

5503

2011-2012 Regular Sessions

I N S E N A T E

May 26, 2011

Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and
when printed to be committed to the Committee on Local Government

AN ACT to amend the county law, in relation to wireless surcharges in
certain counties

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The county law is amended by adding a new section 308-y to
2 read as follows:
3 S 308-Y. ESTABLISHMENT OF COUNTY WIRELESS SURCHARGE. 1. NOTWITHSTAND-
4 ING THE PROVISIONS OF ANY LAW TO THE CONTRARY, A COUNTY IN THIS STATE
5 THAT HAS NOT ESTABLISHED A WIRELESS SURCHARGE PURSUANT TO THIS ARTICLE,
6 ACTING THROUGH ITS LOCAL COUNTY LEGISLATIVE BODY, IS HEREBY AUTHORIZED
7 AND EMPOWERED TO ADOPT, AMEND OR REPEAL LOCAL LAWS TO IMPOSE A SURCHARGE
8 IN AN AMOUNT NOT TO EXCEED THIRTY CENTS PER MONTH ON WIRELESS COMMUNI-
9 CATIONS SERVICE IN SUCH COUNTY. THE SURCHARGE SHALL BE IMPOSED ON EACH
10 WIRELESS COMMUNICATIONS DEVICE AND SHALL BE REFLECTED AND MADE PAYABLE
11 ON BILLS RENDERED FOR WIRELESS COMMUNICATIONS SERVICE THAT IS PROVIDED
12 TO A CUSTOMER WHOSE PLACE OF PRIMARY USE IS WITHIN THE COUNTY. FOR
13 PURPOSES OF THIS SECTION, THE TERM "PLACE OF PRIMARY USE" SHALL MEAN THE
14 STREET ADDRESS THAT IS REPRESENTATIVE OF WHERE THE CUSTOMER'S USE OF THE
15 WIRELESS COMMUNICATIONS SERVICE PRIMARILY OCCURS, WHICH ADDRESS MUST BE:
16 (A) RESIDENTIAL STREET ADDRESS OR THE PRIMARY BUSINESS STREET ADDRESS OF
17 THE CUSTOMER; AND (B) WITHIN THE LICENSED SERVICE AREA OF THE WIRELESS
18 COMMUNICATIONS SERVICE SUPPLIER.
19 2. ANY LOCAL LAW ADOPTED PURSUANT TO THIS SECTION SHALL STATE THE
20 AMOUNT OF THE SURCHARGE AND THE DATE ON WHICH THE WIRELESS COMMUNI-
21 CATIONS SERVICE SUPPLIER SHALL BEGIN TO ADD SUCH SURCHARGE TO THE BILL-
22 INGS OF ITS CUSTOMERS. ANY WIRELESS COMMUNICATIONS SERVICE SUPPLIER
23 WITHIN SUCH COUNTY WHICH HAS IMPOSED A SURCHARGE PURSUANT TO THE
24 PROVISIONS OF THIS SECTION SHALL BE GIVEN A MINIMUM OF FORTY-FIVE DAYS
25 WRITTEN NOTICE PRIOR TO THE DATE IT SHALL BEGIN TO ADD SUCH SURCHARGE TO

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 THE BILLINGS OF ITS CUSTOMERS OR PRIOR TO ANY MODIFICATION TO OR CHANGE
2 IN THE SURCHARGE AMOUNT.

3 3. (A) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SERVING SUCH
4 COUNTY SHALL ACT AS COLLECTION AGENT FOR THE COUNTY AND SHALL REMIT THE
5 FUNDS COLLECTED PURSUANT TO A SURCHARGE IMPOSED UNDER THE PROVISIONS OF
6 THIS SECTION TO THE CHIEF FISCAL OFFICER OF SUCH COUNTY EVERY MONTH.
7 SUCH FUNDS SHALL BE REMITTED NO LATER THAN THIRTY DAYS AFTER THE LAST
8 BUSINESS DAY OF THE MONTH.

9 (B) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL BE ENTITLED TO
10 RETAIN, AS AN ADMINISTRATIVE FEE, AN AMOUNT EQUAL TO TWO PERCENT OF ITS
11 COLLECTIONS OF A SURCHARGE IMPOSED UNDER THE PROVISIONS OF THIS SECTION.

12 (C) ANY SURCHARGE REQUIRED TO BE COLLECTED BY A WIRELESS COMMUNI-
13 CATIONS SERVICE SUPPLIER SHALL BE ADDED TO AND STATED SEPARATELY IN ITS
14 BILLINGS TO CUSTOMERS.

15 (D) EACH WIRELESS COMMUNICATIONS SERVICE CUSTOMER WHO IS SUBJECT TO
16 THE PROVISIONS OF THIS SECTION SHALL BE LIABLE TO SUCH COUNTY FOR THE
17 SURCHARGE UNTIL IT HAS BEEN PAID TO SUCH COUNTY EXCEPT THAT PAYMENT TO A
18 WIRELESS COMMUNICATIONS SERVICE SUPPLIER IS SUFFICIENT TO RELIEVE THE
19 CUSTOMER FROM FURTHER LIABILITY FOR SUCH SURCHARGE.

20 (E) NO WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL HAVE A LEGAL
21 OBLIGATION TO ENFORCE THE COLLECTION OF ANY SURCHARGE IMPOSED UNDER THE
22 PROVISIONS OF THIS SECTION, PROVIDED, HOWEVER, THAT WHENEVER THE WIRE-
23 LESS COMMUNICATIONS SERVICE SUPPLIER REMITS THE FUNDS COLLECTED TO SUCH
24 COUNTY, IT SHALL ALSO PROVIDE SUCH COUNTY WITH THE NAME AND ADDRESS OF
25 ANY CUSTOMER REFUSING OR FAILING TO PAY A SURCHARGE IMPOSED UNDER THE
26 PROVISIONS OF THIS SECTION AND SHALL STATE THE AMOUNT OF SUCH SURCHARGE
27 REMAINING UNPAID.

28 (F) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL ANNUALLY
29 PROVIDE TO SUCH COUNTY AN ACCOUNTING OF THE SURCHARGE AMOUNTS BILLED AND
30 COLLECTED.

31 4. ALL SURCHARGE MONIES REMITTED TO SUCH COUNTY BY A WIRELESS COMMUNI-
32 CATIONS SERVICE SUPPLIER SHALL BE EXPENDED ONLY UPON AUTHORIZATION OF
33 THE LOCAL COUNTY LEGISLATIVE BODY AND ONLY FOR PAYMENT OF ELIGIBLE WIRE-
34 LESS 911 SERVICE COSTS AS DEFINED IN SUBDIVISION SIXTEEN OF SECTION
35 THREE HUNDRED TWENTY-FIVE OF THIS CHAPTER. SUCH COUNTY SHALL SEPARATELY
36 ACCOUNT FOR AND KEEP ADEQUATE BOOKS AND RECORDS OF THE AMOUNT AND SOURCE
37 OF ALL SUCH MONIES AND OF THE AMOUNT AND OBJECT OR PURPOSE OF ALL
38 EXPENDITURES THEREOF. IF, AT THE END OF ANY FISCAL YEAR, THE TOTAL
39 AMOUNT OF ALL SUCH MONIES EXCEEDS THE AMOUNT NECESSARY FOR PAYMENT OF
40 THE ABOVE MENTIONED COSTS IN SUCH FISCAL YEAR, SUCH EXCESS SHALL BE
41 RESERVED AND CARRIED OVER FOR THE PAYMENT OF THOSE COSTS IN THE FOLLOW-
42 ING FISCAL YEAR.

43 S 2. Subdivision 16 of section 325 of the county law, as added by
44 section 1 of part G of chapter 81 of the laws of 2002, is amended to
45 read as follows:

46 16. "Eligible wireless 911 service costs" shall mean costs eligible
47 for reimbursement and shall include the actual costs incurred by the
48 locality related to the design, installation, OPERATION, or maintenance
49 of a system to provide enhanced wireless 911 service, including, but not
50 limited to, hardware, software, consultants, financing and other acqui-
51 sition costs.

52 S 3. This act shall take effect immediately.