

EMERGENCY 9-1-1 SERVICE ENABLING ACT (EXCERPT)
Act 32 of 1986

***** 484.1401c.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 1, 2013; THIS
AMENDED SECTION IS ALSO REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1401c.amended Collection of prepaid wireless surcharge; amount; transactions considered as occurring in this state; surcharge as liability of consumer; sale of service with 1 or more products or services; "minimal amount" defined; remittance of surcharge; administration; rules; retention of by seller; liability; definitions.

Sec. 401c. (1) A seller shall collect a prepaid wireless 9-1-1 surcharge from a consumer for each retail transaction occurring in this state.

(2) The amount of the prepaid wireless 9-1-1 surcharge shall be 1.92% per retail transaction. The charge allowed under this section shall be either separately stated on an invoice, receipt, or other similar document that is provided to a consumer by the seller or otherwise disclosed to the consumer.

(3) Each of the following transactions shall be considered to have occurred in this state:

(a) A retail transaction that is effected in person by a consumer at a business location of a seller located in this state.

(b) A retail transaction that is treated as occurring in this state as provided in section 3c of the use tax act, 1937 PA 94, MCL 205.93c, as that section applies to a prepaid wireless calling service.

(4) A prepaid wireless 9-1-1 surcharge is the liability of the consumer and not of the seller or of any provider.

(5) Except as otherwise provided in subsection (6), if a prepaid wireless telecommunications service is sold with 1 or more products or services for a single, nonitemized price, the seller shall collect 1.92% on the entire nonitemized price unless the seller elects to do the following:

(a) If the amount of the prepaid wireless telecommunications service is disclosed to the consumer as a dollar amount, apply the percentage to that dollar amount.

(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 its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes, apply the percentage to that portion.

(6) If a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, a seller may elect not to apply the percentage specified in subsection (5)(a) to that transaction. As used in this subsection, "minimal amount" means an amount of service denominated as 10 minutes or less or \$5.00 or less.

(7) The prepaid wireless 9-1-1 surcharge shall be remitted at the same time and in the same manner as the taxes provided by the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78. The department shall establish record keeping, payment, and other procedures for providers or sellers that are substantially similar to those applicable procedures for taxpayers imposed under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78. The department shall deposit the prepaid wireless 9-1-1 surcharges in the emergency 9-1-1 fund created in section 407.

(8) The prepaid wireless 9-1-1 surcharge imposed by this act shall be administered by the department under 1941 PA 122, MCL 205.1 to 205.31, and this act. If the provisions of 1941 PA 122, MCL 205.1 to 205.31, and this act conflict, the provisions of this act apply.

(9) The department shall promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) A seller may retain 2% of prepaid wireless 9-1-1 surcharges that are collected by the seller to reimburse the seller for its direct costs in collecting and remitting the prepaid wireless 9-1-1 surcharges.

(11) A provider or seller of prepaid wireless telecommunications service is not liable for damages to any person resulting from or incurred in connection with the provision of, or failure to provide, 9-1-1 service or for identifying or failing to identify the telephone number, address, location, or name associated with any person or device that is accessing or attempting to access 9-1-1 service.

(12) A provider or seller of prepaid wireless telecommunications service is not liable for damages to any person resulting from or incurred in connection with the provision of any lawful assistance to any investigative or law enforcement officer of the United States, this state, or any other state in connection with any lawful investigation or other law enforcement activity by that law enforcement officer.

(13) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications services in a retail transaction.

(b) "Department" means the Michigan department of treasury.

(c) "Prepaid wireless 9-1-1 surcharge" means the fee that is required to be collected by a seller from a consumer in the amount established under subsection (2).

(d) "Provider" means a person that provides prepaid wireless telecommunications services under a license issued by the federal communications commission.

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

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

History: Add. 2007, Act 164, Eff. July 1, 2008;—Am. 2012, Act 260, Eff. Jan. 1, 2013.

Popular name: 9-1-1