

SENATE BILL 726

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Q7

1999 Regular Session
9lr2377

By: **Senators Ruben, Munson, Currie, Neall, and Hogan**

Introduced and read first time: February 23, 1999

Assigned to: Rules

Re-referred to: Budget and Taxation, February 26, 1999

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 1999

CHAPTER _____

1 AN ACT concerning

2 **Telecommunications - 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 obtained by using a prepaid telephone calling arrangement; ~~exempting~~
9 ~~from the sales and use tax the sale to or use by certain telecommunications~~
10 ~~providers of certain machinery or equipment~~; defining certain terms; and
11 generally relating to the taxation of certain telecommunications services ~~and~~
12 ~~certain machinery or equipment used by certain telecommunications providers.~~

13 BY repealing and reenacting, with amendments,
14 Article - Tax - General
15 Section 8-401(b)(3) and 11-101(k)(9) and (10)
16 Annotated Code of Maryland
17 (1997 Replacement Volume and 1998 Supplement)

18 BY adding to
19 Article - Tax - General
20 Section 11-101(c-1) and (k)(11), 11-108, ~~11-210(d)~~, and 11-219(d)
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 1998 Supplement)

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

3 **Article - Tax - General**

4 8-401.

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

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

8 (ii) net uncollectible revenue;

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

11 1. a service or product for resale; or

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

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

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

20 11-101.

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

25 (k) "Taxable service" means:

26 (9) credit reporting; [or]

27 (10) a security service, including:

28 (i) a detective, guard, or armored car service; and

29 (ii) a security systems service [.]; OR

30 (11) A PREPAID TELEPHONE CALLING ARRANGEMENT.

1 11-108.

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

4 (1) THE SALE OR RECHARGE TAKES PLACE AT THE VENDOR'S PLACE OF
5 BUSINESS LOCATED IN THE STATE;

6 (2) THE BUYER'S SHIPPING ADDRESS IS IN THE STATE; OR

7 (3) THERE IS NO ITEM SHIPPED AND THE BUYER'S BILLING ADDRESS OR
8 THE LOCATION ASSOCIATED WITH THE BUYER'S MOBILE TELEPHONE NUMBER IS IN
9 THE STATE.

10 ~~11-210.~~

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

13 ~~(H) "TELECOMMUNICATIONS" MEANS THE TRANSMISSION OF~~
14 ~~INFORMATION OF THE USER'S CHOOSING, BETWEEN OR AMONG POINTS SPECIFIED~~
15 ~~BY THE USER, WITHOUT CHANGE IN THE CONTENT OF THE INFORMATION AS IT IS~~
16 ~~SENT AND RECEIVED.~~

17 ~~(III) 1. "TELECOMMUNICATIONS PROVIDER" MEANS A PROVIDER~~
18 ~~OF TELECOMMUNICATIONS FOR A FEE TO THE PUBLIC OR TO CLASSES OF USERS~~
19 ~~MAKING TELECOMMUNICATIONS AVAILABLE DIRECTLY TO THE PUBLIC,~~
20 ~~REGARDLESS OF THE FACILITIES USED.~~

21 ~~2. "TELECOMMUNICATIONS PROVIDER" INCLUDES~~
22 ~~SUBSIDIARIES, AFFILIATES, PARTNERS, AND CO-VENTURERS OF THE PROVIDER OF~~
23 ~~TELECOMMUNICATIONS.~~

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

27 ~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE~~
28 ~~SALES AND USE TAX DOES NOT APPLY TO THE SALE TO OR USE BY A~~
29 ~~TELECOMMUNICATIONS PROVIDER OF ANY MACHINERY OR EQUIPMENT, INCLUDING~~
30 ~~COMPUTER SOFTWARE BUT NOT INCLUDING OFFICE FURNITURE, STANDARD OFFICE~~
31 ~~EQUIPMENT, OR MOTOR VEHICLES, IF THE EQUIPMENT OR MACHINERY IS RELATED~~
32 ~~TO THE CONDUCT OF:~~

33 ~~(I) A TELECOMMUNICATIONS BUSINESS; OR~~

34 ~~(II) A BUSINESS WHICH OFFERS OR PROVIDES THE USE OF THE~~
35 ~~COMPUTER AND TELECOMMUNICATIONS FACILITIES, INCLUDING EQUIPMENT AND~~
36 ~~OPERATING SOFTWARE, WHICH COMPRISE THE INTERCONNECTED WORLDWIDE~~
37 ~~NETWORK OF NETWORKS THAT EMPLOY THE TRANSMISSION CONTROL~~

1 ~~PROTOCOL/INTERNET PROTOCOL, OR ANY PREDECESSOR OR SUCCESSOR~~
2 ~~PROTOCOLS TO THAT PROTOCOL.~~

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

7 11-219.

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

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 1999.