

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

ACT 810 OF 1997
HOUSE BILL 1990

4
5 By: Representatives Madison, Whorton, McJunkin, and Sheppard
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For An Act To Be Entitled

8
9 "AN ACT TO AMEND THE ARKANSAS PUBLIC SAFETY COMMUNICATIONS
10 ACT TO INCLUDE CELLULAR TELEPHONE SERVICE AND PERSONAL
11 COMMUNICATIONS NETWORKS; TO REVISE THE 911 FEE SCHEDULE;
12 AND FOR OTHER PURPOSES."
13

Subtitle

14
15 "TO AMEND THE ARKANSAS PUBLIC SAFETY
16 COMMUNICATIONS ACT TO INCLUDE CELLULAR
17 TELEPHONE SERVICE AND PERSONAL
18 COMMUNICATIONS NETWORKS, AND TO REVISE
19 THE 911 FEE SCHEDULE."
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code 12-10-303 is amended to read as follows:

24 "12-10-303. Definitions.

25 As used in this subchapter, unless the context otherwise requires:

26 ~~(11)~~ (1) Automatic location identification means an enhanced 911
27 service capability that enables the automatic display of information defining
28 the geographical location of the telephone used to place the 911 call;

29 ~~(10)~~ (2) Automatic number identification means an enhanced 911 service
30 capability that enables the automatic display of the seven-digit number used
31 to place a 911 call;

32 ~~(6)~~ (3) Basic 911 system means a system by which the various emergency
33 functions provided by public and private safety agencies within each political
34 subdivision may be accessed utilizing the three-digit number 911, but no
35 available options are included in the system;

36 (4) Board means the CMRS Emergency Telephone Services Board created by

1 this subchapter;

2 ~~(19)~~ (5) Chief executive is synonymous with head of government and
 3 means the Governor, county judges, mayors, city managers, or city
 4 administrators of incorporated places, dependent on the level and form of
 5 government;

6 (6) CMRS Connection means each account or number assigned to a CMRS
 7 customer;

8 (7) Commercial Mobile Radio Service (CMRS) means commercial mobile
 9 service under Sections 3(27) and 332(d), Federal Telecommunications Act of
 10 1996 (47 U.S.C. Section 151 et seq.), Federal Communications Commission rules,
 11 and the Omnibus Budget Reconciliation Act of 1993. The term includes any
 12 wireless two-way communication device, including radio-telephone
 13 communications used in cellular telephone service, personal communication
 14 service, or the functional and/or competitive equivalent of a radio-telephone
 15 communications line used in cellular telephone service, a personal
 16 communication service, or a network radio access line. The term does not
 17 include services whose customers do not have access to 911 or a 911 like
 18 service, a communication channel suitable only for data transmission, to a
 19 wireless roaming service or other nonlocal radio access line service, or to a
 20 private telecommunications system;

21 ~~(13)~~ (8) Dispatch center means a public or private agency which
 22 dispatches public or private safety agencies but does not operate a 911 public
 23 safety answer point;

24 ~~————~~ (8) (9) Enhanced 911 network features means those features of
 25 selective routing which have the capability of automatic number and location
 26 identification;

27 ~~————~~ (7) (10) Enhanced 911 system means enhanced 911 service, which is a
 28 telephone exchange communications service consisting of telephone network
 29 features and public safety answering points designated by the chief executive
 30 which enables users of the public telephone system to access a 911 public
 31 safety communications center by dialing the digits 911. The service directs
 32 911 calls to appropriate public safety answering points by selective routing
 33 based on the geographical location from which the call originated and provides
 34 the capability for automatic number identification and automatic location
 35 identification;

36 ~~(1)~~ (11) Exchange access facilities means all lines provided by the

1 service supplier for the provision of local exchange service, as defined in
 2 existing general subscriber services tariffs;

3 ~~(18)~~ (12) Governing authority means county quorum courts and governing
 4 bodies of municipalities;

5 ~~(12)~~ (13) 911 public safety communications center means the
 6 communications center operated on a twenty-four (24) hour basis by one of the
 7 operating agencies defined by this subchapter and as designated by the chief
 8 executive of the political subdivision which includes the public safety
 9 answering point and dispatches one (1) or more public safety agencies;

10 ~~(17)~~ (14) Operating agency means the public safety agency authorized
 11 and designated by the chief executive of the political subdivision to operate
 12 a 911 public safety communications center. Operating agencies are limited to
 13 offices of emergency services, fire departments, and law enforcement agencies
 14 of the political subdivisions;

15 ~~(16)~~ (15) Private safety agency means any entity, except a public
 16 safety agency, providing emergency fire, ambulance, or emergency medical
 17 services;

18 ~~(14)~~ (16) Public safety agency means an agency of the State of
 19 Arkansas or a functional division of a political subdivision which provides
 20 fire fighting, rescue, natural, or man-caused disaster or major emergency
 21 response, law enforcement, and ambulance or emergency medical services;

22 ~~(5)~~ (17) Public safety answering point means the location at which 911
 23 calls are initially answered;

24 ~~(15)~~ (18) Public safety officers means specified personnel of public
 25 safety agencies;

26 ~~(3)~~ (19) Service supplier means any person, company, or corporation,
 27 public or private, providing exchange telephone service or CMRS service
 28 throughout the political subdivision;

29 ~~(9)~~ (20) Selective routing means the method employed to direct 911
 30 calls to the appropriate public safety answering point based on the
 31 geographical location from which the call originated;

32 ~~(4)~~ (21) Service user means any person, company, corporation, business,
 33 association, or party not exempt from county or municipal taxes or utility
 34 franchise assessments, who is provided telephone service or CMRS service in
 35 the political subdivision;

36 ~~(2)~~ (22) Tariff rate means the rate or rates billed by a service

1 supplier as stated in the service suppliers tariffs and approved by the
 2 Arkansas Public Service Commission, which represents the service suppliers
 3 recurring charges for exchange access facilities, exclusive of all taxes,
 4 fees, licenses, or similar charges whatsoever."

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6 SECTION 2. Arkansas Code 12-10-318(b) through (d) are amended to read
 7 as follows:

8 "(b)(1) There is hereby levied a CMRS emergency telephone service
 9 charge in an amount of fifty cents (\$.50) per month per CMRS connection that
 10 has a billing address within the State of Arkansas or with respect to which
 11 the mobile identification number for the CMRS connection contains an area code
 12 assigned to Arkansas by the North American Numbering Plan Administrator. The
 13 fees collected by CMRS providers shall be remitted to the board described in
 14 Section (b)(2) below, within sixty (60) days after the end of the month in
 15 which the fees are collected. The funds collected pursuant to this subsection
 16 shall not be deemed revenues of the state and shall not be subject to
 17 appropriation by the General Assembly.

18 (2) There is hereby established the CMRS Emergency Telephone
 19 Services Board consisting of the following: the State Auditor or his
 20 designated representative, two (2) representatives selected by a majority of
 21 the CMRS providers licensed to do business in the state, and two 911 system
 22 employees selected by a majority of the PSAP administrators in the state. The
 23 responsibilities of the board shall be as follows;

24 (A) establish and maintain an interest-bearing account in which
 25 will be deposited revenues from the service charge levied on CMRS connections;

26 (B) manage and disburse the funds from the account in the
 27 following manner:

28 (i) Not more than forty percent (40%) of the total monthly
 29 revenues collected shall be distributed to PSAP administrators based on CMRS
 30 call volume for expenses incurred for the answering, routing and proper
 31 disposition of CMRS 911 calls;

32 (ii) Not less than fifty-eight percent (58%) of the total
 33 monthly revenues shall be held in the interest-bearing account solely for the
 34 purposes of complying with applicable requirements of FCC docket #94-102.

35 These funds may be utilized by the PSAPs and the CMRS providers licensed to do
 36 business in Arkansas for the following purposes in connection with compliance

1 with the FCC requirements: upgrading, purchasing, programming and installing
2 necessary data, hardware, and software. Invoices must be presented to the
3 board in connection with any request for reimbursement and be approved by a
4 majority vote of the board to receive reimbursement. Any invoices presented
5 to the board for reimbursements of costs not described by this section may be
6 approved only by a unanimous vote of the board. In no event shall any invoice
7 be reimbursed for costs not related to compliance with applicable requirements
8 of FCC docket #94-102.

9 (iii) Submit annual reports to the State Auditor's office
10 outlining fees collected and monies disbursed to PSAPs and CMRS providers.

11 (iv) Retain an independent, third party auditor for the
12 purposes of receiving, maintaining and verifying the accuracy of any
13 proprietary information submitted to the board by CMRS providers. Due to the
14 confidential and proprietary nature of the information submitted by CMRS
15 providers, the information shall be retained by the independent auditor in
16 confidence, be subject to review only by the State Auditor and shall not be
17 subject to the State Freedom of Information Act, nor released to any third
18 party. The information collected by the auditor shall only be released in
19 aggregate amounts which do not identify or allow identification of numbers of
20 subscribers or revenues attributable to an individual CMRS provider.

21 (v) Conduct a cost study on or before August 31, 1998, to
22 be submitted to the Legislative Council for the purpose of determining whether
23 legislation should be proposed to adjust the CMRS emergency telephone service
24 charge to reflect actual costs to be incurred by PSAPs and CMRS providers for
25 compliance with applicable requirements of FCC docket #94-102.

26 (vi) One percent (1%) of the fees collected may be utilized
27 by the board to compensate the independent auditor and for administrative
28 expenses.

29 (3) CMRS providers shall be entitled to retain one percent (1%) of the
30 fees collected as reimbursement for collection and handling of the charge.

31 (4) Notwithstanding any other provision of the law, in no event shall
32 any CMRS provider, its officers, employees, assigns or agents, be liable for
33 civil damages or criminal liability in connection with the development,
34 design, installation, operation, maintenance, performance or provision of 911
35 service. Nor shall any CMRS provider, its officers, employees, assigns or
36 agents be liable for civil damages or criminal liability in connection with

1 the release of subscriber information to any governmental entity as required
 2 under the provisions of this subchapter.

3 ~~——(b)~~ (c) The service charge shall have uniform application and shall
 4 be imposed throughout the political subdivision to the greatest extent
 5 possible in conformity with availability of the service in any area of the
 6 political subdivision.

7 ~~——(e)~~ (d)(1) An emergency telephone service charge, except with regard to
 8 the CMRS emergency telephone service charge, shall be imposed only upon the
 9 amount received from the tariff rate exchange access lines.

10 (2) If there is no separate exchange access charge stated in the
 11 service supplier's tariffs, the governing authority shall, except with regard
 12 to the CMRS emergency telephone service charge, determine a uniform percentage
 13 not in excess of eighty-five percent (85%) of the tariff rate for basic
 14 exchange telephone service. This percentage shall be deemed to be the
 15 equivalent of tariff rate exchange access lines and shall be used until such
 16 time as the service supplier establishes such a tariff rate.

17 (3) No such service charge shall be imposed upon more than one
 18 hundred (100) exchange access facilities per person per location. Trunks or
 19 service lines used to supply service to CMRS providers shall not have a
 20 service charge levied against them.

21 (4) Any such emergency telephone service charge, including the CMRS
 22 emergency telephone service charge, shall be added to and may be stated
 23 separately in the billing by the service supplier to the service user.

24 (5) Every billed service user shall be liable for any service charge
 25 imposed under this subsection until it has been paid to the service supplier.

26 ~~——(d)~~ (e) The political subdivision may pursue against a delinquent
 27 service user any remedy available at law or in equity for the collection of a
 28 debt. ✕

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30 SECTION 3. All provisions of this act of a general and permanent nature
 31 are amendatory to the Arkansas code of 1987 Annotated and the Arkansas Code
 32 Revision Commission shall incorporate the same in the Code.

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34 SECTION 4. If any provision of this act or the application thereof to
 35 any person or circumstance is held invalid, such invalidity shall not affect
 36 other provisions or applications of the act which can be given effect without

1 the invalid provision or application, and to this end the provisions of this
2 act are declared to be severable.

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4 Section 5. All laws and parts of laws in conflict with this act are
5 hereby repealed.

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APPROVED:3-25-97

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