



December 19, 2017

Honorable Harold P. Naughton, Jr.
House Chair, Joint Committee on Public Safety and Homeland Security
24 Beacon St.
Room 167
Boston, MA, 02133

Honorable Michael O. Moore
Senate Chair, Joint Committee on Public Safety and Homeland Security
24 Beacon St.
Room 109B
Boston, MA 02133

RE: Support for H2631 – An Act to Equitably Support Enhanced 9-1-1 Service

Chairman Naughton, Jr., Chairman Moore, Vice Chairman Brady, Vice Chair Silvia, Vice Chair Rush and members of the Committee, thank you for the opportunity to submit a letter of support for H2631. On behalf of CTIA®, the trade association for the wireless communications industry, and its members, we are writing to express support for H2631. H2631 directs the Department of Revenue to promulgate regulations to collect the 9-1-1 fee from prepaid wireless users at the point-of-sale. Such regulations are consistent with the Massachusetts General Court's directive that wireless end-users who have access to and benefit from the Commonwealth's 9-1-1 system also contribute to that system. Similar legislation has been adopted in 40 jurisdictions, including Connecticut, Maine, New Hampshire, Rhode Island and New York.

The wireless industry believes that prepaid point-of-sale collection is the best way to meet the General Court's clear directive that users of the Massachusetts 9-1-1 system contribute to the maintenance and operation of the system. With nearly 1 in 5 wireless users choosing prepaid service, it is imperative that Massachusetts adopt 9-1-1 prepaid point-of-sale legislation that brings parity between prepaid and postpaid customers while efficiently and effectively collecting 9-1-1 fees from those wireless consumers who benefit from this vital and proven emergency communications system.

In 2002, the Massachusetts legislature funded the Enhanced 9-1-1 system through a direct surcharge on business and residential telephone customers.¹ The legislature further clarified in 2008 that the Enhanced 9-1-1 would be funded by "each subscriber or end user whose communication services are capable of accessing and utilizing an enhanced 911 system."² This included traditional landline, wireless, and Internet-based voice services.

¹ Chapter 239 of the Acts of 2002

² Section 8 of Chapter 223 of the Acts of 2008



The legislature charged the State 911 Department in 2008 with creating “an equitable and reasonable method for the remittance and collection of the surcharge or surcharge amounts” for prepaid wireless services.³ Unfortunately, the subsequent regulations did not result in prepaid end-users equitably sharing the costs of the Enhanced 9-1-1 system. Thus, contrary to the legislature’s clear mandate, prepaid wireless end-users do not pay any fees to support 9-1-1 services in Massachusetts.

How Prepaid Wireless Differs from Postpaid Wireless

Prepaid wireless service allows customers to pay in advance for a fixed number of minutes or for unlimited minutes for a fixed time period. Since customers pay in advance, there is no need to run a credit check on the purchaser and there is no need for the customer to sign a contract for a fixed term of service.

In contrast, traditional postpaid wireless service is sold directly by the wireless service provider, or its agent, to the consumer. Consumers are billed monthly and must pay that monthly bill, including taxes and fees, in order to receive service. Under federal and Massachusetts law, the wireless provider must receive and record the address for each user’s “place of primary use,” which is the residential street address or business location where the use of the wireless service primarily occurs. For this reason, the wireless provider has a straightforward mechanism to determine the location where the service should be subject to taxation and a billing mechanism to collect the fee from the user and remit it to the proper 9-1-1 agency. Unfortunately, that same sourcing methodology doesn’t work for prepaid wireless service.

The Prepaid Business Model Makes It Difficult To Track Transactions & Accurately Assess 9-1-1 Fees

Prepaid wireless service is marketed and sold differently than postpaid. The initial purchase of prepaid service may occur at a 3rd party retail store (like Wal-Mart, Target, 7-11 or Best Buy) or at a prepaid wireless provider’s retail store or website. This initial purchase typically includes a phone bundled with a fixed number of minutes or units for a single price. When those minutes or units are exhausted, the customer has several options.

After the initial purchase, a customer can “recharge” their service by purchasing a card with a fixed number of minutes or units from a 3rd party retail store or from a wireless provider’s retail store. The card may include a phone number and a code that the purchaser uses to add the minutes or units to the phone. It is important to note that the customer -- and not the retailer -- adds the minutes or units to the customer’s phone. Also, neither the wireless provider nor the retail store knows where the customer lives.

³ A relatively new product in 2008, prepaid wireless service is similar to traditional postpaid wireless service; however, there are no long-term contract requirements and no monthly bills on which an Enhanced 9-1-1 fee can be assessed.



Due to the unique business model of prepaid wireless services, the only way to accurately capture the 9-1-1 surcharge is to collect the surcharge at the point-of-sale at the time of the retail transaction as the wireless provider does not know where the customer purchased the initial service or the recharge card for 3rd party sales. This makes it impossible for the carrier to accurately assess the correct state's 9-1-1 fee from the customer. For this reason, nearly every state that assesses a 9-1-1 fee on prepaid wireless services has adopted the point-of-sale method.

The adoption of the point-of-sale method to collect the 9-1-1 fee from prepaid subscribers has not resulted in any significant problems that have caused any state to change its collection methodology or any widespread rejection by retailers selling the cards because of new collection or reporting requirements.

The Growth of Prepaid Nationwide Supports the Efficient & Accurate Point-of-Sale Methodology for 9-1-1 Fees

With the significant growth in the prepaid wireless market over the last decade, it becomes paramount that 9-1-1 fees are efficiently and accurately collected from prepaid wireless consumers in order to ensure adequate funding to maintain the Enhanced 9-1-1 system.

According to CTIA's most recent figures:

- At almost 20% (19.6%), about 1 in 5 wireless subscriptions are prepaid;
- At 77.5 million, prepaid subscriptions are equal to almost 24% (23.6%) of the U.S. population;
- There are now over 77.5 million prepaid wireless subscribers, an increase of more than 29 million subscribers between December 2008 and December 2016.

Status of 9-1-1 Prepaid Point-of-Sale Legislation in Other States

The attached map shows the enactment of 9-1-1 prepaid point-of-sale legislation in states throughout the country. Since the National Conference of State Legislatures' (NCSL) endorsement of the 9-1-1 prepaid point-of-sale legislation, 40 states, the District of Columbia and Puerto Rico have adopted the point-of-sale model, including the nearby states of Connecticut, New York, New Hampshire, Maine and Rhode Island.

Conclusion: Key Reasons to Support H2631

- 1.) H2631 is consistent with the directive of the Massachusetts legislature that end-users shall support the 9-1-1 system.
- 2.) Collection of the 9-1-1 fee at the point-of-sale is based on actual sales, is transparent to the consumer, accurately sources the transaction to the proper state, is a more efficient methodology for collecting the surcharge from prepaid end-users, and is fair to postpaid consumers.



- 3.) The prepaid point-of-sale method will provide stable and predictable revenues to support the 9-1-1 system in Massachusetts.
- 4.) The bill piggybacks on the existing sales and use tax collection system to minimize additional costs on retailers. Retailers already collect the sales and use tax on prepaid wireless service, so this approach leverages existing processes.

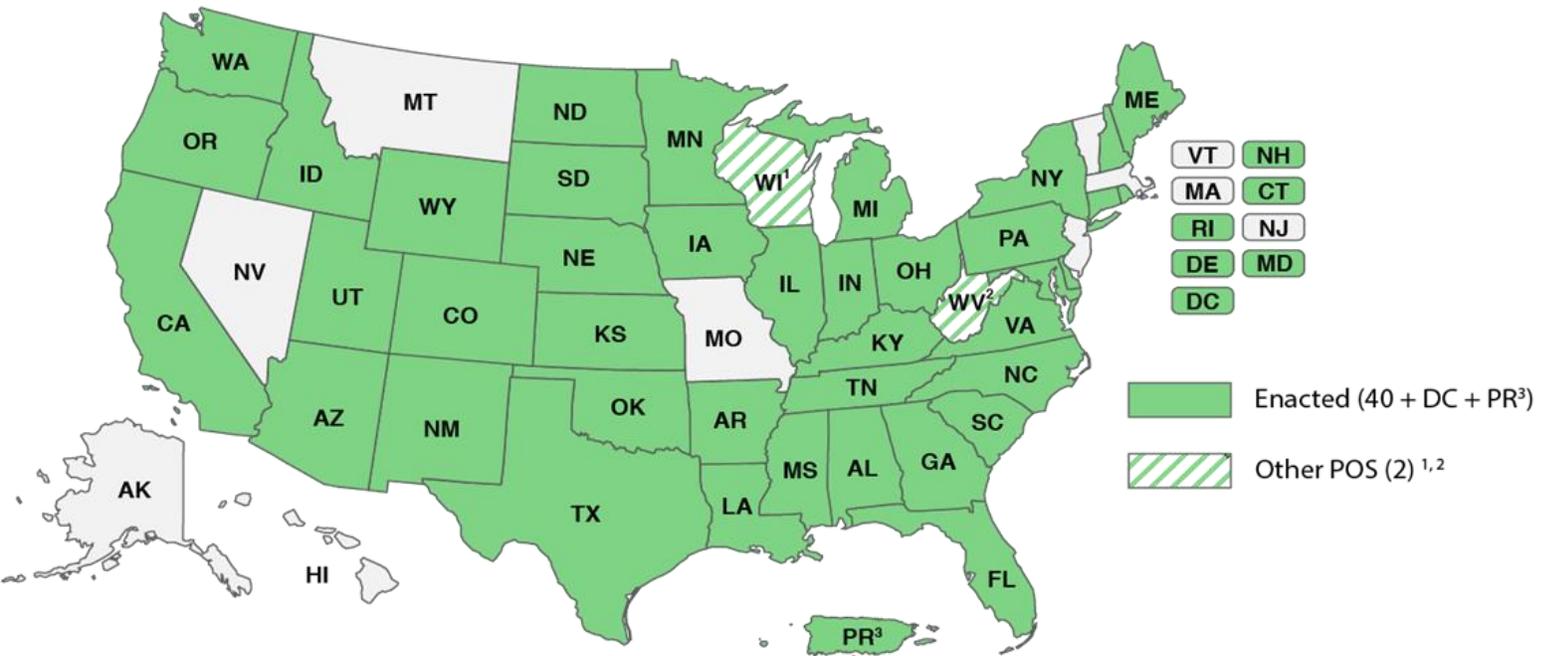
In closing, the wireless industry believes the fair and equitable funding of 9-1-1 systems is paramount to our consumers and the citizens of the Commonwealth. As such, we strongly urge your support and passage of H2631.

Sincerely,

Bethanne Cooley
Director, State Legislative Affairs
CTIA



Prepaid Point of Sale Status



¹ Wisconsin: Police and fire protection fee at POS

² West Virginia: Sales tax in lieu of 911 fee

³ Puerto Rico: Regulations need to be promulgated