

5809

2013-2014 Regular Sessions

I N   S E N A T E

June 17, 2013

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Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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

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 OF MONROE WIRELESS SURCHARGE. 1.  
4     NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY, THE COUNTY OF  
5     MONROE, 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 MONROE COUNTY. THE SURCHARGE SHALL BE  
9     IMPOSED ON EACH WIRELESS COMMUNICATIONS DEVICE AND SHALL BE REFLECTED  
10    AND MADE PAYABLE ON BILLS RENDERED FOR WIRELESS COMMUNICATIONS SERVICE  
11    THAT IS PROVIDED TO A CUSTOMER WHOSE PLACE OF PRIMARY USE IS WITHIN THE  
12    COUNTY. FOR PURPOSES OF THIS SECTION, THE TERM "PLACE OF PRIMARY USE"  
13    SHALL MEAN THE STREET ADDRESS THAT IS REPRESENTATIVE OF WHERE THE  
14    CUSTOMER'S USE OF THE WIRELESS COMMUNICATIONS SERVICE PRIMARILY OCCURS,  
15    WHICH ADDRESS MUST BE: (A) THE RESIDENTIAL STREET ADDRESS OR THE PRIMARY  
16    BUSINESS STREET ADDRESS OF THE CUSTOMER; AND (B) WITHIN THE LICENSED  
17    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 MONROE COUNTY WHICH HAS IMPOSED A SURCHARGE PURSUANT TO THE  
23    PROVISIONS OF THIS SECTION SHALL BE GIVEN A MINIMUM OF FORTY-FIVE DAYS  
24    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 MONROE  
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 MONROE 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 MONROE COUNTY FOR THE  
17 SURCHARGE UNTIL IT HAS BEEN PAID TO MONROE COUNTY EXCEPT THAT PAYMENT TO  
18 A 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  
24 MONROE COUNTY, IT SHALL ALSO PROVIDE MONROE COUNTY WITH THE NAME AND  
25 ADDRESS OF ANY CUSTOMER REFUSING OR FAILING TO PAY A SURCHARGE IMPOSED  
26 UNDER THE PROVISIONS OF THIS SECTION AND SHALL STATE THE AMOUNT OF SUCH  
27 SURCHARGE REMAINING UNPAID.

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

31 4. ALL SURCHARGE MONIES REMITTED TO MONROE COUNTY BY A WIRELESS COMMU-  
32 NICATIONS 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. THE COUNTY OF MONROE SHALL  
36 SEPARATELY ACCOUNT FOR AND KEEP ADEQUATE BOOKS AND RECORDS OF THE AMOUNT  
37 AND SOURCE OF ALL SUCH MONIES AND OF THE AMOUNT AND OBJECT OR PURPOSE OF  
38 ALL 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; provided, however, that  
53 the provisions of subdivision 1 of section 308-y of the county law, as  
54 added by section one of this act shall apply to bills rendered to wire-  
55 less communications service customers by a wireless communications  
56 service supplier on and after the expiration of the notice period

1 required pursuant to the provisions of subdivision 2 of such section  
2 308-y; provided further, that a wireless communications service supplier  
3 may treat the address used by such supplier for any wireless communi-  
4 cations customer under a service contract or agreement in effect on the  
5 effective date of the local law imposing such surcharge, as that wire-  
6 less communications customer's place of primary use for the remaining  
7 term of such service contract or agreement, excluding any extension or  
8 renewal of such service contract or agreement, for purposes of determin-  
9 ing the taxing jurisdiction with respect to taxes on wireless communi-  
10 cations service.