

5503

2011-2012 Regular Sessions

I N   S E N A T E

May 26, 2011

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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 ASSEMBLY, 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.