

34A.7B Prepaid wireless E911 surcharge.

1. As used in this section, unless the context otherwise requires:
 - a. “Consumer” means a person who purchases prepaid wireless telecommunications service in a retail transaction.
 - b. “Department” means the department of revenue.
 - c. “Prepaid wireless E911 surcharge” means the surcharge that is required to be collected by a seller from a consumer in the amount established under this section.
 - d. “Provider” means a person who provides prepaid wireless telecommunications service pursuant to 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.
2. There is imposed a prepaid wireless E911 surcharge of thirty-three cents on each retail transaction or, on or after the determination of an adjusted rate as determined pursuant to subsection 7, the adjusted rate.
3. The prepaid wireless E911 surcharge shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless E911 surcharge shall be either separately stated on an invoice, receipt, or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.
4. For purposes of subsection 3, a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for purposes of section 423.20 as that section applies to sourcing of a prepaid wireless calling service.
5. The prepaid wireless E911 surcharge is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless E911 surcharges that the seller collects from consumers as provided in subsection 3, including all such surcharges that the seller is deemed to collect where the amount of the surcharge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.
6. The amount of the prepaid wireless E911 surcharge that is collected by a seller from a consumer, if such amount is separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, other surcharge, or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency.
7. The prepaid wireless E911 surcharge shall be increased or reduced, as applicable, in an amount proportionate to any change to the surcharge imposed under section 34A.7A, subsection 1. The proportional increase or reduction shall be effective on the first day of the calendar month after the effective date of the change to the surcharge imposed under section 34A.7A, subsection 1. The department shall provide not less than thirty days’ advance notice of such increase or reduction on the department’s internet site.
8. If a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, the seller may elect not to apply the prepaid wireless E911 surcharge to the retail transaction. For purposes of this subsection, an amount of service denominated as ten minutes or less, or five dollars or less, shall be regarded as a minimal amount of service.
9. Prepaid wireless E911 surcharges collected by sellers shall be remitted to the department at the times and in the manner provided by chapter 423 with respect to the sales and use tax. The department shall establish registration and payment procedures that substantially coincide with the registration and payment procedures that apply to sellers under chapter 423.
10. A seller may deduct and retain three percent of prepaid wireless E911 surcharges that are collected by the seller from consumers.

11. The audit and appeal procedures applicable under chapter 423 shall apply to prepaid wireless E911 surcharges.

12. The department shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions under chapter 423.

13. The department shall transfer all remitted prepaid wireless E911 surcharges to the treasurer of state for deposit in the E911 emergency communications fund created under section 34A.7A, subsection 2, within thirty days of receipt after deducting an amount, not to exceed two percent of collected surcharges, that shall be retained by the department to reimburse its direct costs of administering the collection and remittance of prepaid wireless E911 surcharges.

14. The limitation of actions provisions under section 34A.7, subsection 6, shall apply to providers and sellers of prepaid wireless telecommunications service. In addition, a provider or seller of prepaid wireless telecommunications service shall not be 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 or any other state, or any political subdivision of this or any other state, in connection with any lawful investigation or other law enforcement activity by such investigative or law enforcement officer.

15. The prepaid wireless E911 surcharge imposed pursuant to this section shall be the only E911 funding obligation imposed with respect to prepaid wireless telecommunications service in this state, and no tax, fee, surcharge, or other charge shall be imposed by this state, any political subdivision of this state, or any intergovernmental agency, for E911 funding purposes, upon any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service.

2012 Acts, ch 1111, §10, 13, 14

Referred to in §34A.7A

[SP] Section takes effect January 1, 2013, and applies to retail sales of prepaid wireless telecommunications service on or after that date;

2012 Acts, ch 1111, §13, 14

[T] NEW section