

S T A T E O F N E W Y O R K

2807--A

Cal. No. 338

2009-2010 Regular Sessions

I N S E N A T E

March 3, 2009

Introduced by Sen. MORAHAN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the county law, in relation to authorizing the county of Rockland to establish a surcharge on wireless communications

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-w to
2 read as follows:
3 S 308-W. ESTABLISHMENT OF WIRELESS SURCHARGES FOR THE COUNTY OF ROCK-
4 LAND. 1. NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY, THE
5 COUNTY OF ROCKLAND, ACTING THROUGH ITS 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 ROCKLAND. 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
17 (B) WITHIN THE LICENSED SERVICE AREA OF THE WIRELESS COMMUNICATIONS
18 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

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

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1 WITHIN THE COUNTY OF ROCKLAND WHICH HAS IMPOSED A SURCHARGE PURSUANT TO
2 THE PROVISIONS OF THIS SECTION SHALL BE GIVEN A MINIMUM OF FORTY-FIVE
3 DAYS WRITTEN NOTICE PRIOR TO THE DATE IT SHALL BEGIN TO ADD SUCH
4 SURCHARGE TO THE BILLINGS OF ITS CUSTOMERS OR PRIOR TO ANY MODIFICATION
5 TO OR CHANGE IN THE SURCHARGE AMOUNT.

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

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

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

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

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

31 (F) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL ANNUALLY
32 PROVIDE TO THE COUNTY OF ROCKLAND AN ACCOUNT OF THE SURCHARGE AMOUNTS
33 BILLED AND COLLECTED.

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

46 S 2. This act shall take effect immediately.