

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. \_\_\_\_\_

911 system amendments.

Sponsored by: Joint Corporations, Elections and Political  
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to telecommunications; providing for  
2 collection of E911 charges on prepaid wireless  
3 telecommunications services; providing for distribution of  
4 charges; providing for limitations on use of charges;  
5 providing for redistribution of 911 emergency taxes;  
6 providing for grants; providing definitions; providing  
7 rulemaking authority; and providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 16-9-109 is created to read:

12

1           **16-9-109. Imposition of charge on prepaid wireless;**  
2 **rules; definitions.**

3

4           (a) A prepaid wireless E911 charge of one and four-  
5 tenths percent (1.4%) of the price of the retail  
6 transaction is hereby imposed on each retail transaction.

7

8           (b) A seller shall collect the prepaid wireless E911  
9 charge from a consumer on each retail transaction occurring  
10 in this state. The amount of the prepaid wireless E911  
11 charge shall be either disclosed to the consumer or  
12 separately stated on an invoice, receipt or other similar  
13 document the seller provides to the consumer. A seller  
14 shall elect to either disclose or separately state the  
15 charge and shall not change the election without the  
16 written consent of the department. For purposes of this  
17 subsection, a retail transaction occurs in Wyoming if:

18

19           (i) The consumer effects the retail transaction  
20 in person at a business location in Wyoming; or

21

1           (ii) If paragraph (i) of this subsection does  
2 not apply, the product was delivered to the consumer at a  
3 Wyoming address provided to the seller; or  
4

5           (iii) If paragraphs (i) or (ii) of this  
6 subsection do not apply, the seller's records, maintained  
7 in the ordinary course of business, indicate that the  
8 consumer's address is in Wyoming and the records are not  
9 made or kept in bad faith; or  
10

11           (iv) If paragraphs (i) through (iii) of this  
12 subsection do not apply, the consumer gives a Wyoming  
13 address during the consummation of the sale, including the  
14 consumer's payment instrument if no other address is  
15 available, and the address is not given in bad faith; or  
16

17           (v) If paragraphs (i) through (iv) of this  
18 subsection do not apply, the mobile telephone number is  
19 associated with a Wyoming location.  
20

21           (c) The prepaid wireless charge is the liability of  
22 the consumer and not of the seller or of any provider,  
23 except that the seller shall be liable to remit all prepaid

1 wireless E911 charges the seller collects from consumers as  
2 provided in subsection (f) of this section. The seller  
3 shall be deemed to have collected the charge  
4 notwithstanding that the amount of the charge has neither  
5 been separately disclosed nor stated on an invoice, receipt  
6 or other similar document the seller provides to the  
7 consumer.

8  
9 (d) The amount of the prepaid wireless E911 charge  
10 that is collected by a seller from a consumer shall not be  
11 included in the base for measuring any tax, fee, surcharge  
12 or other charge that is imposed by this state, any  
13 political subdivision of this state or any  
14 intergovernmental agency.

15  
16 (e) The seller shall remit any collected prepaid  
17 wireless E911 charges as follows:

18  
19 (i) The seller shall remit the charges to the  
20 department at the times and in the manner provided in W.S.  
21 39-15-107(a). The department shall establish by rule,  
22 registration and payment procedures for collecting the  
23 prepaid wireless E911 charges. A seller is subject to the

1 penalties and enforcement procedures under W.S. 39-15-108  
2 for failure to collect or remit a prepaid wireless E911  
3 charge in accordance with this section;

4

5 (ii) A seller shall be permitted to deduct and  
6 retain two percent (2%) of the prepaid wireless E911  
7 charges that are collected by the seller from consumers;

8

9 (iii) The audit and appeal procedures applicable  
10 to the collection of state sales taxes shall apply to  
11 prepaid wireless E911 charges;

12

13 (iv) The department shall establish procedures  
14 by which a seller may document that a transaction is not a  
15 retail transaction.

16

17 (f) Remittances of prepaid wireless E911 charges  
18 received by the department are collection for the local  
19 governing body, not general revenues of the state and shall  
20 be held in trust in a separate account for distribution to  
21 each governing body. The department shall pay all remitted  
22 prepaid wireless E911 charges over to each governing body  
23 by the twentieth (20<sup>th</sup>) day of each month for the preceding

1 month's collection in accordance with W.S. 16-9-104 for use  
2 by such governing body for the purposes permitted under  
3 W.S. 16-9-105, after deducting an amount, not to exceed two  
4 percent (2%) of the collected charges, to reimburse the  
5 department for its direct costs of administering the  
6 collection and remittance of prepaid wireless E911 charges.

7

8 (g) The public service commission shall establish a  
9 formula for distribution of revenues from the prepaid  
10 wireless E911 charge based upon the governing authority's  
11 portion of the total 911 call volume. The public service  
12 commission shall collect and transmit the percentage of  
13 wireless calls processed by each public safety answering  
14 point to the department by November 15 of each year. The  
15 public service commission may promulgate rules to implement  
16 this subsection.

17

18 (h) The prepaid wireless E911 charge imposed by this  
19 section shall be the only direct E911 funding obligation  
20 imposed with respect to prepaid wireless telecommunications  
21 service in this state. No tax, fee, surcharge or other  
22 charge to fund E911 shall be imposed by this state, any  
23 political subdivision of this state or any

1 intergovernmental agency upon a provider, seller or  
2 consumer with respect to the sale, purchase, use or  
3 provision of prepaid wireless telecommunications service.  
4

5 (j) As used in this section:

6

7 (i) "Consumer" means a person who purchases  
8 prepaid wireless telecommunications service in a retail  
9 transaction;

10

11 (ii) "Department" means the department of  
12 revenue;

13

14 (iii) "Prepaid wireless E911 charge" means the  
15 charge that is required to be collected by a seller from a  
16 consumer under subsection (a) of this section;

17

18 (iv) "Provider" means a person that provides  
19 prepaid wireless telecommunications service;

20

21 (v) "Retail transaction" means the purchase of  
22 prepaid wireless telecommunications service from a seller  
23 for any purpose other than resale;

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

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

**Section 2.** W.S. 16-9-102(a)(iv), (x) and by creating a new paragraph (xvii), 16-9-103(b), (d), (e), (g) and by creating a new subsection (k), 16-9-104(a) through (c) and 16-9-105(a) through (c) are amended to read:

**16-9-102. Definitions.**

(a) As used in this act:

(iv) "911 emergency reporting system" or "911 system" means a telephone system consisting of network, database, services and equipment, including operating and personnel costs as specified in W.S. 16-9-105, using the single three-digit number 911 for reporting police, fire, medical or other emergency situations and enabling the users of a public telephone system, other technology or wireless telecommunications system to reach a public safety answering point to report emergencies by dialing 911. 911 emergency reporting systems may include systems consisting



1 of network, database, services and equipment, including  
2 operating and personnel costs as specified in W.S.  
3 16-9-105, using 911 databases and public safety answering  
4 points to disseminate warnings to the public of impending  
5 hazards, including storms, floods, hazardous materials  
6 incidents or other emergencies that could compromise the  
7 public safety. For any 911 emergency reporting system that  
8 operates a reverse 911 warning system, a quarterly test on  
9 the warning system will be conducted by calling random  
10 numbers. The level of technology for provision of the 911  
11 emergency reporting system is to be determined by the  
12 governing body and may include enhanced wireless 911  
13 services, however, the 911 system shall include a device  
14 for telecommunications for the deaf. ~~Effective~~ On and  
15 after January 1, 2009, the governing body shall annually  
16 file with the Wyoming public service commission a certified  
17 statement of its annual gross receipts and detailed and  
18 itemized annual expenditures of any taxes collected  
19 pursuant to this act ~~from 2004 through and including~~ for  
20 the most recent calendar year;

21

22 (x) "This act" means W.S. 16-9-101 through ~~16-9-~~  
23 ~~108-16-9-109~~;

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

(xvii) "Prepaid wireless telecommunications service" means wireless telecommunications access that allows a caller to dial 911 to access the 911 system, is paid for in advance and is sold in predetermined units or dollars, of which the number of units or dollars available to the caller declines with use in a known amount.

**16-9-103. Imposition of tax; liability of user for tax; collection; uncollected amounts; discontinuing service prohibited.**

(b) In accordance with the provisions of this subsection, and after a public hearing the governing body may, by ordinance in the case of cities and by resolution in the case of counties or special districts, impose a monthly uniform tax on service users within its designated 911 service area in an amount not to exceed seventy-five cents (\$.75) per month on each local exchange access line, per wireless communications access or other technological device that under normal operation is designed or routinely used to access 911. Only one (1) governing body may impose a 911 emergency tax for each 911 system. Regardless of the

1 level at which the tax is set, if an assessment is made on  
2 both local exchange access facilities and wireless  
3 communications access, the amount of the tax imposed per  
4 local exchange access facility and the amount of the tax  
5 imposed per wireless communications access or access by  
6 other technological device that under normal operation is  
7 designed or routinely used to access 911, shall be equal.  
8 The proceeds of the 911 emergency tax may be imposed at any  
9 time following the execution of an agreement with the  
10 provider of the service at the discretion of the governing  
11 body and shall be distributed as follows:

12  
13 (i) Ninety percent (90%) shall be set aside in  
14 an enterprise fund or other separate accounts from which  
15 the receipts shall be used to pay for the 911 system costs  
16 authorized in W.S. 16-9-105; and, ~~and may be imposed at any~~  
17 ~~time following the execution of an agreement with the~~  
18 ~~provider of the service at the discretion of the governing~~  
19 ~~body.~~

20  
21 (ii) Ten percent (10%) shall be transferred to  
22 the public service commission for distribution as grants to  
23 governing bodies whose 911 system costs exceed the proceeds

1 of the 911 emergency tax. The public service commission  
2 shall promulgate rules and regulations to implement the  
3 grant program provided for in this paragraph.

4  
5 **\*\*\* Staff note: There needs to be more guidance**  
6 **setting parameters for these rules to avoid an unlawful**  
7 **delegation of authority problem. \*\*\***

8  
9 (d) Collection of any 911 emergency tax from a  
10 service user pursuant to this ~~chapter~~act shall commence at  
11 the time specified by the governing body in accordance with  
12 this act. Taxes imposed under ~~this chapter~~W.S. 16-9-101  
13 through 108 and required to be collected by the service  
14 supplier shall be added to and stated separately in the  
15 billings to the service user.

16  
17 (e) Every billed service user shall be liable for any  
18 911 emergency tax imposed under this ~~chapter~~act until it  
19 has been paid to the service supplier or governing body.

20  
21 (g) Any 911 emergency tax imposed under this ~~chapter~~  
22 act shall be collected at the time charges for the

1 telecommunications are collected under the regular billing  
2 practice of the service supplier.

3

4 (k) This section does not apply to prepaid wireless  
5 telecommunications service.

6

7 **16-9-104. Remittance of tax to the governing body;**  
8 **administrative fee; establishment of rate of tax.**

9

10 (a) Except as provided in W.S. 16-9-109, any tax  
11 imposed under this ~~chapter~~act and the amounts collected  
12 are to be remitted quarterly to the governing bodies. The  
13 amount of the tax collected in one (1) calendar quarter by  
14 the service supplier shall be remitted to the governing  
15 body no later than fifteen (15) days after the close of the  
16 calendar quarter. On or before the sixteenth day of each  
17 month following the preceding calendar quarter, a return  
18 for the preceding quarter shall be filed with the governing  
19 body in a form the governing body and service supplier  
20 agree upon. The service supplier required to file the  
21 return shall deliver the return together with the  
22 remittance of the amount of the tax payable to the  
23 governing body. The service supplier shall maintain a

1 record of the amount of each tax collected pursuant to this  
2 chapter. The record shall be maintained for a period of  
3 one (1) year after the time the tax was collected.  
4 Distributions by a governing body to the public service  
5 commission as provided in W.S. 16-9-103(b)(ii) shall be  
6 remitted to the public service commission within thirty  
7 (30) days after receipt by the governing body.

8  
9 (b) The service supplier remitting the taxes  
10 collected under ~~this chapter~~ W.S. 16-9-101 through 16-9-108  
11 may deduct and retain one percent (1%) of the taxes  
12 collected as the cost of administration for collecting the  
13 taxes.

14  
15 (c) At least once each calendar year, the governing  
16 body shall establish a rate of tax not to exceed the amount  
17 authorized. Amounts collected in excess of necessary  
18 expenditures within any fiscal year shall be carried  
19 forward to subsequent years and shall only be used for the  
20 purposes set forth in W.S. 16-9-105. The governing body  
21 shall fix the rate, publish notice of its new rate and  
22 notify by mail every local exchange access company at least  
23 ninety (90) days before the new rate becomes effective.

1 The governing body may at its own expense require an annual  
2 audit of the service supplier's books and records  
3 concerning the collection and remittance of the ~~tax~~taxes  
4 authorized by this ~~chapter~~act.

5

6 **16-9-105. Agreements or contract for 911 emergency**  
7 **reporting systems; use of funds collected.**

8

9 (a) Any governing body imposing the tax authorized by  
10 this ~~chapter~~act may enter into an agreement directly with  
11 any service supplier to the 911 system or may contract and  
12 cooperate with any public agency or any other state for the  
13 administration of a 911 system in accordance with law.

14

15 (b) Funds collected under W.S. 16-9-103(b)(i) from  
16 the 911 emergency tax imposed pursuant to this ~~chapter~~act,  
17 under W.S. 16-9-109 from the prepaid wireless E911 charge  
18 and from grants as provided in W.S. 16-9-103(b)(ii) shall  
19 be spent solely to pay for public safety answering point  
20 and service suppliers' equipment and service costs,  
21 installation costs, maintenance costs, monthly recurring  
22 charges and other costs directly related to the continued  
23 operation of a 911 system including enhanced wireless 911

1 service. Funds may also be expended for personnel expenses  
2 necessarily incurred by a public safety answering point.

3 "Personnel expenses necessarily incurred" means expenses  
4 incurred for persons employed to:

5  
6 (c) Funds collected under W.S. 16-9-103(b)(i) from  
7 the ~~charge~~ 911 emergency tax imposed pursuant to this  
8 ~~chapter~~ act, under W.S. 16-9-109 from the prepaid wireless  
9 E911 charge and from grants as provided in W.S. 16-9-  
10 103(b)(ii) shall be credited to a cash account separate  
11 from the general fund of the public agency, for payments  
12 for public safety answering points and service supplier  
13 costs pursuant to subsection (b) of this section. Any  
14 monies remaining in the cash account at the end of any  
15 fiscal year shall remain in the account for payments during  
16 any succeeding year. If any 911 system is discontinued,  
17 monies remaining in the account shall, after all payments  
18 to the service supplier pursuant to subsection (b) of this  
19 section, be transferred to the general fund of the public  
20 agency or proportionately to the general fund of each  
21 participating public agency.

22  
23 **Section 2.** This act is effective July 1, 2011.



1

2

(END)