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AN ACT
RELATING TO COMMUNICATIONS; AMENDING, REPEALING AND ENACTING
SECTIONS OF THE ENHANCED 911 ACT AND AMENDING A SECTION OF
THE ENHANCED 911 BOND ACT TO PROVIDE FOR SURCHARGES TO BE
IMPOSED ON COMMUNICATIONS SERVICES, INCLUDING
VOICE-OVER-INTERNET PROTOCOL SUBSCRIPTIONS AND ELECTRONIC
DATA NETWORKS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 63-9D-3 NMSA 1978 (being Laws 1989,
Chapter 25, Section 3, as amended) is amended to read:

"63-9D-3. DEFINITIONS.--As used in the Enhanced 911
Act:

A. "911 call" means any real-time communication,
message, signal or transmission between a person needing
assistance and a public safety answering point call-taker by
dialing 9-1-1 or its equivalent;

B. "911 service area" means the area designated by
the fiscal agent, local governing body or the division to
receive enhanced 911 service;

C. "access line" means a telecommunications
company's line that has the capability to reach local public
safety agencies by dialing 911, but does not include a line
used for the provision of interexchange services or
commercial mobile radio service;

1 D. "commercial mobile radio service" means service
2 provided by a wireless real-time two-way voice communication
3 device, including:

4 (1) radio-telephone communications used in
5 cellular telephone service;

6 (2) the functional or competitive equivalent
7 of radio-telephone communications used in cellular telephone
8 service;

9 (3) a personal communications service; or

10 (4) a network radio access line;

11 E. "commercial mobile radio service provider"
12 means a person who provides commercial mobile radio services,
13 including a person who purchases commercial mobile radio
14 service from a provider and resells that service;

15 F. "commission" means the public regulation
16 commission;

17 G. "communication service" means any service that:

18 (1) is capable of and required by law to
19 access, connect with or interface with the enhanced 911
20 system by directly dialing, initializing or otherwise
21 activating the enhanced 911 system regardless of the
22 transmission medium or technology employed; and

23 (2) provides or enables real-time or
24 interactive communication;

25 H. "communications service provider" means any

1 entity that provides communication services;

2 I. "database" means information that is collected,
3 formatted and disseminated and that is necessary for the
4 functioning of the enhanced 911 system, including geographic
5 information system (GIS) addressing and digital mapping
6 information;

7 J. "department" means the taxation and revenue
8 department;

9 K. "division" means the local government division
10 of the department of finance and administration;

11 L. "enhanced 911 surcharge" means the monthly
12 uniform charge assessed on each access line in the state, on
13 each active number for a commercial mobile radio service
14 subscriber and on the number of VoIP lines for which the VoIP
15 service provider enables the capacity for simultaneous calls,
16 regardless of actual usage, to be connected to the public
17 switched telephone network during the period for which the
18 fixed charge is imposed for a VoIP service subscriber in New
19 Mexico and the charge assessed on any other consumer purchase
20 of communication service provided by a communications service
21 provider that enables communication between a person needing
22 assistance and a public safety answering point call-taker by
23 dialing 9-1-1 or its equivalent; provided that an enhanced
24 911 surcharge shall not be assessed on the provision of
25 broadband internet access service;

1 M. "enhanced 911 system" means, regardless of the
2 technology used, a landline, wireless, NG-911 or ESInet
3 system consisting of network switching equipment, database,
4 mapping and on-premises equipment, or the functional
5 equivalent thereof, that uses the single three-digit number
6 911 for reporting police, fire, medical or other emergency
7 situations, thereby enabling a caller to reach a public
8 safety answering point to report emergencies by dialing 911,
9 and includes the capability to:

10 (1) selectively route incoming 911 calls to
11 the appropriate public safety answering point operating in a
12 911 service area;

13 (2) automatically display the name, address
14 and telephone number of an incoming 911 call on a video
15 monitor at the appropriate public safety answering point;

16 (3) provide one or more access paths for
17 communications between users at different geographic
18 locations through a network system that may be designed for
19 voice, text or data, or any combination of these, and may
20 feature limited or open access and may employ appropriate
21 analog, digital switching or transmission technologies;

22 (4) relay to a designated public safety
23 answering point a 911 caller's number and base station or
24 cell site location and the latitude and longitude of the 911
25 caller's location in relation to the designated public safety

1 answering point; and

2 (5) manage or administer the functions
3 listed in Paragraphs (1) through (4) of this subsection;

4 N. "enhanced 911 equipment" means the public
5 safety answering point equipment directly related to the
6 operation of an enhanced 911 system, including automatic
7 number identification or automatic location identification
8 controllers and display units, printers, logging recorders
9 and software associated with call detail recording, call
10 center work stations, training, latitude and longitude base
11 station or cell site location data and GIS equipment
12 necessary to obtain and process locational map and emergency
13 service zone data for landline and wireless callers;

14 O. "equipment supplier" means a person who
15 provides or offers to provide communications equipment
16 necessary for the establishment of enhanced 911 services;

17 P. "ESInet" means emergency services internet
18 protocol network, an internet-protocol-based, multipurpose
19 inter-network supporting local, regional, state and national
20 public safety communications services in addition to 911;

21 Q. "fiscal agent" means the local governing body
22 that administers grants from the fund for a given locality or
23 region by agreement;

24 R. "fund" means the enhanced 911 fund;

25 S. "local governing body" means the board of

1 county commissioners of a county or the governing body of a
2 municipality as defined in the Municipal Code;

3 T. "NG-911" means a next generation 911 system
4 consisting of network, hardware, software, data and
5 operational policies and procedures that:

6 (1) provides standardized interfaces from
7 call and message services;

8 (2) processes all types of emergency calls,
9 including non-voice (multimedia) messages;

10 (3) acquires and integrates additional data
11 useful to call routing and handling;

12 (4) delivers the calls, messages and data to
13 appropriate public safety answering points and other
14 appropriate emergency entities;

15 (5) supports data and communications needs
16 for coordinated incident response and management; and

17 (6) provides a secure environment for
18 emergency communications;

19 U. "proprietary information" means customer lists,
20 customer counts, technology descriptions or trade secrets,
21 including the actual or development costs of individual
22 components of an enhanced 911 system; provided that such
23 information is designated as proprietary by the
24 communications service provider; and provided further that
25 "proprietary information" does not include individual

1 payments made by the division or any list of names and
2 identifying information of subscribers who have not paid the
3 surcharge;

4 V. "public safety answering point" means a twenty-
5 four-hour local communications facility that receives 911
6 service communications and directly dispatches emergency
7 response services or that relays communications to the
8 appropriate public or private safety agency;

9 W. "subscriber" means a person who purchases
10 communication services at retail from a communications
11 service provider that are capable of originating a 911
12 communication;

13 X. "surcharge" means the 911 emergency surcharge;

14 Y. "surcharge collected" means the amount of
15 enhanced 911 surcharge billed or received or deemed to have
16 been received by the seller or provider, consistent with the
17 seller's or provider's method of accounting, including
18 accrual or cash;

19 Z. "telecommunications company" means a person who
20 provides wire telecommunications services that are capable of
21 originating a 911 communication;

22 AA. "vendor" means a person that provides 911
23 equipment, service or network support;

24 BB. "VoIP" means "interconnected voice-over-
25 internet protocol service" as defined in the Code of Federal

1 Regulations, Title 47, Part 9, Section 9.3, as amended; and

2 CC. "VoIP service provider" or "interconnected
3 voice-over-internet protocol service provider" means an
4 entity that provides interconnected voice-over-internet
5 protocol service to end users."

6 SECTION 2. Section 63-9D-5 NMSA 1978 (being Laws 1989,
7 Chapter 25, Section 5, as amended) is amended to read:

8 "63-9D-5. IMPOSITION OF SURCHARGE.--

9 A. There is imposed a 911 emergency surcharge in
10 the amount of fifty-one cents (\$.51) to be billed to each
11 subscriber access line by a communications service provider,
12 on each active number for a commercial mobile radio service
13 subscriber and on the number of VoIP lines for which the VoIP
14 service provider enables the capacity for simultaneous calls,
15 regardless of actual usage, to be connected to the public
16 switched telephone network during the period for which the
17 fixed charge is imposed. The surcharge is imposed on all
18 subscribers whose place of primary use, as defined in the
19 federal Mobile Telecommunications Sourcing Act, is in New
20 Mexico; provided, however, that the surcharge shall not be
21 imposed upon subscribers receiving reduced rates pursuant to
22 the Low Income Telephone Service Assistance Act; and provided
23 further that the surcharge shall not apply to prepaid
24 wireless communication service; and provided further that a
25 911 emergency surcharge shall not be assessed on the

1 provision of broadband internet access service.

2 B. All communications service providers shall be
3 required to bill and collect the surcharge from their
4 subscribers whose places of primary use, as defined in the
5 federal Mobile Telecommunications Sourcing Act, are in New
6 Mexico. The surcharge required to be collected by the
7 communications service provider shall be added to and stated
8 clearly and separately in the billings to the subscriber.
9 The surcharge collected by the communications service
10 provider shall not be considered revenue of the
11 communications service provider.

12 C. A billed subscriber is liable for payment of
13 the 911 emergency surcharge until it has been paid to the
14 communications service provider.

15 D. A communications service provider has no
16 obligation to take legal action to enforce the collection of
17 the surcharge; an action may be brought by or on behalf of
18 the department. A communications service provider, upon
19 request and not more than once a year, shall provide to the
20 department a list of the surcharge amounts uncollected, along
21 with the names and addresses of subscribers who carry a
22 balance that can be determined by the communications service
23 provider to be nonpayment of the surcharge. The
24 communications service provider shall not be held liable for
25 uncollected surcharge amounts."

1 SECTION 3. Section 63-9D-7 NMSA 1978 (being Laws 1989,
2 Chapter 25, Section 7, as amended) is amended to read:

3 "63-9D-7. REMITTANCE OF CHARGES--ADMINISTRATIVE FEE.--

4 A. The surcharge collected shall be remitted
5 monthly to the department, which shall administer and enforce
6 collection of the surcharge in accordance with the Tax
7 Administration Act. The surcharge shall be remitted to the
8 department no later than the twenty-fifth day of the month
9 following the month in which the surcharge was imposed. At
10 that time, a return for the preceding month shall be filed
11 with the department in such form as the department and
12 communications service provider shall agree upon. A
13 communications service provider required to file a return
14 shall deliver the return together with a remittance of the
15 amount of the surcharge payable to the department. The
16 communications service provider shall maintain a record of
17 the amount of each surcharge collected pursuant to the
18 Enhanced 911 Act. The record shall be maintained for a
19 period of three years after the time the surcharges were
20 collected.

21 B. From a remittance to the department made on or
22 before the date it becomes due, a telecommunications company
23 or commercial mobile radio service provider required to make
24 a remittance shall be entitled to deduct and retain one
25 percent of the collected amount or fifty dollars (\$50.00),

1 whichever is greater, as the administrative cost for
2 collecting the surcharge."

3 SECTION 4. Section 63-9D-8 NMSA 1978 (being Laws 1989,
4 Chapter 25, Section 8, as amended) is amended to read:

5 "63-9D-8. ENHANCED 911 FUND--CREATION--ADMINISTRATION--
6 DISBURSEMENT--REPORTS TO LEGISLATURE.--

7 A. There is created in the state treasury a fund
8 that shall be known as the "enhanced 911 fund". The fund
9 shall be administered by the division.

10 B. All surcharges collected and remitted to the
11 department shall be deposited in the fund.

12 C. Money deposited in the fund and income earned
13 by investment of the fund are appropriated for expenditure in
14 accordance with the Enhanced 911 Act and shall not revert to
15 the general fund.

16 D. Payments shall be made from the fund to, or on
17 behalf of, participating local governing bodies or their
18 fiscal agents upon vouchers signed by the director of the
19 division solely for the purpose of reimbursing local
20 governing bodies or their fiscal agents and communications
21 service providers for their costs of providing enhanced 911
22 service. A person who purchases communication services from
23 a communications service provider for the purpose of
24 reselling that service is not eligible for reimbursement from
25 the fund. Money in the fund may be used for the payment of

1 bonds issued pursuant to the Enhanced 911 Bond Act.

2 E. Annually, the division may expend no more than
3 five percent of all money deposited annually in the fund for
4 administering and coordinating activities associated with
5 implementation of the Enhanced 911 Act.

6 F. Money in the fund may be awarded as grant
7 assistance to provide enhanced 911 service and equipment upon
8 application of local governing bodies or their fiscal agents
9 to the division and upon approval by the state board of
10 finance. If it is anticipated that the funds available to
11 pay all requests for grants will be insufficient, the state
12 board of finance may reduce the percentage of assistance to
13 be awarded. In the event of such reduction, the state board
14 of finance may award supplemental grants to local governing
15 bodies that demonstrate financial hardship.

16 G. After requesting enhanced 911 service from a
17 communications service provider, a local governing body may,
18 by ordinance or resolution, recover from the fund an amount
19 necessary to recover the costs of providing the enhanced 911
20 system in its designated 911 service area. The division, on
21 behalf of local governing bodies, shall directly pay or
22 reimburse communications service providers for their costs of
23 providing enhanced 911 service. If a communications service
24 provider does not receive payment or reimbursement for the
25 costs of providing enhanced 911 service, the provider is not

1 obligated to provide that service.

2 H. The division shall report to the legislature
3 each session the status of the fund and whether the current
4 level of the 911 emergency surcharge is sufficient, excessive
5 or insufficient to fund the anticipated needs for the next
6 year."

7 SECTION 5. Section 63-9D-8.1 NMSA 1978 (being Laws
8 1990, Chapter 87, Section 3, as amended) is amended to read:

9 "63-9D-8.1. DIVISION POWERS.--

10 A. The division may adopt reasonable rules
11 necessary to carry out the provisions of the Enhanced 911
12 Act.

13 B. The division may fund enhanced 911 systems
14 pursuant to the provisions of the Enhanced 911 Act.

15 C. Division powers are limited and do not include
16 power to intervene between two vendors or restrict marketing
17 efforts of vendors.

18 D. The division and the local governing body may
19 establish 911 service areas.

20 E. Unless otherwise provided by law, no rule
21 affecting any person, agency, local governing body or
22 communications service provider shall be adopted, amended or
23 repealed without a public hearing on the proposed action
24 before the director of the division or a hearing officer
25 designated by the director. The public hearing shall be held

1 in Santa Fe unless otherwise permitted by statute. Notice of
2 the subject matter of the rule, the action proposed to be
3 taken, the time and place of the hearing, the manner in which
4 interested persons may present their views and the method by
5 which copies of the proposed rule or proposed amendment or
6 repeal of an existing rule may be obtained shall be published
7 once at least thirty days prior to the hearing in a newspaper
8 of general circulation and mailed at least thirty days prior
9 to the hearing date to all persons or agencies who have made
10 a written request for advance notice of the hearing and to
11 all local governing bodies and communications service
12 providers.

13 F. All rules shall be filed in accordance with the
14 State Rules Act."

15 SECTION 6. Section 63-9D-10 NMSA 1978 (being Laws 1989,
16 Chapter 25, Section 10, as amended) is amended to read:

17 "63-9D-10. IMMUNITY.--Enhanced 911 systems are within
18 the governmental powers and authorities of the local
19 governing body or state agency in the provision of services
20 for the public health, welfare and safety. In contracting
21 for such services or the provisioning of an enhanced 911
22 system, except for intentional acts, the local governing
23 body, public agency, equipment supplier, communications
24 service provider and their officers, directors, vendors,
25 employees and agents are not liable for damages resulting

1 from installing, maintaining or providing enhanced 911
2 systems or transmitting 911 calls."

3 SECTION 7. Section 63-9D-11 NMSA 1978 (being Laws 1989,
4 Chapter 25, Section 11, as amended) is amended to read:

5 "63-9D-11. PRIVATE LISTING SUBSCRIBERS AND 911
6 SERVICE.--

7 A. Private listing subscribers waive the privacy
8 afforded by nonlisted or nonpublished numbers only to the
9 extent that the name and address associated with the
10 telephone number may be furnished to the enhanced 911 system
11 for call routing or for automatic retrieval of location
12 information in response to a call initiated to 911.

13 B. Information regarding the identity of private
14 listing subscribers provided by a communications service
15 provider, including names, addresses, telephone numbers or
16 other identifying information, is not a public record and is
17 not available for inspection.

18 C. Proprietary information provided by a
19 communications service provider is not public information and
20 may not be released to any person without the express
21 permission of the submitting provider, except that
22 information may be released or published as aggregated data
23 that does not identify the number of subscribers or identify
24 enhanced 911 system costs attributable to an individual
25 communications service provider."

1 SECTION 8. Section 63-9D-11.1 NMSA 1978 (being Laws
2 1993, Chapter 48, Section 13) is amended to read:

3 "63-9D-11.1. VIOLATION--PENALTIES.--

4 A. Any person who knowingly dials 911 for the
5 purpose of reporting a false alarm, making a false complaint
6 or reporting false information that results in an emergency
7 response by any public safety agency is guilty of a petty
8 misdemeanor and shall be punished by a fine of not more than
9 five hundred dollars (\$500) or imprisonment for a term not to
10 exceed six months, or both.

11 B. A municipality or a county may adopt an
12 ordinance making it a violation for any person to knowingly
13 dial 911 for the purpose of reporting a false alarm, making a
14 false complaint or reporting false information that results
15 in an emergency response by any public safety agency. The
16 municipality may adopt and enforce the ordinance pursuant to
17 the authority provided in Section 3-17-1 NMSA 1978. The
18 county may adopt and enforce the ordinance pursuant to the
19 authority provided in Section 4-37-1 NMSA 1978."

20 SECTION 9. Section 63-9D-14 NMSA 1978 (being Laws 1990,
21 Chapter 61, Section 3, as amended) is amended to read:

22 "63-9D-14. ENHANCED 911 BONDS--AUTHORITY TO ISSUE--
23 PLEDGE OF REVENUES--LIMITATION ON ISSUANCE.--

24 A. In addition to any other law authorizing the
25 board to issue revenue bonds, the board may issue enhanced

1 911 bonds pursuant to the Enhanced 911 Bond Act for the
2 purposes specified in this section.

3 B. Enhanced 911 bonds may be issued for:

4 (1) acquiring, extending, enlarging,
5 bettering, repairing, improving, constructing, purchasing,
6 furnishing, equipping or rehabilitating the enhanced 911
7 system, the payment of which shall be secured by enhanced 911
8 revenues;

9 (2) reimbursing a communications service
10 provider for its reasonable costs of providing enhanced 911
11 service, the payment of which shall be secured by enhanced
12 911 revenues; or

13 (3) reimbursing a local governing body or
14 its fiscal agent for its reasonable costs of providing the
15 enhanced 911 system, the payment of which shall be secured by
16 enhanced 911 revenues.

17 C. The board may pledge irrevocably enhanced 911
18 revenues in the manner set forth in Subsection B of this
19 section to the payment of the interest on and principal of
20 enhanced 911 bonds. Any general determination by the board
21 that expenditures are reasonably related to and constitute a
22 part of a specified enhanced 911 project shall be conclusive
23 if set forth in the proceedings authorizing the enhanced 911
24 bonds."

25 SECTION 10. A new section of the Enhanced 911 Act is

1 enacted to read:

2 "PREPAID WIRELESS ENHANCED 911 SURCHARGE--COLLECTION AND
3 ADMINISTRATION OF SURCHARGE--LIABILITY OF SELLERS--
4 EXCLUSIVITY OF SURCHARGE.--

5 A. As used in this section:

6 (1) "consumer" means a person who purchases
7 prepaid wireless communication service in a retail
8 transaction;

9 (2) "prepaid wireless communication service"
10 means a wireless communication service that allows a caller
11 to dial 911 to access the 911 system, which service must be
12 paid for in advance and is sold in predetermined units or
13 dollars of which the number declines with use in a known
14 amount;

15 (3) "prepaid wireless enhanced 911
16 surcharge" means the charge that is required to be collected
17 by a seller from a consumer in the amount established under
18 Subsection B of this section;

19 (4) "provider" means a person that provides
20 prepaid wireless communication service pursuant to a license
21 issued by the federal communications commission;

22 (5) "retail transaction" means the purchase
23 of prepaid wireless communication service from a seller for
24 any purpose other than resale;

25 (6) "seller" means a person who sells

1 prepaid wireless communication service to another person; and

2 (7) "wireless communication service" means
3 commercial mobile radio service as defined by Section 20.3 of
4 Title 47 of the Code of Federal Regulations, as amended.

5 B. A prepaid wireless enhanced 911 surcharge of
6 one and thirty-eight hundredths percent is imposed on the
7 gross value of each retail transaction. The prepaid wireless
8 enhanced 911 surcharge shall be collected by the seller from
9 the consumer with respect to each retail transaction
10 occurring in this state. The amount of the prepaid wireless
11 enhanced 911 surcharge shall be either separately stated on
12 an invoice, receipt or other similar document that is
13 provided to the consumer by the seller, or otherwise
14 disclosed to the consumer.

15 C. For purposes of Subsection B of this section, a
16 retail transaction that is effected in person by a consumer
17 at a business location of the seller shall be treated as
18 occurring in this state if that business location is in this
19 state, and any other retail transaction shall be treated as
20 occurring in this state if the retail transaction is treated
21 as occurring in this state for purposes of the Gross Receipts
22 and Compensating Tax Act.

23 D. The prepaid wireless enhanced 911 surcharge is
24 the liability of the consumer and not of the seller or of any
25 provider, except that the seller shall be liable to remit all

1 prepaid wireless enhanced 911 surcharges that the seller
2 collects from consumers as provided in this section,
3 including all such surcharges that the seller is deemed to
4 collect where the amount of the surcharge has not been
5 separately stated on an invoice, receipt or other similar
6 document provided to the consumer by the seller.

7 E. The amount of the prepaid wireless enhanced 911
8 surcharge that is collected by a seller from a consumer, if
9 such amount is separately stated on an invoice, receipt or
10 other similar document provided to the consumer by the
11 seller, shall not be included in the base for measuring any
12 tax, fee, surcharge or other charge that is imposed by this
13 state, any political subdivision of this state or any
14 intergovernmental agency.

15 F. When prepaid wireless communication service is
16 sold with one or more other products or services for a
17 single, non-itemized price, the percentage specified in
18 Subsection B of this section shall apply to the entire
19 non-itemized price unless the seller elects to apply such
20 percentage to:

21 (1) if the amount of the prepaid wireless
22 communication service is disclosed to the consumer as a
23 dollar amount, such dollar amount; or

24 (2) if the seller can identify the portion
25 of the price that is attributable to the prepaid wireless

1 communication service by reasonable and verifiable standards
2 from its books and records that are kept in the regular
3 course of business for other purposes, including non-tax
4 purposes, such portion.

5 G. However, if a minimal amount of prepaid
6 wireless communication service is sold with a prepaid
7 wireless device for a single, non-itemized price, the seller
8 may elect not to apply the percentage specified in Subsection
9 B of this section to such transaction. For purposes of this
10 subsection, an amount of service denominated as ten minutes
11 or less, or five dollars (\$5.00) or less, is minimal.

12 H. Prepaid wireless enhanced 911 surcharges
13 collected by sellers shall be remitted to the department at
14 the times and in the manner provided with respect to the
15 Gross Receipts and Compensating Tax Act. The department
16 shall establish registration and payment procedures that
17 substantially coincide with the registration and payment
18 procedures that apply to the Gross Receipts and Compensating
19 Tax Act. A seller shall be permitted to deduct and retain
20 three percent of prepaid wireless enhanced 911 surcharges
21 that are collected by the seller from the consumer.

22 I. The audit and appeal procedures applicable to
23 the Gross Receipts and Compensating Tax Act shall apply to
24 prepaid wireless enhanced 911 surcharges.

25 J. The department shall establish procedures by

1 which a seller of prepaid wireless communication services may
2 document that a sale is not a retail transaction, which
3 procedures shall substantially coincide with the procedures
4 for documenting sale for resale transactions for the Gross
5 Receipts and Compensating Tax Act.

6 K. No provider or seller of prepaid wireless
7 communication services shall be liable for damages to any
8 person resulting from or incurred in connection with the
9 provision of, or failure to provide, 911 or enhanced 911
10 service, or for identifying, or failing to identify, the
11 telephone number, address, location or name associated with
12 any person or device that is accessing or attempting to
13 access 911 or enhanced 911 service.

14 L. No provider or seller of prepaid wireless
15 communication services shall be liable for damages to any
16 person resulting from or incurred in connection with the
17 provision of any assistance to any investigative or law
18 enforcement officer of the United States, this or any other
19 state, or any political subdivision of this or any other
20 state, in connection with any investigation or other law
21 enforcement activity by such law enforcement officer.

22 M. In addition to the protection from liability
23 provided by Subsections K and L of this section, each
24 provider and seller shall be entitled to the further
25 protection from liability as provided pursuant to Section

