

4026

2009-2010 Regular Sessions

I N S E N A T E

April 7, 2009

Introduced by Sen. FOLEY -- 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 authorizing the county of Suffolk to establish a wireless surcharge

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

1 Section 1. The county law is amended by adding a new section 308-x to
2 read as follows:

3 S 308-X. ESTABLISHMENT OF COUNTY OF SUFFOLK WIRELESS SURCHARGE. 1.
4 NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY, THE COUNTY OF
5 SUFFOLK, ACTING THROUGH ITS LOCAL COUNTY LEGISLATIVE BODY, IS HEREBY
6 AUTHORIZED AND EMPOWERED TO ADOPT, AMEND OR REPEAL LOCAL LAWS TO IMPOSE
7 A SURCHARGE IN AN AMOUNT NOT TO EXCEED THIRTY CENTS PER MONTH ON WIRE-
8 LESS COMMUNICATIONS SERVICE IN THE COUNTY OF SUFFOLK. THE SURCHARGE
9 SHALL BE IMPOSED ON EACH WIRELESS COMMUNICATIONS DEVICE AND SHALL BE
10 REFLECTED AND MADE PAYABLE ON BILLS RENDERED FOR WIRELESS COMMUNICATIONS
11 SERVICE THAT IS PROVIDED TO A CUSTOMER WHOSE PLACE OF PRIMARY USE IS
12 WITHIN THE COUNTY. FOR PURPOSES OF THIS SECTION, THE TERM "PLACE OF
13 PRIMARY USE" SHALL MEAN THE STREET ADDRESS THAT IS REPRESENTATIVE OF
14 WHERE THE CUSTOMER'S USE OF THE WIRELESS COMMUNICATIONS SERVICE PRIMARI-
15 LY OCCURS, WHICH ADDRESS MUST BE: (A) RESIDENTIAL STREET ADDRESS OR THE
16 PRIMARY BUSINESS STREET ADDRESS OF THE CUSTOMER; AND (B) WITHIN THE
17 LICENSED SERVICE AREA OF THE WIRELESS COMMUNICATIONS SERVICE SUPPLIER.

18 2. ANY LOCAL LAW ADOPTED PURSUANT TO THIS SECTION SHALL STATE THE
19 AMOUNT OF THE SURCHARGE AND THE DATE ON WHICH THE WIRELESS COMMUNI-
20 CATIONS SERVICE SUPPLIER SHALL BEGIN TO ADD SUCH SURCHARGE TO THE BILL-
21 INGS OF ITS CUSTOMERS. ANY WIRELESS COMMUNICATIONS SERVICE SUPPLIER
22 WITHIN THE COUNTY OF SUFFOLK WHICH HAS IMPOSED A SURCHARGE PURSUANT TO
23 THE PROVISIONS OF THIS SECTION SHALL BE GIVEN A MINIMUM OF FORTY-FIVE
24 DAYS WRITTEN NOTICE PRIOR TO THE DATE IT SHALL BEGIN TO ADD SUCH

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

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

3 3. (A) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SERVING THE COUN-
4 TY OF SUFFOLK SHALL ACT AS COLLECTION AGENT FOR THE COUNTY AND SHALL
5 REMIT THE FUNDS COLLECTED PURSUANT TO A SURCHARGE IMPOSED UNDER THE
6 PROVISIONS OF THIS SECTION TO THE CHIEF FISCAL OFFICER OF THE COUNTY OF
7 SUFFOLK EVERY MONTH. SUCH FUNDS SHALL BE REMITTED NO LATER THAN THIRTY
8 DAYS AFTER THE LAST 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 THE COUNTY OF SUFFOLK
17 FOR THE SURCHARGE UNTIL IT HAS BEEN PAID TO THE COUNTY OF SUFFOLK EXCEPT
18 THAT PAYMENT TO A WIRELESS COMMUNICATIONS SERVICE SUPPLIER IS SUFFICIENT
19 TO RELIEVE THE 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 THE
24 COUNTY OF SUFFOLK, IT SHALL ALSO PROVIDE THE COUNTY OF SUFFOLK WITH THE
25 NAME AND ADDRESS OF ANY CUSTOMER REFUSING OR FAILING TO PAY A SURCHARGE
26 IMPOSED UNDER THE PROVISIONS OF THIS SECTION AND SHALL STATE THE AMOUNT
27 OF SUCH SURCHARGE REMAINING UNPAID.

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

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

43 S 2. This act shall take effect immediately; provided, however, that
44 the provisions of subdivision 1 of section 308-x of the county law, as
45 added by section one of this act shall apply to bills rendered to wire-
46 less communications service customers by a wireless communications
47 service supplier on and after the expiration of the notice period
48 required pursuant to the provisions of subdivision 2 of such section
49 308-x; provided further, that a wireless service supplier may treat the
50 address used by such supplier for any wireless communications customer
51 under a service contact or agreement in effect on the effective date of
52 the local law imposing such surcharge, as that wireless communications
53 customer's place of primary use for the remaining term of such service
54 contract or agreement, excluding any extension or renewal of such
55 service contract or agreement, for purposes of determining the taxing
56 jurisdiction with respect to taxes on wireless communications service.