

**29-11-100.5. Legislative declaration - provision of emergency service to wireless and multi-line telephone service users.**

(1) The general assembly hereby finds and declares that dialing 9-1-1 is the most effective and familiar way the public has of seeking emergency assistance. The amendments to this part 1 made in Senate Bill 97-132, enacted at the first regular session of the sixty-first general assembly, are intended to provide a funding mechanism for 9-1-1 and enhanced 9-1-1 service for wireless service users. Enhanced 9-1-1 permits rapid response in situations where callers are unable to relay their phone number or location. Public safety answering points will need to make extensive changes in, and additions to, existing equipment to provide enhanced 9-1-1 service to wireless service users. To do so, public safety answering points must have the resources to purchase and update equipment, software, and training. A mechanism for recovery of costs reasonably incurred by wireless carriers, service suppliers, and basic emergency service providers in the acquisition and transmission of 9-1-1 information to public safety answering points is necessary to ensure that wireless service users receive the same level of 9-1-1 service as wireline service users.

(2) The general assembly further finds and declares that public safety agencies increasingly rely on enhanced 9-1-1 to provide dependable and precise information about the 9-1-1 caller's location and an accurate telephone number to reach the caller. Many multi-line telephone systems do not provide precise information about the 9-1-1 caller's location or telephone number. Inadequate location information can be life threatening if the caller is unable to verbalize the correct location. Not knowing an accurate location for a caller can result in a delay in service. In addition, many end-use customers of multi-line telephone systems do not know how to dial a 9-1-1 call from such telephones. Disclosure about 9-1-1 dialing and about the location identification capability of multi-line telephone systems are necessary first steps to ensure that multi-line telephone system service users can obtain emergency assistance by dialing 9-1-1.

(3) The general assembly declares Interconnected VoIP Service and prepaid wireless are growing business models that connect to the 9-1-1 network and should pay the emergency telephone charge. Because the business model for prepaid wireless does not typically submit billing statements to its customers, and often contemplates a minimal or non-existent direct financial relationship with the customer post-purchase, the mechanism for collection of the emergency telephone charge must be different for prepaid wireless. In light of this unique business model and in the interest of public safety, the general assembly finds that the efficient and rational method for collecting the emergency telephone charge for prepaid wireless is to hold the prepaid wireless service supplier, rather than the service user, responsible for payment. The prepaid wireless service supplier has the option to recover such payment from its customer, and may do so in the manner selected by the prepaid wireless service supplier.

(4) Nothing in this part 1 should be construed to alter the method of regulation or deregulation of providers of telecommunications service as set forth in article 15 of title 40, C.R.S.

**Source: L. 97:** Entire section added, p. 571, § 1, effective April 30. **L. 2001:** Entire section amended, p. 64, § 1, effective August 8. **L. 2004:** (1) and (3) amended, p. 13, § 2, effective February 20.

**29-11-101. Definitions.**

As used in this article, unless the context otherwise requires:

(1) "Active prepaid wireless telephone" means a prepaid wireless telephone that has been used by the customer during the month to complete a telephone call for which the customer's minutes, card or balance was decremented.

(1.1) "Automatic location identification" ("ALI") means the automatic display, on equipment at the PSAP, of the location of the caller's telephone number, the address for the telephone, including nonlisted and nonpublished numbers and addresses, and other information about the caller's precise location.

(1.2) "Automatic number identification" ("ANI") means the automatic display, on equipment at the PSAP, of the caller's telephone number.

(1.3) "Basic emergency service provider" ("BESP") means any person authorized by the commission to undertake the aggregation and transportation of 9-1-1 calls to a PSAP.

(1.4) "Commission" or "public utilities commission" means the public utilities commission of the state of Colorado, created in section 40-2-101, C.R.S.

(1.5) "Emergency notification service" means an informational service that, upon activation by a public safety agency, uses the 9-1-1 database or a database derived from the 9-1-1 database to rapidly notify all telephone customers within a specified geographic area of hazardous conditions or emergent events that threaten their lives or property, including, without limitation, floods, fires, and hazardous materials incidents.

(1.6) "Emergency service provider" means a primary provider of emergency fire fighting, law enforcement, ambulance, emergency medical, or other emergency services.

(1.7) "Emergency telephone charge" means a charge to pay the equipment costs, the installation costs, and the directly-related costs of the continued operation of an emergency telephone service according to the rates and schedules filed with the public utilities commission, if applicable.

(2) "Emergency telephone service" means a telephone system utilizing the single three-digit number 9-1-1 for reporting police, fire, medical, or other emergency situations.

(2.5) "Equipment supplier" means any person providing telephone or other equipment necessary for an emergency telephone service to any public agency or governing body in this state, through lease or sale.

(3) "Exchange access facilities" means the access from a specific customer's premises to the telecommunications network to effect the transfer of information.

(4) "Governing body" means the board of county commissioners of a county or the city council or other governing body of a city, city and county, or town or the board of directors of a special district.

(4.2) "Interconnected VoIP Service" means a service that: (1) Enables real-time, two-way voice communications; (2) Requires a broadband connection from the user's location; (3) Requires Internet protocol-compatible customer premises equipment (CPE); and (4) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(4.5) "MLTS operator" means the person that operates an MLTS from which an end-user may place a 9-1-1 call through the public switched network.

(4.6) "Multi-line telephone system" ("MLTS") means a system comprised of common control units, telephones, and control hardware and software providing local telephone service to multiple end-use customers in businesses, apartments, townhouses, condominiums, schools, dormitories, hotels, motels, resorts, extended care facilities, or similar entities, facilities, or structures. "Multi-line telephone system" includes:

(a) Network and premises-based systems such as centrex, pbx, and hybrid-key telephone systems; and

(b) Systems owned or leased by governmental agencies, nonprofit entities, and for-profit businesses.

(5) "Person" means any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation (municipal or private and whether organized for profit or not), governmental agency, state, county, political subdivision, state department, commission, board, or bureau, fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee, or trustee in bankruptcy or any other service user.

(5.2) "Point of Sale" for the purposes of prepaid wireless means initially purchasing minutes or purchasing additional minutes in person, by mail, or via telephone or internet.

(5.5) "Prepaid wireless access" or "prepaid wireless" means wireless communications access that is activated in advance by payment for a finite dollar amount of service or for a finite number of minutes that terminate either upon use by any service user and delivery by the wireless provider of an agreed amount of service corresponding to the total dollar amount paid in advance or within a certain period of time following the initial purchase or activation, unless an additional payment is made.

(6) "Public agency" means any city, city and county, town, county, municipal corporation, public district, or public authority located in whole or in part within this state which provides or has the authority to provide fire fighting, law enforcement, ambulance, emergency medical, or other emergency services.

(6.5) "Public safety answering point" ("PSAP") means a facility equipped and staffed on a 24-hour basis to receive and process 9-1-1 calls.

(6.7) "Rates" means the rates billed by a service supplier pursuant to tariffs, price lists, or contracts, which rates represent the service supplier's recurring charges for exchange access facilities or their equivalent, exclusive of all taxes, fees, licenses, or similar charges.

(7) "Service supplier" means any person providing exchange telephone services, any person providing telecommunications service via wireless carrier, any person providing prepaid wireless access, and any person providing interconnected VoIP service to any service user in this state, either directly or by resale.

(8) "Service user" means any person who is provided exchange telephone service, any person who is provided telecommunications service via wireless carrier, any person who is provided prepaid wireless access, and any person who is provided interconnected VoIP service in this state.

(9) (Deleted by amendment, L. 97, p. 572, § 2, effective April 30, 1997.)

(10) "Telecommunications service" has the meaning set forth in section 40-15-102 (29), C.R.S.

(11) "Wireless automatic location identification" ("wireless ALI") means the automatic display, on equipment at the PSAP, of the location of the wireless service user initiating a 9-1-1 call to the PSAP.

(12) "Wireless automatic number identification" ("wireless ANI") means the mobile identification number of the wireless service user initiating a 9-1-1 call to the PSAP.

(13) "Wireless carrier" means a cellular licensee, a personal communications service licensee, and certain specialized mobile radio providers designated as covered carriers by the federal communications commission in 47 CFR 20.18 and any successor to such rule.

(14) "Wireless communications access" means the radio equipment and assigned mobile identification number used to connect a wireless customer to a wireless carrier for two-way interactive voice or voice-capable services.

**Source: L. 81:** Entire article added, p. 1415, § 1, effective May 26. **L. 85:** (1) amended and (2.5) added, p. 1052, § 1, effective April 17. **L. 97:** (1), (2), (7), (8), and (9) amended and (1.3), (1.7), (6.5), (6.7), and (10) to (14) added, p. 572, § 2, effective April 30. **L. 2001:** (1) amended and

(1.1), (1.2), (4.5), and (4.6) added, p. 65, § 2, effective April 8. **L. 2002:** (1.5) added, p. 83, § 1, effective March 22. **L. 2004:** (1.6) added, p. 1879, § 1, effective July 1; (13) and (14) amended, p. 1202, § 70, effective August 4.

**29-11-102. Imposition of charge - liability of user for charge - collection - uncollected amounts.**

(1) (a) In addition to any other powers for the protection of the public health, a governing body may incur any equipment, installation, and other directly related costs for the continued operation of an emergency telephone service as further described in section 29-11-104, and may pay such costs by imposing an emergency telephone charge for such service in those portions of the governing body's jurisdiction for which emergency telephone service will be provided. The governing body may do such other acts as may be expedient for the protection and preservation of the public health and as may be necessary for the acquisition of equipment, for the provision of initial services, and for the operation of the emergency telephone service.

(b) If the emergency telephone service is to be provided for territory which is included in whole or in part in the jurisdiction of the governing bodies of two or more public agencies which are the primary providers of emergency fire fighting, law enforcement, ambulance, emergency medical, or other emergency services, the agreement for such service with a BEBP or any equipment supplier shall be entered into by each such governing body unless any such body expressly excludes itself therefrom. Any such agreement shall provide that each governing body that is a customer of such service shall make payment therefor from charges imposed under paragraph (a) of this subsection (1), unless all such customers make payments therefor from general revenues. Nothing in this paragraph (b) shall be construed to prevent two or more such governing bodies from entering into a contract under part 2 of article 1 of this title and to establish a separate legal entity thereunder to enter into such an agreement as the customer of the BEBP or any equipment supplier.

(2) (a) The governing body is hereby authorized, by ordinance in the case of cities and by resolution in the case of counties or special districts, to impose such charge in an amount not to exceed seventy cents per month per exchange access facility, per wireless communications access, per prepaid wireless access and per interconnected VoIP service in those portions of the governing body's jurisdiction for which emergency telephone service will be provided.

(b) In the event the governing body determines that a charge in excess of seventy cents per month is necessary in order to provide continued and adequate emergency telephone service, the governing body shall obtain from the public utilities commission approval of such higher charge before the imposition thereof.

(c) Regardless of the level at which the charge is set, the amount of the charge imposed per exchange access facility, per wireless communications access, per prepaid wireless access and per interconnected VoIP service shall be equal. Except that prepaid wireless service supplier may elect to pay the emergency telephone charge by dividing the total earned prepaid wireless telephone revenue from sales received by the wireless service supplier or reseller within the jurisdiction of each

governing body during the month by fifty, multiplying the quotient by the amount of the applicable emergency telephone charge, and remitting this amount to the appropriate governing body.

(d) The proceeds of the charge shall be utilized to pay for emergency telephone service, as set forth in section 29-11-104 (2), and may be imposed at any time after a service user is capable of accessing emergency telephone service.

(3) (a) Except for prepaid wireless telephone, such charge shall be imposed only upon service users whose address is in those portions of the governing body's jurisdiction for which emergency telephone service shall be provided. No charge shall be imposed upon any state or local governmental entity.

(b) The prepaid wireless service supplier shall pay the emergency telephone charge for each prepaid wireless service user that has an active prepaid wireless telephone, regardless whether the service supplier collects the charge from its service user. The prepaid wireless service supplier may collect such payment from its service user, and may do so in the manner selected by such service supplier including, but not limited to:

(I) At the point of sale.

(II) If the service user has sufficient positive balance on the last day of the month and has used the prepaid wireless telephone during that month, by reducing that balance by the amount of the applicable emergency telephone charge or an equivalent number of air time minutes.

(c) The public utilities commission shall promulgate rules to implement prepaid wireless remittance to governing bodies based on point of sale, area of primary usage, customer address, or other relevant method.

(4) Every billed service user shall be liable for any charge imposed under this article until it has been paid to the service supplier. The prepaid wireless service supplier shall be liable for any charge imposed under this article until it has been paid to the governing body.

(5) The duty to collect or pay any charge imposed under the authority of this article shall commence at such time as may be specified by the governing body. Charges imposed under the authority of this article and required to be collected by the service supplier shall be added to and may be stated separately in the billings, if any, to the service user.

(6) The service supplier shall have no obligation to take any legal action to enforce the collection of any charge imposed under the authority of this article. Such action may be brought by or in behalf of the public agency imposing the charge or the separate legal entity formed pursuant to paragraph (b) of subsection (1) of this section. The service supplier, except the prepaid wireless service supplier, shall annually provide the governing body a list of the amounts uncollected along with the names and addresses of those service users which carry a balance that

can be determined by the service supplier to be the nonpayment of any charge imposed under the authority of this article. Except for prepaid wireless service suppliers, the service supplier shall not be held liable for such uncollected amounts.(7) Any charge imposed under the authority of this article shall be collected insofar as practicable at the same time as, and along with, the charges for the rate in accordance with the regular billing practice of the service supplier. The rates determined by or stated on the billing of the service supplier are presumed to be correct if such charges were made in accordance with the service supplier's business practices. The presumption may be rebutted by evidence which establishes that an incorrect rate was charged.

**Source: L. 81:** Entire article added, p. 1416, § 1, effective May 26. **L. 85:** (1) amended and (2.5) added, p. 1052, § 2, effective April 17. **L. 90:** (2) and (3) amended, p. 1451, § 8, effective July 1. **L. 97:** (1)(b), (2), (3), and (7) amended, p. 573, § 3, effective April 30. **L. 2004:** (1)(a) amended, p. 1879, § 2, effective July 1.

**29-11-103. Remittance of charge to governing body - administrative fee - establishment of rate of charge.**

(1) Any charge imposed under the authority of this article and the amounts required to be collected or paid are to be remitted monthly. The amount of the charge collected or paid in one month by the service supplier shall be remitted to the governing body no later than thirty days after the close of that month. On or before the sixtieth day of each calendar quarter, a return for the preceding quarter shall be filed with the governing body in such form as the governing body and service supplier shall agree upon. The service supplier required to file the return shall deliver the return, together with a remittance of the amount of the charge payable, to the office of the governing body. The service supplier shall maintain a record of the amount of each charge collected pursuant to this article. Such record shall be maintained for a period of one year after the time the charge was collected.

(2) From every remittance to the governing body made on or before the date when the same becomes due, the service supplier required to remit the same shall be entitled to deduct and retain two percent of said remittance.

(3) (a) At least once each calendar year, the governing body shall establish a rate of charge, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by this article. Amounts collected in excess of such necessary expenditures within a given year shall be carried forward to subsequent years and shall be used in accordance with section 29-11-104 (2). Immediately upon making determination of such rate, the governing body shall publish in its minutes the new rate, and if the rate changes from the prior rate, it shall notify by registered mail every service supplier at least sixty days before such changed rate will become effective.

(b) The governing body may, at its own expense, require an annual audit of the service supplier's books and records concerning the collection and remittance of the charge authorized by this article. Public inspection of the audit and of documents reviewed in the audit shall be subject to section 24-72-204, C.R.S.

**Source: L. 81:** Entire article added, p. 1417, § 1, effective May 26. **L. 90:** (1) and (2) amended, p. 1451, § 9, effective July 1. **L. 97:** (3) amended, p. 574, § 4, effective April 30.

**29-11-104. Agreements or contracts for emergency telephone service - use of funds collected.**

(1) Any governing body imposing the charge authorized by this article may enter into an agreement directly with the supplier of the emergency telephone service or may contract and cooperate with any public agency or with other states or their political subdivisions or with any association or corporation for their political subdivisions or with any association or corporation for the administration of emergency telephone service as provided by law.

(2) (a) (I) Except as otherwise provided in paragraph (b) of this subsection (2), funds collected from the charges imposed pursuant to this article shall be spent solely to pay for:

(A) Costs of equipment directly related to the receipt and routing of emergency calls and installation thereof;

(B) Monthly recurring charges of service suppliers and basic emergency service providers (BESPs) for the emergency telephone service, which charges shall be billed by the BESP to the governing body of each jurisdiction in which it provides service;

(C) Reimbursement of the costs of wireless carriers and BESPs for equipment changes necessary for the provision or transmission of wireless ANI or wireless ALI to a public safety answering point;

(D) Costs related to the provision of the emergency notification service and the emergency telephone service, including costs associated with total implementation of both services by emergency service providers, including costs for programming, radios, and emergency training programs; and

(E) Other costs directly related to the continued operation of the emergency telephone service and the emergency notification service.

(II) If moneys are available after the costs and charges enumerated in subparagraph (I) of this paragraph (a) are fully paid, such funds may be expended for emergency medical services provided by telephone or the necessary equipment to redirect calls for nonemergency telephone services.

(b) Funds collected from the charges imposed pursuant to this article may also be spent for personnel expenses necessarily incurred for a public safety answering point. As used in this paragraph (b), "personnel expenses necessarily incurred" includes only expenses incurred for:

(I) Persons employed to take emergency telephone calls and dispatch them appropriately; and

(II) Persons employed to maintain the computer data base of the public safety answering point.

(c) (Deleted by amendment, L. 2004, p. 1880, § 3, effective July 1, 2004.)

(3) Funds collected from the charges imposed pursuant to this article shall be credited to a cash fund, apart from the general fund of the public agency, for payments pursuant to subsection (2) of this section. Any moneys remaining in such cash fund at the end of any fiscal year shall remain therein for payments during any succeeding year; except that, if such emergency telephone service is discontinued, moneys remaining in the fund after all payments to the service suppliers, basic emergency service providers, and all equipment suppliers pursuant to subsection (2) of this section have been made shall be transferred to the general fund of the public agency or proportionately to the general fund of each participating public agency.

(4) A wireless carrier or BESP that provides wireless ALI or wireless ANI services at the request of a governing body, and pursuant to a contract between the wireless carrier or BESP and the governing body, shall be reimbursed by such governing body or its designee for the costs incurred in making any equipment changes necessary for the provision of such services.

**Source:** L. 81: Entire article added, p. 1418, § 1, effective May 26. L. 85: (2) and (3) amended, p. 1053, § 3, effective April 17. L. 92: (2) amended, p. 964, § 1, effective June 1. L. 95: (2) amended, p. 247, § 1, effective April 17. L. 97: (2) and (3) amended and (4) added, p. 575, § 5, effective April 30. L. 2002: (2)(a)(I)(C) and (2)(a)(I)(D) amended and (2)(a)(I)(E) added, p. 83, § 2, effective March 22. L. 2004: (2) amended, p. 1880, § 3, effective July 1.

#### **29-11-105. Immunity of providers.**

No basic emergency service provider or service supplier and no employee or agent thereof shall be liable to any person or entity for infringement or invasion of the right of privacy of any person caused or claimed to have been caused, directly or indirectly, by any act or omission in connection with the installation, operation, maintenance, removal, presence, condition, occasion, or use of emergency service features, automatic number identification (ANI), or automatic location identification (ALI) service and the equipment associated therewith, including without limitation the identification of the telephone number, address, or name associated with the telephone used by the party or parties accessing 9-1-1 service, wireless ANI service, or wireless ALI service, and that arise out of the negligence or other wrongful act of the provider or supplier, the customer, the governing body or any of its users, agencies, or municipalities, or the employee or agent of any of said persons and entities. In addition, no basic emergency service provider or service supplier or any employee or agent thereof shall be liable for any damages in a civil action for injuries, death, or loss to person or property incurred as a result of any act or omission of such provider, service supplier, employee, or agent in connection with developing, adopting, implementing, maintaining, enhancing, or operating an emergency telephone service unless such damage or injury was intentionally caused by or resulted from gross negligence of the provider, supplier, employee, or agent.

**Source:** L. 97: Entire section added, p. 576, § 6, effective April 30.

**29-11-106. Disclosure of 9-1-1 dialing and calling capabilities.**

(1) When the method of dialing a local call from an MLTS telephone requires the dialing of an additional digit to access the public switched network, MLTS operators shall provide written information to their end-users describing the proper method of dialing 9-1-1 from an MLTS telephone in an emergency. MLTS operators that do not give the ANI, the ALI, or both shall disclose such fact in writing to their end-users and instruct them to provide their telephone number and exact location when calling 9-1-1.

(2) (a) For purposes of this section, "end-user" means the person making telephone calls, including 9-1-1 calls, from the MLTS providing telephone service to the person's place of employment or to the person's permanent or temporary residence.

(b) For purposes of this section, "MLTS operator" means the person who has responsibility to the end-user to coordinate telephone line number and address location assignments.

(3) The public utilities commission may promulgate rules to implement this section in accordance with article 4 of title 24, C.R.S.

(4) Nothing in this section shall be construed to alter the method of regulation or deregulation of providers of telecommunications service by the public utilities commission as set forth in article 15 of title 40, C.R.S.

**Source: L. 2001:** Entire section added, p. 66, § 3, effective August 8.