

House Bill 1049

By: Representative Willard of the 49<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia  
2 Annotated, the "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," so as  
3 to change its applicability and requirements; to change certain definitions; to correct certain  
4 cross-references; to require that Voice over Internet Protocol service suppliers register certain  
5 information with the director of emergency management; to require that such information be  
6 updated; to provide for notices of delinquency to be sent by the director under certain  
7 circumstances; to provide for related matters; to repeal conflicting laws; and for other  
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, the  
12 "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," is amended by revising  
13 paragraph (12.1) of Code Section 46-5-122, relating to definitions, as follows:

14 ~~"(12.1) 'Prepaid wireless service' means any method pursuant to which a customer pays~~  
15 ~~a wireless service provider in advance for a wireless telecommunications connection.~~  
16 ~~Such term shall include, without limitation, calling or usage privileges included with the~~  
17 ~~purchase of a wireless telephone as well as additional calling or usage privileges~~  
18 ~~purchased by any means, including, without limitation, a calling card, a wireless~~  
19 ~~communication, or an Internet transaction~~ a service where a telephone subscriber pays  
20 a wireless service supplier in advance for a wireless telecommunications connection:

21 (A) That is sold in predetermined units or dollars:

22 (i) The number of which declines with use in a known amount; and

23 (ii) Which expire without an additional retail purchase of units or dollars;

24 (B) That is not offered in conjunction with other communications services for which  
25 the terms permit payment in arrears; and

26 (C) The charges for which are:

- 27 (i) Not billed to any telephone subscriber or other person; or  
 28 (ii) Not provided to a telephone subscriber or other person in a monthly statement.  
 29 Such term shall include, without limitation, calling or usage privileges included with the  
 30 purchase of a wireless telephone as well as additional calling or usage privileges  
 31 purchased by any means, including, without limitation, a calling card, a call, or an  
 32 Internet transaction."

## 33 SECTION 2.

34 Said part is further amended by revising Code Section 46-5-124.1, relating to the requirement  
 35 that service suppliers register certain information with the director of emergency  
 36 management, updating certain information, and notices of delinquency, as follows:

37 "46-5-124.1.

38 (a) Any service supplier or Voice over Internet Protocol service supplier doing business  
 39 in Georgia shall register the following information with the director:

40 (1) The name, address, and telephone number of the representative of the service supplier  
 41 or Voice over Internet Protocol service supplier to whom the resolution adopted pursuant  
 42 to Code Section 46-5-133 or other notification of intent to provide automatic number  
 43 identification or automatic location identification, or both, of a telephone service  
 44 connection should be submitted;

45 (2) The name, address, and telephone number of the representative of the service supplier  
 46 or Voice over Internet Protocol service supplier with whom a local government must  
 47 coordinate to implement automatic number identification or automatic location  
 48 identification, or both, of a telephone service connection;

49 (3) The counties in Georgia in which the service supplier or Voice over Internet Protocol  
 50 service supplier is authorized to provide telephone service at the time the filing is made;  
 51 and

52 (4) Every corporate name under which the service supplier or Voice over Internet  
 53 Protocol service supplier is authorized to provide telephone service in Georgia.

54 (b) After the initial submission by each service supplier or Voice over Internet Protocol  
 55 service supplier doing business in this state, the information required by subsection (a) of  
 56 this Code section shall be updated and submitted to the director by the tenth day of January  
 57 and the tenth day of July of each year or such other semiannual schedule as the director  
 58 may establish.

59 (c) The director shall send a notice of delinquency to any service supplier or Voice over  
 60 Internet Protocol service supplier which fails to comply with subsection (b) of this Code  
 61 section. Such notice shall be sent by certified mail or statutory overnight delivery. Any  
 62 service supplier ~~which~~ or Voice over Internet Protocol service supplier that fails to register

63 and provide the information required by this Code section within 30 days after receipt of  
 64 a notice of delinquency shall not be eligible to receive cost recovery funds as provided in  
 65 subsection (e) of Code Section 46-5-134 until the service supplier or Voice over Internet  
 66 Protocol service supplier is in compliance with subsection (b) of this Code section."

67 **SECTION 3.**

68 Said part is further amended by revising Code Section 46-5-134.2, relating to prepaid  
 69 wireless 9-1-1 charge, definitions, imposition of fee by localities, collection and remission  
 70 of charges, and distribution of funds, as follows:

71 "46-5-134.2.

72 (a) As used in this Code section, the term:

73 (1) 'Commissioner' means the state revenue commissioner.

74 (2) 'Consumer' means a person who purchases prepaid wireless ~~telecommunications~~  
 75 service in a retail transaction.

76 (3) 'Department' means the Department of Revenue.

77 (4) 'Prepaid wireless 9-1-1 charge' means the charge that is required to be collected by  
 78 a seller from a consumer in the amount established under subsection (b) of this Code  
 79 section.

80 (5) ~~'Prepaid wireless telecommunications service' has the same meaning as prepaid~~  
 81 ~~wireless service as such term is defined in Code Section 46-5-122~~ Reserved.

82 (6) 'Provider' means a person that provides prepaid wireless ~~telecommunications~~ service  
 83 pursuant to a license issued by the Federal Communications Commission.

84 (7) 'Retail transaction' means the purchase of prepaid wireless ~~telecommunications~~  
 85 service from a seller for any purpose other than resale.

86 (8) 'Seller' means a person who sells prepaid wireless ~~telecommunications~~ service to  
 87 another person.

88 (9) 'Wireless telecommunications service' means commercial mobile radio service as  
 89 defined by 47 C.F.R. Section 20.3 of Title 47 of the Code of Federal Regulations, as  
 90 amended.

91 (b)(1) Counties and municipalities that operate a 9-1-1 public safety answering point,  
 92 including counties and municipalities that operate multijurisdictional or regional 9-1-1  
 93 systems or have created a joint authority pursuant to Code Section 46-5-138, are  
 94 authorized to impose by ordinance or resolution a prepaid wireless 9-1-1 charge in the  
 95 amount of ~~75 cents~~ 75¢ per retail transaction. Imposition of the fee charge authorized by  
 96 this Code section by a county or municipality is shall be contingent upon compliance with  
 97 the requirements of paragraph (1) of subsection (j) of this Code section.

98 (2) Where a county or municipality that operates a 9-1-1 public safety answering point  
99 fails to comply with the requirements of paragraph (1) of subsection (j) of this Code  
100 section by December 31, 2011, on and after that date, the prepaid wireless 9-1-1 charge  
101 authorized by paragraph (1) of this subsection shall be imposed within the jurisdiction of  
102 such counties and municipalities as a state fee for state purposes.

103 (c) Where a county or municipality imposes a prepaid wireless 9-1-1 charge as authorized  
104 by paragraph (1) of subsection (b) of this Code section, or the prepaid wireless 9-1-1  
105 charge is imposed by the State of Georgia by paragraph (2) of subsection (b) of this Code  
106 section, the prepaid wireless 9-1-1 charge shall be collected by the seller from the  
107 consumer with respect to each retail transaction occurring in this state. The amount of the  
108 prepaid wireless 9-1-1 charge shall be either separately stated on an invoice, receipt, or  
109 other similar document that is provided to the consumer by the seller; or otherwise  
110 disclosed to the consumer.

111 (d) For the purposes of subsection (c) of this Code section, a retail transaction that is  
112 effected in person by a consumer at a business location of the seller shall be treated as  
113 occurring in this state if that business location is in this state, and any other retail  
114 transaction shall be treated as occurring in this state if the retail transaction is treated as  
115 occurring in this state for purposes of a prepaid wireless calling service as provided in  
116 paragraph (3) of subsection (e) of Code Section 48-8-77.

117 (e) The prepaid wireless 9-1-1 charge shall be the liability of the consumer and not of the  
118 seller or of any provider, except that the seller shall be liable to remit all prepaid wireless  
119 9-1-1 charges that the seller collects from consumers as provided in this Code section,  
120 including all such charges that the seller is deemed to collect where the amount of the  
121 charge has not been separately stated on an invoice, receipt, or other similar document  
122 provided to the consumer by the seller.

123 (f) The amount of the prepaid wireless 9-1-1 charge that is collected by a seller from a  
124 consumer, if such amount is separately stated on an invoice, receipt, or other similar  
125 document provided to the consumer by the seller, shall not be included in the base for  
126 measuring any tax, fee, surcharge, or other charge that is imposed by this state, any  
127 political subdivision of this state, or any intergovernmental agency.

128 (g) If a minimal amount of prepaid wireless ~~telecommunications~~ service is sold with a  
129 prepaid wireless device for a single, nonitemized price, then the seller may elect not to  
130 apply the amount specified in subsection (b) of this Code section to such transaction. For  
131 purposes of this subsection, the term 'minimal' means an amount of service denominated  
132 as ten minutes or less; or \$5.00 or less.

133 (h) Prepaid wireless 9-1-1 charges collected by sellers shall be remitted to the  
134 commissioner at the times and in the manner provided by Chapter 8 of Title 48 with respect

135 to the sales and use tax imposed on prepaid wireless calling service. The commissioner  
 136 shall establish registration and payment procedures that substantially coincide with the  
 137 registration and payment procedures that apply to the sale of prepaid wireless calling  
 138 service under Chapter 8 of Title 48. Audit and appeal procedures applicable under Chapter  
 139 8 of Title 48 shall apply to the prepaid wireless 9-1-1 charge. The commissioner shall  
 140 establish procedures by which a seller of prepaid wireless ~~telecommunications~~ service may  
 141 document that a sale is not a retail transaction, which procedures shall substantially  
 142 coincide with the procedures for documenting sale for resale transactions under Chapter  
 143 8 of Title 48. Nothing in this Code section shall authorize the commissioner to require that  
 144 sellers of prepaid wireless ~~calling services~~ services identify, report, or specify the  
 145 jurisdiction within which the retail sale of such services occurred.

146 (i) A seller shall be permitted to deduct and retain 3 percent of prepaid wireless 9-1-1  
 147 charges that are collected by the seller from consumers.

148 (j) Prepaid wireless 9-1-1 charges remitted to the commissioner as provided in this Code  
 149 section shall be distributed to counties, municipalities, and the State of Georgia as follows:

150 (1) On or before ~~the~~ December 31 of the year prior to the first year that the fee prepaid  
 151 wireless 9-1-1 charge is imposed, each county and municipal corporation levying the fee  
 152 prepaid wireless 9-1-1 charge, including counties and municipalities levying the fee  
 153 prepaid wireless 9-1-1 charge that operate multijurisdictional or regional 9-1-1 systems  
 154 or have created a joint authority pursuant to Code Section 46-5-138, shall file with the  
 155 commissioner a certified copy of the pertinent parts of all ordinances and resolutions and  
 156 amendments thereto which levy the prepaid wireless 9-1-1 charge authorized by this  
 157 Code section. The ordinance or resolution specified herein shall specify an effective date  
 158 of January 1, 2012, and impose a fee prepaid wireless 9-1-1 charge in the amount  
 159 specified in paragraph (1) of subsection (b) of this Code section. The filing required by  
 160 this paragraph shall be a condition of the collection of the prepaid wireless 9-1-1 charge  
 161 within any county or municipality;

162 (2)(A) Each county or municipality operating a public safety answering point that has  
 163 levied the prepaid wireless 9-1-1 charge authorized by this Code section and complied  
 164 with the filing requirement of paragraph (1) of this subsection shall receive an amount  
 165 calculated by multiplying the total amount remitted to the commissioner during the 12  
 166 month period ending on June 30 times a fraction, the numerator of which is the  
 167 population of the jurisdiction or jurisdictions operating the public safety answering  
 168 point and the denominator of which is the total population of ~~the~~ this state. An amount  
 169 calculated by multiplying the total amount remitted to the commissioner during the 12  
 170 month period ending on June 30 times a fraction, the numerator of which is the total  
 171 population of any jurisdiction or jurisdictions operating public safety answering points

172 that have not complied with the filing requirement of paragraph (1) of this subsection  
 173 and the denominator of which is the total population of this state, shall be deposited as  
 174 provided in paragraph (5) of this subsection.

175 (B) Notwithstanding the provisions of subparagraph (A) of this paragraph, the initial  
 176 distribution shall be calculated using the total amount remitted to the commissioner  
 177 during the six-month period beginning January 1, 2012, and ending June 30, 2012.

178 (C) For the purposes of this paragraph, population shall be measured by the United  
 179 States decennial census of 2010 or any future such census plus any corrections or  
 180 revisions contained in official statements by the United States Bureau of the Census  
 181 made prior to the first day of September immediately preceding the distribution of the  
 182 proceeds of such charges by the commissioner and any official census data received by  
 183 the commissioner from the United States Bureau of the Census or its successor agency  
 184 pertaining to any newly incorporated municipality. Such corrections, revisions, or  
 185 additional data shall be certified to the commissioner by the Office of Planning and  
 186 Budget on or before August 31 of each year.;

187 (3) Funds shall be distributed annually on or before October 15 of each year. Such  
 188 distribution shall include any delinquent charges actually collected by the commissioner  
 189 for a previous fiscal year which have not been previously distributed.;

190 (4) Prior to calculating the distributions to county and municipal governments as  
 191 provided in this subsection, the commissioner shall subtract an amount, not to exceed 2  
 192 percent of remitted charges, to defray the cost of administering and distributing funds  
 193 from the prepaid wireless 9-1-1 charge. Such amount shall be paid into the general fund  
 194 of the state treasury.;

195 (5) Funds distributed to a county or municipality pursuant to this Code section shall be  
 196 deposited and accounted for in a separate restricted revenue fund known as the  
 197 Emergency Telephone System Fund, maintained by the local government pursuant to  
 198 paragraph (2) of subsection (d) of Code Section 46-5-134. The commissioner shall  
 199 deposit all funds received pursuant to paragraph (2) of subsection (b) of this Code  
 200 section, other than the funds received pursuant to paragraph (4) of this subsection, into  
 201 the general fund of the state treasury in compliance with Article 4 of Chapter 12 of Title  
 202 45, the 'Budget Act.' It is the intention of the General Assembly, subject to the  
 203 appropriation process, that an amount equal to the amount deposited into the general fund  
 204 of the state treasury as provided in this paragraph be appropriated each year to a program  
 205 of state grants to counties and municipalities administered by the department for the  
 206 purpose of supporting the operations of public safety answering points in the  
 207 improvement of 9-1-1 service delivery. The department shall promulgate rules and  
 208 regulations for the administration of the 9-1-1 grant program; and

209 (6) Notwithstanding a county's or municipality's failure to comply with the filing  
210 requirement of paragraph (1) of this subsection prior to January 1, 2012, a county or  
211 municipality that subsequently meets such filing requirements prior to January 1 of any  
212 subsequent year shall become eligible to participate in the next succeeding distribution  
213 of proceeds pursuant to subparagraph (A) of paragraph (2) of this subsection.

214 (k)(1) No provider or seller of prepaid wireless ~~telecommunications~~ service shall be  
215 liable for damages to any person resulting from or incurred in connection with the  
216 provision of, or failure to provide, 9-1-1 or enhanced 9-1-1 service, or for identifying, or  
217 failing to identify, the telephone number, address, location, or name associated with any  
218 person or device that is accessing or attempting to access 9-1-1 or enhanced 9-1-1  
219 service.

220 (2) No provider or seller of prepaid wireless ~~telecommunications~~ service shall be liable  
221 for damages to any person resulting from or incurred in connection with the provision of  
222 any lawful assistance to any investigative or law enforcement officer of the United States,  
223 this or any other state, or any political subdivision of this or any other state in connection  
224 with any lawful investigation or other law enforcement activity by such law enforcement  
225 officer.

226 (3) In addition to the liability provisions of paragraphs (1) and (2) of this subsection, the  
227 provisions of Code Section 46-5-135 shall apply to sellers and providers of prepaid  
228 wireless ~~telecommunications~~ service.

229 (l) The prepaid wireless 9-1-1 charge authorized by this Code section shall be the only  
230 9-1-1 funding obligation imposed with respect to prepaid wireless ~~telecommunications~~  
231 service in this state, and no tax, fee, surcharge, or other charge shall be imposed by this  
232 state, any political subdivision of this state, or any intergovernmental agency for 9-1-1  
233 funding purposes upon any provider, seller, or consumer with respect to the sale, purchase,  
234 use, or provision of prepaid wireless ~~telecommunications~~ service."

235 **SECTION 4.**

236 All laws and parts of laws in conflict with this Act are repealed.