and any city not within a county, less the deductions authorized in subdivision (4) of this subsection, that shall be remitted to each such county or city not within a county in direct proportion to the amount of charges collected in each such county or city not within a county. If a county has an elected emergency services board, the Missouri 911 service board shall remit the funds to the elected emergency services board, except for an emergency services board originally organized under section 190.325 operating within a county with a charter form of government and with more than two hundred thousand but fewer than three hundred fifty thousand inhabitants, in which case the funds shall be remitted to the county's general fund for the purpose of public safety infrastructure. The initial percentage rate set by the board for counties with and without a charter form of government and any city not within a county shall be set by June thirtieth of each applicable year and may be adjusted annually for the first three years, and thereafter the rate may be adjusted every three years; however, at no point shall the board set rates that fall below twenty-five percent for counties without a charter form of government and sixty-five percent for counties with a charter form of government and any city not within a county.

(6) Any amounts received by a county or city under subdivision (5) of this subsection shall be used only for purposes authorized in sections 190.305, 190.325, and 190.335. Any amounts received by any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants under this

208 section may be used for emergency service notification
209 systems.

210 4. (1) A seller that is not a provider shall be
211 entitled to the immunity and liability protections under
212 section 190.455, notwithstanding any requirement in state
213 law regarding compliance with Federal Communications
214 Commission Order 05-116.

215 (2) A provider shall be entitled to the immunity and
216 liability protections under section 190.455.

217 (3) In addition to the protection from liability
218 provided in subdivisions (1) and (2) of this subsection,
219 each provider and seller and its officers, employees,
220 assigns, agents, vendors, or anyone acting on behalf of such
221 persons shall be entitled to the further protection from
222 liability, if any, that is provided to providers and sellers
223 of wireless telecommunications service that is not prepaid
224 wireless telecommunications service under section 190.455.

225 5. The prepaid wireless emergency telephone service
226 charge imposed by this section shall be in addition to any
227 other tax, fee, surcharge, or other charge imposed by this
228 state, any political subdivision of this state, or any
229 intergovernmental agency for 911 funding purposes.

230 6. The provisions of this section shall become
231 effective unless the governing body of a county or city
232 adopts an ordinance, order, rule, resolution, or regulation
233 by at least a two-thirds vote prohibiting the charge
234 established under this section from becoming effective in
235 the county or city at least forty-five days prior to the
236 effective date of this section. If the governing body does
237 adopt such ordinance, order, rule, resolution, or regulation
238 by at least a two-thirds vote, the charge shall not be
239 collected and the county or city shall not be allowed to

240 obtain funds from the Missouri 911 service trust fund that
241 are remitted to the fund under the charge established under
242 this section. The Missouri 911 service board shall, by
243 September 1, 2018, notify all counties and cities of the
244 implementation of the charge established under this section,
245 and the procedures set forth under this subsection for
246 prohibiting the charge from becoming effective.

247 7. Any county or city which prohibited the prepaid
248 wireless emergency telephone service charge pursuant to the
249 provisions of subsection 6 of this section may take a vote
250 of the governing body, and notify the department of revenue
251 of the result of such vote to impose such charge. A vote of
252 at least two-thirds of the governing body is required in
253 order to impose such charge. The department shall notify
254 the board of notices received by within sixty days of
255 receiving such notice.

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