

Article 7. Enhanced Public Safety Telephone Services Act.

§ 56-484.12. Definitions.

As used in this article, unless the context requires a different meaning:

"Automatic location identification" or "ALI" means a telecommunications network capability that enables the automatic display of information defining the geographical location of the telephone used to place a wireless enhanced 9-1-1 call.

"Automatic number identification" or "ANI" means a telecommunications network capability that enables the automatic display of the telephone number used to place a wireless Enhanced 9-1-1 call.

"Board" means the 9-1-1 Services Board created pursuant to this article.

"Chief Information Officer" or "CIO" means the Chief Information Officer appointed pursuant to § 2.2-2005.

"Coordinator" means the Virginia Public Safety Communications Systems Coordinator employed by the Division.

"CMRS" means mobile telecommunications service as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

"CMRS provider" means an entity authorized by the Federal Communications Commission to provide CMRS within the Commonwealth.

"Division" means the Division of Public Safety Communications created in § 2.2-2031.

"Emergency services IP network" or "ESInet" means a shared public safety agency-managed Internet protocol (IP) network that (i) is used for emergency services communications, (ii) provides an IP transport infrastructure that is capable of carrying voice and data and that supports next generation 9-1-1 service core functions such as routing and location validation of emergency service requests, and (iii) is engineered, managed, and intended to support emergency public safety communications and 9-1-1 service.

"Enhanced 9-1-1 service" or "E-911" means a service consisting of telephone network features and PSAPs provided for users of telephone systems enabling such users to reach a PSAP by dialing the digits "9-1-1." Such service automatically directs 9-1-1 emergency telephone calls to the appropriate PSAPs by selective routing based on the geographical location from which the emergency call originated and provides the capability for ANI and ALI features.

~~"FCC order" means Federal Communications Commission Order 94-102 (61 Federal Register 40348) and any other FCC order that affects the provision of E-911 service to CMRS customers.~~

"Local exchange carrier" means any public service company granted a certificate to furnish public utility service for the provision of local exchange telephone service pursuant to Chapter 10.1 (§ 56-265.1 et seq.) of Title 56.

"Next generation 9-1-1 service" or "NG9-1-1" means a service that (i) consists of coordinated intrastate 9-1-1 IP networks serving residents of the Commonwealth with the routing of emergency service

requests, by voice or data, across public safety ESNets; (ii) automatically directs 9-1-1 emergency telephone calls and other emergency service requests in data formats to the appropriate PSAPs by routing using geographical information system data; (iii) provides for ANI and ALI features; and (iv) interconnects with enhanced 9-1-1 service.

"9-1-1 service" includes E-911 and NG9-1-1.

"Place of primary use" has the meaning as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

"Postpaid CMRS" means CMRS that is not prepaid CMRS, as defined in § 56-484.17:1.

"Public safety answering point" or "PSAP" means a facility (i) equipped and staffed on a 24-hour basis to receive and process 9-1-1 calls or (ii) that intends to receive and process 9-1-1 calls and has notified CMRS providers in its jurisdiction of its intention to receive and process such calls.

VoIP service" means interconnected voice over Internet protocol service as defined in the Code of Federal Regulations, Title 47, Part 9, section 9.3, as amended.

~~"Wireless E-911 CMRS costs" means all reasonable, direct recurring and nonrecurring capital costs and operating expenses incurred by CMRS providers in designing, upgrading, leasing, purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware, software and local exchange telephone service required to provide wireless E-911 service, which have been sworn to by an authorized agent of a CMRS provider.~~

"Wireless E-911 Fund" means a dedicated fund consisting of all moneys collected pursuant to the wireless E-911 surcharge, all prepaid wireless E-911 charges collected pursuant to § 56-484.17:1, and any additional funds otherwise allocated or donated to the Wireless E-911 Fund.

~~"Wireless E-911 service" means the E-911 service required to be provided by CMRS providers pursuant to the FCC order.~~

"Wireless E-911 surcharge" means a monthly fee of \$0.75 billed with respect to postpaid CMRS customers by each CMRS provider and CMRS reseller on each CMRS device capable of two-way interactive voice communication.

2000, c. 1064; 2001, c. 529; 2002, c. 68; 2003, cc. 160, 341, 981, 1021; 2005, c. 942; 2006, cc. 739, 780; 2010, cc. 466, 566; 2011, cc. 120, 138; 2016, c. 361.

~~§ 56-484.12:1. Notice to subscribers of lack of access to E-911.~~

~~Each provider of Voice over Internet protocol service in the Commonwealth shall provide to its subscribers in the Commonwealth any notice that the provider is required to give to its subscribers by the Federal Communications Commission concerning a subscriber's lack of access to E-911 services. This requirement is met when a provider of Voice over Internet protocol service in the Commonwealth provides any such notice as required by the Federal Communications Commission.~~

~~2006, c. 691.~~

~~§ 56-484.12:2. Plan for access to E-911.~~

~~If the Federal Communications Commission requires all providers of Voice over Internet protocol service to prepare and file with it a plan setting forth how the provider proposes to develop and implement the capability for users of Voice over Internet protocol service to have enhanced 9-1-1 service, then any provider of Voice over Internet protocol service in the Commonwealth shall submit a copy of such plan to the Commission and the Board within 90 days of filing the plan with the Federal Communications Commission.~~

~~2006, c. 691.~~

§ 56-484.13. 9-1-1 Services Board; membership; terms; compensation.

A. The E-911 Services Board, formerly the Wireless E-911 Services Board, is hereby continued as the 9-1-1 Services Board. The Board shall exercise the powers and duties conferred in this article.

B. The 9-1-1 Services Board shall:

1. Support and assist PSAPs in the provision of 9-1-1 operations and services, including through provision of funding and development of best practices;
2. Plan, promote, and assist in the statewide development, deployment, and maintenance of an emergency services IP network that will support future 9-1-1 and other public safety applications and technologies; and
3. Consult and coordinate with PSAPs, state and local public bodies in the Commonwealth, public bodies in other states, CMRS providers, VoIP service providers affiliated with cable companies, and other entities as needed in the exercise of the Board's powers and duties.

C. The Board shall consist of 16 members as follows: the Director of the Virginia Department of Emergency Management, who shall serve as chairman of the Board; the Comptroller, who shall serve as the treasurer of the Board; the Chief Information Officer; and the following 13 members to be appointed by the Governor: one member representing the Virginia State Police; one member representing a local exchange carrier providing E-911 service in Virginia; one member representing VoIP service providers affiliated with cable companies and authorized to transact business in Virginia; two members representing wireless service providers authorized to do business in Virginia; three county, city, or town PSAP directors or managers representing diverse regions of Virginia; one Virginia sheriff; one chief of police; one fire chief; one emergency medical services manager; and one finance officer of a county, city, or town.

D. The Commonwealth Interoperability Coordinator shall serve as an advisor to the Board in the exercise of the powers and duties conferred in this article so as to ensure, among other matters, that enhanced wireless emergency telecommunications services and technologies are compliant with the statewide interoperability strategic plan.

E. All members appointed by the Governor shall serve five-year terms. The CIO and the Comptroller shall serve terms coincident with their terms of office. No gubernatorial appointee shall serve more than two consecutive terms.

F. A majority of the Board shall constitute a quorum. The Board shall meet at least quarterly or at the call of its chairman.

G. Members of the Board shall serve without compensation; however, members of the Board shall be reimbursed for expenses as provided in §§ 2.2-2813 through 2.2-2826.

H. The Division shall provide staff support to the Board. The Geographic Information Network Division created in § 2.2-2026 and the Virginia Department of Transportation shall provide such technical advice as the Board requires.

2000, c. 1064; 2003, cc. 981, 1021; 2006, c. 739; 2009, c. 613; 2011, c. 138; 2012, c. 36; 2016, c. 361.

§ 56-484.14. Powers and duties of the 9-1-1 Services Board.

The 9-1-1 Services Board shall have the power and duty to:

1. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, including purchase agreements payable from (i) the Wireless E-911 Fund and (ii) other moneys appropriated for the provision of 9-1-1 services.
2. Pursue all legal remedies to enforce any provision of this article, or any contract entered into pursuant to this article.
3. Develop a comprehensive, statewide enhanced 9-1-1 plan for wireless E-911, VoIP E-911, and any other future communications technologies accessing 9-1-1 for emergency purposes. In constructing and periodically updating this plan as appropriate, the Board shall monitor trends and advances in enhanced wireless, VoIP, and other emergency telecommunications technologies, plan and forecast future needs for these enhanced technologies, and formulate strategies for the efficient and effective delivery of 9-1-1 services in the future.
4. Grant such extensions of time for compliance with the provisions of § 56-484.16 as the Board deems appropriate.
5. Take all steps necessary to inform the public of the use of the digits "9-1-1" as the designated emergency telephone number and the use of the digits "#-7-7" as a designated non-emergency telephone number.
6. Report annually to the Governor, the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission on (i) the state of enhanced 9-1-1 services in the Commonwealth, (ii) the impact of, or need for, legislation affecting enhanced 9-1-1 services in the Commonwealth, and (iii) the need for changes in the E-911 funding mechanism provided to the Board, as appropriate.
7. Provide advisory technical assistance to PSAPs and state and local law enforcement, and fire and emergency medical services agencies, upon request.

8. Collect, distribute, and withhold moneys from the Wireless E-911 Fund as provided in this article.
 9. Develop a comprehensive single, statewide electronic addressing database to support geographic data and statewide base map data programs pursuant to § 2.2-2027.
 10. Receive such funds as may be appropriated for purposes consistent with this article and such gifts, donations, grants, bequests, or other funds as may be received from, applied for or offered by either public or private sources.
 11. Manage other moneys appropriated for the provision of enhanced emergency telecommunications services.
 12. Perform all acts necessary, convenient, or desirable to carrying out the purposes of this article.
 13. Drawing from the work of 9-1-1 professional organizations, in its sole discretion, publish best practices for PSAPs. These best practices shall be voluntary and recommended by a subcommittee composed of PSAP representatives.
 14. Develop or adopt and publish standards for an emergency services IP network and core NG9-1-1 services on that network to ensure that enhanced public safety telephone services seamlessly interoperate within the Commonwealth and with surrounding states.
 15. Monitor developments in 9-1-1 service and multiline telephone systems and the impact of such technologies upon the implementation of Article 8 (§ 56-484.19 et seq.). The Board shall include its assessment of such impact in the annual report filed pursuant to subdivision 6.
- 2000, c. 1064; 2005, c. 942; 2006, c. 739; 2007, c. 427; 2011, c. 138; 2015, cc. 502, 503; 2016, c. 361.

~~§ 56-484.15. Wireless Carrier E-911 Cost Recovery Subcommittee established.~~

~~A. There is hereby established a Wireless Carrier E-911 Cost Recovery Subcommittee of the Board. The Subcommittee shall (i) meet only to determine whether costs submitted by CMRS providers are reasonable and direct to the provision of wireless E-911 service and (ii) review only those documents necessary to determine whether costs submitted by CMRS providers are reasonable and direct to the provision of wireless E-911 service.~~

~~B. The Subcommittee shall consist of the following eight members from the Board: the representative of the Virginia State Police; the three PSAP directors or managers; the finance officer of a county, city or town; the CIO, the Director of the Virginia Department of Emergency Management, who shall serve as the Subcommittee's chairman; and the Comptroller.~~

~~C. Staff to the Subcommittee shall be provided by the Division of Public Safety Communications created pursuant to § 2.2-2031.~~

~~D. Unless otherwise ordered by a court of competent jurisdiction, no member or staff of the Subcommittee shall release or disclose the contents of documents used to determine whether costs submitted by CMRS providers are reasonable and direct to the provision of wireless E-911 service.~~

~~2000, c. 1064; 2003, cc. 981, 1021; 2006, c. 739; 2009, c. 613.~~

§ 56-484.16. Local emergency telecommunications requirements; use of digits "9-1-1".

A. On or before July 1, 2003, every county, city or town in the Commonwealth shall be served by an E-911 system, unless an extension of time has been granted by the Board.

B. The digits "9-1-1" shall be the designated emergency telephone number in Virginia. No public safety agency shall advertise or otherwise promote the use of any number for emergency response service other than "9-1-1".

2000, c. 1064; 2001, c. 713; 2005, c. 942.

§ 56-484.17. Wireless E-911 Fund; uses of Fund; enforcement; audit required.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Wireless E-911 Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Except as provided in § 2.2-2031, moneys in the Fund shall be used for the purposes stated in subsections C through D. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Tax Commissioner or the Chief Information Officer of the Commonwealth.

B. Each CMRS provider and each CMRS reseller shall collect a wireless E-911 surcharge from each of its customers whose place of primary use is within the Commonwealth. However, no surcharge shall be imposed on federal, state and local government agencies. A payment equal to all wireless E-911 surcharges shall be remitted within 30 days to the Department of Taxation. The Department of Taxation, after subtracting its direct costs of administration, shall deposit all remitted wireless E-911 surcharges into the state treasury. The Comptroller shall as soon as practicable deposit such moneys into the Fund. Each CMRS provider and CMRS reseller may retain an amount equal to three percent of the wireless E-911 surcharges collected to defray the costs of collecting the surcharges. State and local taxes shall not apply to any wireless E-911 surcharge collected from customers. Surcharges collected from customers shall be subject to the provisions of the federal Mobile Telecommunications Sourcing Act (4 U.S.C. § 116 et seq., as amended).

The CMRS provider and CMRS reseller shall collect the surcharge through regular periodic billing.

C. ~~Beginning July 1, 2012, 60~~ Sixty percent of the Wireless E-911 Fund shall be distributed on a monthly basis to the PSAPs according to **each PSAP's average pro rata distribution from the Wireless E-911 Fund for fiscal years 2007-2012, taking into account any funding adjustments made pursuant to subsection E. On or before July 1, 2017, and every five years thereafter, the Department of Taxation shall recalculate the distribution percentage for each PSAP based on the cost and call load data of the PSAP for the previous five fiscal years, which data shall continue to be received by the Board and then reported to the Department of Taxation.** The distribution from the Wireless E-911 Fund shall be made on a monthly basis to the PSAPs according to such distribution percentage beginning July 1 of such fiscal year.

~~D. Using 30 percent of the Wireless E-911 Fund, the Board shall provide payment to CMRS providers of wireless E-911 CMRS costs. For these purposes each CMRS provider shall submit to the Board on or before December 31 of each year an estimate of wireless E-911 CMRS costs it expects to incur during the next fiscal year of counties and municipalities in whose jurisdiction it operates. The Board shall review such estimates and advise each CMRS provider on or before the following March 1 whether its estimate qualifies for payment hereunder and whether the Wireless E-911 Fund is expected to be sufficient for such payment during said fiscal year. A CMRS provider with an approved estimate of costs shall submit its request for payment of such costs no later than four months after the end of the fiscal year in which the cost was incurred. If the portion of the Fund designated for CMRS provider cost payments is insufficient to provide full payment to each CMRS provider for its costs, no unpaid cost shall be paid in the following fiscal year. The remaining 1040 percent of the Fund and any remaining *balance within the Fund* funds for the previous fiscal year from the 30 percent for CMRS providers shall be distributed to PSAPs or on behalf of PSAPs based on grant requests received by the Board each fiscal year. The Board shall establish criteria for receiving and making grants from the Fund, including procedures for determining the amount of a grant and payment schedule; however, the grants must *support the deployment and sustainment of Next Generation 9-1-1* be to the benefit of wireless E-911. Any grant funding that has not been committed by the Board by the end of the fiscal year shall be distributed to the PSAPs based on the same distribution percentage used during the fiscal year in which the funding was collected; however, the Board may retain some or all of this uncommitted funding for an identified funding need in the next fiscal year or for a reserve balance pursuant to a reserve balance policy adopted by the Board.~~

~~E. After the end of each fiscal year, on a schedule adopted by the Board, the Board shall audit the grant funding received by all recipients to ensure it was utilized in accordance with the grant requirements. For the fiscal year ending June 30, 2005, the Board shall determine whether qualifying payments to PSAP operators and CMRS providers during the preceding fiscal year exceeded or were less than the actual wireless E-911 PSAP costs or wireless E-911 CMRS costs of any PSAP operator or CMRS provider. Each funding recipient shall provide such verification of such costs as may be requested by the Board. Any overpayment shall be refunded to the Board or credited to payments during the then current fiscal year, on such schedule as the Board shall determine. If payments are less than the actual costs reported, the Board may include the additional funding in the then current fiscal year.~~

~~F. All service providers required by the Commission or Federal Communications Commission to provide 9-1-1 service shall route the 9-1-1 calls to an ESInet point of interconnection defined by the Board at no cost to the Commonwealth or the locality. The Board shall establish appropriate points of interconnection to minimize cost to the service providers, to the extent practical.~~

~~G. The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the Wireless E-911 Fund. The cost of such audit shall be borne by the Board and be payable from the Wireless E-911 Fund, as appropriate. The Board shall furnish copies of the audits to the Governor, the Public Safety Subcommittees of the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission.~~

~~GH. The special tax authorized by § 58.1-1730 shall not be imposed on consumers of CMRS.~~

2000, c. 1064; 2001, c. 529; 2002, c. 68; 2003, c. 341; 2004, c. 167; 2005, c. 942; 2006, cc. 739, 780; 2010, cc. 466, 566; 2011, cc. 162, 630; 2012, cc. 25, 165, 672.

§ 56-484.17:1. Collection of prepaid wireless E-911 charge at point of sale; rate established.

A. As used in this section, unless the context requires a different meaning:

"Dealer" means a person who sells prepaid CMRS to an end user.

"Department" means the Department of Taxation.

"End user" means a person who purchases prepaid CMRS in a retail transaction.

"Prepaid CMRS" means CMRS that allows a caller to dial 911 to access the 911 system, which CMRS service is required to be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.

"Prepaid wireless E-911 charge" means the charge that is required to be collected by a dealer from an end user in the amount established under subsection B.

"Retail transaction" means the purchase of prepaid CMRS from a dealer for any purpose other than resale. If more than one item or article of prepaid CMRS is purchased by an end user, then each item or article purchased shall be deemed to be a separate retail transaction.

B. The prepaid wireless E-911 charge:

1. Shall be \$0.50 per retail transaction.

2. Shall be collected by the dealer from the end user with respect to each retail transaction occurring in the Commonwealth. The amount of the prepaid wireless E-911 charge shall be either separately stated on an invoice, receipt, or other similar document that is provided to the end user by the dealer or otherwise disclosed by the dealer to the end user. For purposes of this subdivision, a retail transaction that is effected in person by an end user at a business location of the dealer shall be treated as occurring in the Commonwealth if that business location is in the Commonwealth, and any other retail transaction shall be treated as occurring in the Commonwealth if treated as occurring in the Commonwealth for purposes of the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.).

3. Is the liability of the end user and not of the dealer or of any CMRS provider, except that the dealer shall be liable to remit to the Department all prepaid wireless E-911 charges that the dealer collects from end users as provided in subsection E, including all prepaid wireless E-911 charges that the dealer is deemed to have collected in cases in which the charge has not been separately stated on an invoice, receipt, or other similar document provided to the end user by the dealer.

C. The amount of the prepaid wireless E-911 charge that is collected by a dealer from an end user shall not be included in the base for measuring any fee, tax, surcharge, or other charge that is imposed by the Commonwealth, any political subdivision of the Commonwealth, or any intergovernmental agency.

D. Except as otherwise expressly provided herein, the charge imposed pursuant to this section shall be collected by the Tax Commissioner and shall be implemented, enforced, and collected in the same manner as retail sales and use taxes are implemented, enforced, and collected under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). However, as provided in subdivision B 3, the prepaid wireless E-911 charge shall be the liability of the end user and not of the dealer or of any CMRS provider, except

that the dealer shall be liable to remit to the Department all prepaid wireless E-911 charges that the dealer collects from end users. A dealer shall be permitted to deduct and retain five percent of prepaid wireless E-911 charges that are collected by the dealer from end users if such charges were not delinquent at the time of remittance to the Department. Nothing herein shall be construed or interpreted as limiting or restricting the discount provided under § 58.1-622 with regard to prepaid CMRS that is taxable under the Virginia Retail Sales and Use Tax Act.

The Department, after subtracting its direct costs of administration, shall deposit all remitted prepaid wireless E-911 charges into the state treasury. The Comptroller shall as soon as practicable deposit such moneys into the Wireless E-911 Fund for use by the Board in accordance with the purposes permitted by this article.

E. The Department shall develop and publish guidelines implementing the provisions of this section and shall update the guidelines as deemed necessary by the Tax Commissioner. The Tax Commissioner shall notify every dealer holding a certificate of registration under § 58.1-613 when the guidelines and any updates are published. The development and publication of the guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

Among other items, the guidelines shall include provisions exempting small dealers, as defined solely by the Department, from the otherwise mandatory requirement under this section to disclose the prepaid wireless E-911 charge to the end user. The guidelines shall define a "small dealer" based, in part or in whole, upon the extent to which the dealer sells prepaid CMRS.

F. The provisions of this section shall apply to retail transactions occurring on or after January 1, 2011.
2010, cc. 466, 566.

§ 56-484.18. Designation of official State Police access number; blocking caller identification prohibited.

A. Telephone number #77 is hereby designated as an official access number for wireless telephone usage in the Commonwealth for access to designated offices of the Department of State Police and shall be used solely for official business.

B. No caller shall block caller identification or other essential information on calls made to telephone number #77. Where technically feasible, wireline and wireless telephone providers shall provide calling party number identification for all wireless #77 calls. Any communications services provider, as defined in § 58.1-647, including mobile service, in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to #77 calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

2000, c. 771; 2006, c. 780.