

No. 2008-72

AN ACT

SB 385

Amending the act of July 9, 1990 (P.L.340, No.78), entitled "An act providing for a Statewide emergency telephone number 911 system; providing for contributions from telephone subscribers; providing a penalty; and making a repeal," providing for interconnected Voice over Internet Protocol service; and establishing the VoIP 911 Emergency Services Fund.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2 of the act of July 9, 1990 (P.L.340, No.78), known as the Public Safety Emergency Telephone Act, is amended by adding definitions to read:

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Interconnected Voice over Internet Protocol service customer" or "VoIP service customer." A person who is billed by an interconnected Voice over Internet Protocol provider, is the end user of VoIP service and who has designated a primary place of use within this Commonwealth.

"Interconnected Voice over Internet Protocol provider" or "VoIP provider." A person engaged in the business of providing VoIP service to end-use customers in this Commonwealth, including resellers.

"Interconnected Voice over Internet Protocol service" or "VoIP service." Service as defined by all orders issued by the Federal Communications Commission pursuant to the proceeding entitled "IP-Enabled Services", (WC Docket No. 04-36; FCC 05-116), codified at 47 CFR Part 9 (relating to interconnected Voice over Internet Protocol services), any successor proceeding and any other FCC order that affects the provision of 911 service or E-911 service to VoIP service customers or further defines interconnected Voice over Internet Protocol service.

"Primary place of use." The street address representative of where the customer's use of the VoIP service primarily occurs. For the purpose of VoIP 911 fees, primary place of use is the customer's registered location on the date the customer is billed.

"Telecommunications carrier." Any provider of telecommunications services as defined by the Telecommunications Act of 1996 (Public Law 104-104, 110 Stat. 56).

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Section 1.1. Section 7 of the act is amended by adding a subsection to read:

Section 7. Collection and disbursement of contribution.

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(f) Prohibition against release of information.—Neither the county treasurer, the agency, nor any employee, agent or representative of a PSAP or public agency shall divulge any information acquired with respect to any wire line telephone service provider, its customers, revenues or expenses, trade secrets, access line counts, commercial information and such other proprietary information while acting or claiming to act as such employee, agent or representative, and all such information is hereby required to be kept confidential except that aggregations of information which do not identify or effectively identify numbers of customers, revenues or expenses, trade secrets, access lines, commercial information and such other proprietary information attributable to any individual wire line telephone service provider may be made public.

Section 2. Sections 11.7, 11.8 and 11.9 of the act, added December 30, 2003 (P.L.384, No.56), are amended to read:

Section 11.7. Public disclosure and confidentiality of information.

(a) Annual report of the agency.—The annual report of the agency shall be a public document.

(b) Prohibition against release of information.—Neither the State Treasurer, the agency, nor any employee, agent or representative of a PSAP or public agency shall divulge any information acquired with respect to any wireless provider *or VoIP provider*, its customers, revenues or expenses, trade secrets, commercial information and such other proprietary information while acting or claiming to act as such employee, agent or representative, and all such information is hereby required to be kept confidential except that aggregations of information which do not identify or effectively identify numbers of customers, revenues or expenses, trade secrets, commercial information and such other proprietary information attributable to any individual wireless provider *or VoIP provider* may be made public.

Section 11.8. Wireless provider *and VoIP provider* records.

(a) Access.—Upon request from and pursuant to agreement with a PSAP, each wireless provider shall provide E-911 service data base information *and each VoIP provider shall provide VoIP service data base information or automatic location information* as permitted under the law to the requesting PSAP. Such information shall remain the property of the disclosing wireless provider *or VoIP provider* and, except as otherwise provided by applicable Federal or State law, shall be used by the PSAP only in connection with providing emergency response services to a call to a 911 system or to a wireless E-911 system.

(b) Violations.—A person commits a misdemeanor of the third degree who:

(1) Uses or discloses wireless E-911 service data base information *or VoIP service data base information* for purposes other than handling a call to a 911 system or to a wireless E-911 system without the consent of the wireless service customer *or VoIP service customer*, or as otherwise provided by applicable Federal or State law.

(2) Knowingly uses the telephone number of a 911 system [or], wireless E-911 system *or VoIP service data base information* to avoid any charges for the services of a local exchange carrier, competitive local exchange carrier, interexchange carrier [or], wireless provider *or VoIP provider*.

(c) Privacy waived.—The provisions of 66 Pa.C.S. § 2906 (relating to dissemination of telephone numbers and other identifying information) shall have no application to wireless providers *or VoIP providers* to the extent they are engaged in providing wireless E-911 service, *911 service* or related services.

Section 11.9. Immunity.

(a) Generally.—No wireless provider *or VoIP provider* or its officers, directors, employees, agents or vendors shall be liable to any person for civil damages resulting from or caused by such [wireless provider's] *provider's*, its officers', directors', employees', agents' or suppliers' participation in or acts, failure or omissions in connection with that participation in the development, design, installation, operation, maintenance, performance or provision of wireless E-911 service *or 911 service*, except for willful or wanton misconduct.

(b) Parity of liability.—A wireless provider *or VoIP provider* shall have the same immunity from liability for transmission errors or failures, network outages or other technical problems that arise in the course of handling emergency calls or providing emergency services, including wireless E-911 service, as a local exchange carrier enjoys in the course of handling such calls or providing such services.

(c) Release of information.—No wireless provider *or VoIP provider* or its employees or agents shall be liable to any person for releasing wireless service customer information *or VoIP service customer information* to the agency or to any 911 system or wireless E-911 system, public agency or PSAP as required by this act *or any law*.

Section 3. The act is amended by adding a section to read:

Section 11.14. Collection and disbursement of VoIP 911 fee.

(a) *VoIP service customer 911 contribution.*—

(1) *Each VoIP provider or telecommunications carrier, on the first monthly billing cycle after the effective date of this section, shall collect a \$1 fee per month for each telephone number or successor dialing protocol assigned by a VoIP provider to a VoIP service customer number that has outbound calling capability and remit the collection quarterly or, at the option of the provider or telecommunications carrier, monthly, less the actual uncollectibles experienced by the VoIP*

provider to the county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds or, as provided in subsection (d), to the State Treasurer. This fee shall be stated separately in the VoIP service customer's paper or electronic billing and the fee shall be collected apart from and in addition to any fee levied by the VoIP provider in whole or in part for the provision of 911 services or E-911 services.

(2) In the case of VoIP service customers purchasing multiple dial tone telephone access lines from a VoIP provider, the following multipliers shall be applied to determine the contribution rate of each customer:

(i) For the first 25 lines, each line shall be billed at the approved contribution rate.

(ii) For lines 26 through 100, each line shall be billed at 0.75 of the approved contribution rate.

(iii) For lines 101 through 250, each line shall be billed at 0.50 of the approved contribution rate.

(iv) For lines 251 through 500, each line shall be billed at 0.20 of the approved contribution rate.

(v) For lines 501 or more, each line shall be billed at 0.172 of the approved contribution rate.

(3) If a VoIP provider receives a partial payment for a monthly bill from a VoIP service customer, the VoIP provider may apply the payment against the amount the VoIP service customer owes the VoIP provider first and then shall remit to the county or the State Treasurer the lesser amount, if any, as shall result therefrom.

(4) The fees collected and remitted under this subsection shall not be subject to taxes or charges levied by the Commonwealth or any political subdivision of this Commonwealth, nor shall the fees be considered revenue of the VoIP provider for any purpose.

(5) As reimbursement for administrative costs to cover its expenses of billing, collecting and remitting the fees during the reporting period, the VoIP provider is allowed to retain for reimbursement up to 2% of the total fees collected under this subsection, if remitted to the county, or up to 1% of the total fees collected if remitted to the State Treasurer.

(6) To the extent that a VoIP provider obtains connections to the public switched telephone network from a telecommunications carrier, that telecommunications carrier shall not be required to assess or make contributions to any 911 or E-911 fund in connection with the customers or the telephone numbers for which the VoIP provider is responsible for collecting and making contributions under this section. If, however, the telecommunications carrier is, by agreement with the VoIP provider, required to make 911 or E-911 contributions on behalf of the VoIP provider customer, the VoIP provider will not be responsible for collecting and making contributions under this section.

(b) Reporting by VoIP providers.—With each remittance, a VoIP provider and telecommunications carrier shall supply the following information to the county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds or, as applicable under subsection (d), to the State Treasurer and to the agency:

(1) The total fees collected under subsection (a)(1) from its VoIP service customers during the reporting period. If the telecommunications carrier has remitted the fees to the county or the agency pursuant to an agreement with the VoIP provider, the VoIP provider must provide notification of such reporting agreement along with the telecommunications carrier's name and 911 or E-911 account number.

(2) All VoIP providers and telecommunications carriers shall provide the county or, if remitting to the State Treasurer, the agency with such information as it shall request, including the primary place of use of each interconnected VoIP service customer, in writing in order to discharge its obligations under this section, including, but not limited to, the collection and deposit of the VoIP fee and its administration of the fund. Information supplied by VoIP providers pursuant to this section shall remain confidential and release of such information shall be governed by section 11.7.

(c) Collection enforcement.—A VoIP provider has no obligation to take any legal action to enforce the collection of any fee imposed pursuant to this section.

(d) Remittance of fees.—Remittance of fees shall be to the county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds, who shall deposit receipts into the Restricted Account established under section 7(c). Remittance to counties shall consist of the fees collected from VoIP service customers located in that county, less any reductions or administrative fees permitted by this section. The VoIP provider may instead, at its option, remit the fees to the State Treasurer for deposit and distribution as provided under subsections (e) and (f). Elections shall be by rules established by the agency, which shall include appropriate notification to the affected counties of the exercise of this option.

(e) Establishment of fund.—There is hereby established in the State Treasury a nonlapsing restricted interest-bearing account to be known as the VoIP 911 Emergency Services Fund. The fund shall consist of the fees remitted to the State Treasurer pursuant to this section.

(f) Distribution of fees.—Moneys in the fund established by subsection (e) and the interest it accrues are hereby appropriated on a continuing basis to the agency to be disbursed by the agency. The agency shall make quarterly disbursements from the account to each county by March 31, June 30, September 30 and December 31 of each year in an amount equal to the amount of fees collected from VoIP service customers located in that

county and for the purpose of assisting counties with the implementation of an agency-approved plan adopted under section 5. The agency may retain up to 1% of the fees for costs incurred in administering this subsection.

Section 4. This act shall take effect in 120 days.

APPROVED—The 9th day of July, A.D. 2008.

EDWARD G. RENDELL