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SENATE BILL 411

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Nancy Rodriguez

AN ACT

RELATING TO TELECOMMUNICATIONS; EXPANDING THE APPLICATION OF
THE TELECOMMUNICATIONS RELAY SERVICE SURCHARGE TO INCLUDE
MODERN TELECOMMUNICATIONS TECHNOLOGIES; EXEMPTING CERTAIN
TELECOMMUNICATIONS SERVICES CUSTOMERS FROM THE SURCHARGE;
CLARIFYING PROVISIONS OF THE TELECOMMUNICATIONS ACCESS ACT.

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

SECTION 1. Section 63-9F-3 NMSA 1978 (being Laws 1993,
Chapter 54, Section 3, as amended) is amended to read:

"63-9F-3. DEFINITIONS.--As used in the Telecommunications
Access Act:

A. "commission" means the commission for deaf and
hard-of-hearing persons;

B. "communications assistant" means an individual
who translates conversation from text to voice and from voice

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1 to text between two end users of a telecommunications service;

2 C. "home service provider" means a facilities-based
3 carrier or reseller with which a customer contracts for the
4 provision of mobile telecommunications services;

5 [~~G.~~] D. "impaired" means having an impairment of or
6 deficit in the ability to hear or speak, or both;

7 E. "interconnected voice over internet protocol
8 service" means a service that:

9 (1) enables real-time, two-way voice
10 communications;

11 (2) requires a broadband connection from the
12 user's location;

13 (3) requires internet protocol-compatible
14 customer premises equipment; and

15 (4) permits users generally to receive calls
16 that originate on the public-switched telephone network and to
17 terminate calls to the public-switched telephone network;

18 [~~D.~~] F. "intrastate [~~telephone services means all~~
19 charges for] telecommunications service":

20 (1) means the provision of access lines,
21 special services and intrastate toll services [~~including all~~
22 for telephone calls originating and terminating in the state;

23 (2) includes interconnected voice over
24 internet protocol service and nomadic interconnected voice over
25 internet protocol service; and

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1 (3) does not include intrastate mobile
2 telecommunications service;

3 G. "mobile telecommunications service" means radio
4 communication voice service between mobile and land or fixed
5 stations, or between mobile stations;

6 H. "place of primary use" means the street address
7 representative of where a customer's use of a mobile
8 telecommunications service primarily occurs and that is:

9 (1) the residential street address or the
10 primary business street address of the customer; and

11 (2) within the licensed service area of the
12 home service provider;

13 I. "prepaid mobile telecommunications service":

14 (1) means radio communication voice service
15 between mobile and land or fixed stations, or between mobile
16 stations, that is paid for in advance and sold in units of time
17 or in monetary units; and

18 (2) does not include any portion of a product
19 sold as a package that does not constitute prepaid mobile
20 telecommunications service;

21 ~~[E-]~~ J. "specialized telecommunications equipment"
22 means devices that enable or assist an impaired individual to
23 communicate with another individual using the telephone
24 network;

25 ~~[F-]~~ K. "telecommunications company" means an

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1 individual, corporation, partnership, joint venture, company,
2 firm, association, proprietorship or other entity that provides
3 public telecommunications services, and includes cellular
4 service companies as defined in Subsection B of Section 63-9B-3
5 NMSA 1978; and

6 [G-] L. "telecommunications relay system" means a
7 statewide telecommunications system through which an impaired
8 individual using specialized telecommunications equipment is
9 able to send or receive messages to and from an individual who
10 is not impaired and whose telephone is not equipped with
11 specialized telecommunications equipment and through which the
12 unimpaired individual is able, by using voice communications,
13 to send and receive messages to and from an impaired person."

14 SECTION 2. Section 63-9F-11 NMSA 1978 (being Laws 1993,
15 Chapter 54, Section 11, as amended) is amended to read:

16 "63-9F-11. IMPOSITION OF SURCHARGE.--

17 A. A telecommunications relay service surcharge of
18 thirty-three hundredths percent is imposed on the gross amount
19 paid:

20 (1) by customers, except customers whose
21 telephone service rates are reduced as authorized by the Low
22 Income Telephone Service Assistance Act, for [~~(1)~~] intrastate
23 [~~telephone~~] telecommunications services [~~other than mobile~~
24 ~~telecommunications services~~] provided in this state; [~~and~~]

25 (2) by customers for intrastate mobile

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1 telecommunications services that originate and terminate in the
2 same state, regardless of where the mobile telecommunications
3 services originate, terminate or pass through, provided by home
4 service providers to customers whose place of primary use is in
5 New Mexico; and

6 (3) by customers for retail prepaid mobile
7 telecommunications services in transactions occurring in this
8 state.

9 B. The telecommunications relay service surcharge
10 shall be included on the monthly bill of each customer of a
11 local exchange company or other telecommunications company
12 providing intrastate [~~telephone~~] telecommunications services or
13 intrastate mobile telecommunications services and paid at the
14 time of payment of the monthly bill. Receipts from selling [~~a~~
15 ~~service~~] those services to any other telecommunications company
16 or provider for resale [~~shall~~] are not [~~be~~] subject to the
17 surcharge. The customer [~~shall be~~] is liable for the payment
18 of [~~this~~] the surcharge to the local exchange company or other
19 telecommunications company providing intrastate [~~telephone~~]
20 telecommunications services to the customer. [~~For the purposes~~
21 ~~of Subsections A and B of this section, "home service~~
22 ~~provider", "mobile telecommunications services" and "place of~~
23 ~~primary use" have the meanings given in the federal Mobile~~
24 ~~Telecommunications Sourcing Act.~~]

25 C. A customer of prepaid mobile telecommunications

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1 service is liable for the payment of the telecommunications
2 relay service surcharge and shall pay the surcharge at the time
3 of sale of that service. At the time of sale, the surcharge
4 amount shall be separately stated on an invoice, receipt or
5 other similar document provided to the customer or be otherwise
6 disclosed to the customer. Receipts from selling prepaid
7 mobile telecommunications services for resale are not subject
8 to the surcharge.

9 [G.] D. A telecommunications company providing
10 intrastate [~~telephone~~] telecommunications services, a home
11 service provider providing intrastate mobile telecommunications
12 services and a seller of prepaid mobile telecommunications
13 services shall, [~~be responsible for assessing, collecting and~~
14 remitting] on sales subject to the telecommunications relay
15 service surcharge, [~~to the taxation and revenue department.~~
16 The amount of the telecommunications relay service] assess and
17 collect the surcharge and remit the surcharge collected [~~by a~~
18 telecommunications company shall be remitted] monthly to the
19 taxation and revenue department on or before the twenty-fifth
20 day of the month following collection [~~which~~]. The department
21 shall administer and enforce the collection of the surcharge
22 [~~pursuant to the provisions of~~] in accordance with the Tax
23 Administration Act.

24 [D.] E. The taxation and revenue department shall
25 [~~remit~~] transfer to the telecommunications access fund the

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1 amount of the telecommunications relay service surcharge
2 collected less any amount deducted ~~[pursuant to the provisions~~
3 ~~of]~~ in accordance with Subsection ~~[E]~~ F of this section.

4 Transfer of the net receipts from the surcharge to the
5 telecommunications access fund shall be made within the month
6 following the month in which the surcharge is collected.

7 ~~[E-]~~ F. The taxation and revenue department may
8 deduct an amount not to exceed three percent of the
9 telecommunications relay service surcharge collected as a
10 charge for the administrative costs of collection ~~[which]~~ and
11 shall remit that amount ~~[shall be remitted]~~ to the state
12 treasurer for deposit in the general fund each month.

13 ~~[F-]~~ G. The commission shall report to the revenue
14 stabilization and tax policy committee annually by September 30
15 the following information with respect to the prior fiscal
16 year:

17 (1) the amount and source of revenue received
18 by the telecommunications access fund;

19 (2) the amount and category of expenditures
20 from the fund; and

21 (3) the balance of the fund on that June 30."

22 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
23 provisions of this act is July 1, 2017.

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