

SENATE BILL 726

Unofficial Copy
Q7

1999 Regular Session
(9lr2377)

ENROLLED BILL
-- Budget and Taxation/Ways and Means --

Introduced by **Senators Ruben, Munson, Currie, Neall, and Hogan**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~Telecommunications~~ *Prepaid Telephone Calling Arrangements - Taxation*

3 FOR the purpose of excluding certain gross charges from the definition of "gross
4 receipts" subject to the public service company franchise tax; imposing the sales
5 and use tax on the sale of prepaid telephone calling arrangements; specifying
6 when the sale of a prepaid telephone calling arrangement is taxable in the State;
7 exempting from the sales and use tax the use of ~~certain telecommunications~~
8 ~~services~~ *a taxable service* obtained by using a prepaid telephone calling
9 arrangement; ~~exempting from the sales and use tax the sale to or use by certain~~
10 ~~telecommunications providers of certain machinery or equipment~~; defining
11 ~~certain terms~~ *a certain term and amending a certain term; providing for a*
12 *delayed effective date*; and generally relating to the taxation of ~~certain~~
13 ~~telecommunications services~~ *prepaid telephone calling arrangements and*
14 ~~certain machinery or equipment used by certain telecommunications providers.~~

15 BY repealing and reenacting, with amendments,
16 Article - Tax - General

1 Section 8-401(b)(3) and 11-101(k)(9) and (10)
 2 Annotated Code of Maryland
 3 (1997 Replacement Volume and 1998 Supplement)

4 BY adding to
 5 Article - Tax - General
 6 Section 11-101(c-1) and (k)(11), 11-108, ~~11-210(d)~~, and 11-219(d)
 7 Annotated Code of Maryland
 8 (1997 Replacement Volume and 1998 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 10 MARYLAND, That the Laws of Maryland read as follows:

11 **Article - Tax - General**

12 8-401.

13 (b) (3) "Gross receipts" does not include:

14 (i) any revenue that a public service company derives from an
 15 activity other than an electric, gas, oil pipeline, telegraph, or telephone business;

16 (ii) net uncollectible revenue;

17 (iii) gross charges from the sale by a public service company to
 18 another public service company subject to the tax imposed by this subtitle of:

19 1. a service or product for resale; or

20 2. natural gas or natural gas delivery service that is used by
 21 the other public service company in the generation of electricity; [or]

22 (iv) gross charges from the sale by a public service company of
 23 internet access service by which a connection is provided between a computer and the
 24 internet; OR

25 (V) GROSS CHARGES FROM THE SALE OF TELECOMMUNICATIONS
 26 SERVICE OBTAINED BY USING A PREPAID TELEPHONE CALLING ARRANGEMENT, AS
 27 DEFINED IN § 11-101 OF THIS ARTICLE.

28 11-101.

29 (C-1) "PREPAID TELEPHONE CALLING ARRANGEMENT" MEANS THE RIGHT TO
 30 USE TELECOMMUNICATIONS SERVICES, PAID FOR IN ADVANCE, THAT ENABLES THE
 31 ORIGINATION OF CALLS USING AN ACCESS NUMBER OR AUTHORIZATION CODE,
 32 WHETHER MANUALLY OR ELECTRONICALLY DIALED.

33 (k) "Taxable service" means:

- 1 (9) credit reporting; [or]
- 2 (10) a security service, including:
- 3 (i) a detective, guard, or armored car service; and
- 4 (ii) a security systems service [.]; OR
- 5 (11) A PREPAID TELEPHONE CALLING ARRANGEMENT.

6 11-108.

7 THE SALE OR RECHARGE OF A PREPAID TELEPHONE CALLING ARRANGEMENT
8 IS TAXABLE IN THE STATE IF:

- 9 (1) THE SALE OR RECHARGE TAKES PLACE AT THE VENDOR'S PLACE OF
10 BUSINESS LOCATED IN THE STATE;
- 11 (2) THE BUYER'S SHIPPING ADDRESS IS IN THE STATE; OR
- 12 (3) THERE IS NO ITEM SHIPPED AND THE BUYER'S BILLING ADDRESS OR
13 THE LOCATION ASSOCIATED WITH THE BUYER'S MOBILE TELEPHONE NUMBER IS IN
14 THE STATE.

15 ~~11-210.~~

16 ~~(D) (1) (I) IN THIS SUBSECTION, THE FOLLOWING WORDS HAVE THE~~
17 ~~MEANINGS INDICATED.~~

18 ~~(II) "TELECOMMUNICATIONS" MEANS THE TRANSMISSION OF~~
19 ~~INFORMATION OF THE USER'S CHOOSING, BETWEEN OR AMONG POINTS SPECIFIED~~
20 ~~BY THE USER, WITHOUT CHANGE IN THE CONTENT OF THE INFORMATION AS IT IS~~
21 ~~SENT AND RECEIVED.~~

22 ~~(III) 1. "TELECOMMUNICATIONS PROVIDER" MEANS A PROVIDER~~
23 ~~OF TELECOMMUNICATIONS FOR A FEE TO THE PUBLIC OR TO CLASSES OF USERS~~
24 ~~MAKING TELECOMMUNICATIONS AVAILABLE DIRECTLY TO THE PUBLIC,~~
25 ~~REGARDLESS OF THE FACILITIES USED.~~

26 ~~2. "TELECOMMUNICATIONS PROVIDER" INCLUDES~~
27 ~~SUBSIDIARIES, AFFILIATES, PARTNERS, AND CO-VENTURERS OF THE PROVIDER OF~~
28 ~~TELECOMMUNICATIONS.~~

29 ~~3. "TELECOMMUNICATIONS PROVIDER" DOES NOT INCLUDE~~
30 ~~A PROVIDER OF TELECOMMUNICATIONS ONLY TO A SINGLE STRUCTURE SUCH AS A~~
31 ~~HOTEL, AN OFFICE BUILDING, OR AN APARTMENT BUILDING.~~

32 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
33 SALES AND USE TAX DOES NOT APPLY TO THE SALE TO OR USE BY A
34 TELECOMMUNICATIONS PROVIDER OF ANY MACHINERY OR EQUIPMENT, INCLUDING
35 COMPUTER SOFTWARE BUT NOT INCLUDING OFFICE FURNITURE, STANDARD OFFICE

1 EQUIPMENT, OR MOTOR VEHICLES, IF THE EQUIPMENT OR MACHINERY IS RELATED
2 TO THE CONDUCT OF:

3 (I) A TELECOMMUNICATIONS BUSINESS; OR

4 (II) A BUSINESS WHICH OFFERS OR PROVIDES THE USE OF THE
5 COMPUTER AND TELECOMMUNICATIONS FACILITIES, INCLUDING EQUIPMENT AND
6 OPERATING SOFTWARE, WHICH COMPRISE THE INTERCONNECTED WORLDWIDE
7 NETWORK OF NETWORKS THAT EMPLOY THE TRANSMISSION CONTROL
8 PROTOCOL/INTERNET PROTOCOL, OR ANY PREDECESSOR OR SUCCESSOR
9 PROTOCOLS TO THAT PROTOCOL.

10 (3) THE EXEMPTION UNDER THIS SUBSECTION DOES NOT APPLY TO A
11 SALE TO OR USE BY AN INCUMBENT LOCAL EXCHANGE CARRIER, AS DEFINED IN THE
12 FEDERAL TELECOMMUNICATIONS ACT OF 1996, UNLESS THE INCUMBENT LOCAL
13 EXCHANGE CARRIER HAS RECEIVED A DETERMINATION UNDER § 271 OF THAT ACT.

14 11-219.

15 (D) THE SALES AND USE TAX DOES NOT APPLY TO ~~CELLULAR TELEPHONE OR~~
16 ~~OTHER MOBILE TELECOMMUNICATIONS SERVICE CHARGES~~ THE USE OF A TAXABLE
17 SERVICE OBTAINED BY USING A PREPAID TELEPHONE CALLING ARRANGEMENT.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 ~~July 1, 1999~~ January 1, 2000.