SENATE BILL 61

E4, C5   EMERGENCY BILL   0lr1092
(PRE–FILED)   CF HB 6

By: **Senators Kagan and Reilly**
Requested: October 28, 2019
Introduced and read first time: January 8, 2020
Assigned to: Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 19, 2020

CHAPTER _____

1   AN ACT concerning

Public Safety – 9–1–1 Fees – Audits

3   FOR the purpose of requiring certain telephone companies and commercial mobile radio
4   service (CMRS) providers to keep records of 9–1–1 fees collected and remitted under
5   certain provisions of law for a certain period of time; altering the amount of and the
6   expenses for which certain telephone companies and CMRS providers are entitled to
7   receive a certain credit; requiring the Comptroller, in consultation with the
8   Emergency Number Systems Board, rather than the Board, to adopt procedures for
9   certain auditing surcharge collection and remittance; requiring that the procedures
10   be consistent with certain audit and appeal procedures; authorizing the Comptroller
11   to issue an administrative subpoena for a certain purpose; requiring the Comptroller
12   to develop and distribute certain informational materials; requiring that certain
13   information provided to the Comptroller be confidential, privileged, and proprietary;
14   establishing that the Comptroller is entitled to a certain percentage of ~~the~~ <u>certain</u>
15   9–1–1 fees to cover certain audit expenses; requiring the Comptroller to submit a
16   certain report to the Board on or before a certain date each year; authorizing the
17   Comptroller to adopt certain regulations; <u>authorizing the disclosure of tax</u>
18   <u>information to the Board;</u> making this Act an emergency measure; and generally
19   relating to audits of 9–1–1 fees.

20   BY repealing and reenacting, with amendments,
21   Article – Public Safety
22   Section 1–310
23   Annotated Code of Maryland

1   (2018 Replacement Volume and 2019 Supplement)

2   BY repealing and reenacting, with amendments,
3   Article – Tax – General
4   Section 13–203(c)(8) and (9)
5   Annotated Code of Maryland
6   (2016 Replacement Volume and 2019 Supplement)

7   BY adding to
8   Article – Tax – General
9   Section 13–203(c)(10)
10   Annotated Code of Maryland
11   (2016 Replacement Volume and 2019 Supplement)

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

Article – Public Safety

15 1–310.

16   (a)   This section does not apply to prepaid wireless telecommunications service.

17   (b)   Each subscriber to switched local exchange access service or CMRS or other
18 9–1–1–accessible service shall pay a 9–1–1 fee.

19   (c)   (1)   Subject to paragraphs (2) through (5) of this subsection, the 9–1–1 fee
20 is 50 cents per month for each switched local exchange access service, CMRS, or other
21 9–1–1–accessible service provided, payable when the bill for the service is due.

22   (2)   Except as provided in paragraphs (3) through (5) of this subsection, if a
23 service provider provisions to the same individual or person the voice channel capacity to
24 make more than one simultaneous outbound call from a 9–1–1–accessible service, each
25 separate outbound call voice channel capacity, regardless of the technology, shall constitute
26 a separate 9–1–1–accessible service for purposes of calculating the 9–1–1 fee due under
27 paragraph (1) of this subsection.

28   (3)   CMRS provided to multiple devices that share a mobile telephone
29 number shall be treated as a single 9–1–1–accessible service for purposes of calculating the
30 9–1–1 fee due under paragraph (1) of this subsection.

31   (4)   A broadband connection not used for telephone service may not
32 constitute a separate voice channel capacity for purposes of calculating the 9–1–1 fee due
33 under paragraph (1) of this subsection.

34   (5)   (i)   For a telephone service that provides, to multiple locations,
35 shared simultaneous outbound voice channel capacity configured to provide local dial in

1 different states, the voice channel capacity to which the 9–1–1 fee due under paragraph (1)
2 of this subsection applies is only the portion of the shared voice channel capacity in the
3 State identified by the service supplier's books and records.

4 (ii) In determining the portion of shared capacity in the State, a
5 service supplier may rely on, among other factors, a customer's certification of the
6 customer's allocation of capacity in the State, which may be based on:

7 1. each end user location;

8 2. the total number of end users; and

9 3. the number of end users at each end user location.

10 (d) (1) The Public Service Commission shall direct each telephone company to
11 add the 9–1–1 fee to all current bills rendered for switched local exchange access service in
12 the State.

13 (2) Each telephone company:

14 (i) shall act as a collection agent for the 9–1–1 Trust Fund with
15 respect to the 9–1–1 fees;

16 (ii) shall remit all money collected to the Comptroller on a monthly
17 basis; **[and]**

18 **(III) SHALL KEEP RECORDS OF 9–1–1 FEES COLLECTED AND**
19 **REMITTED UNDER THIS PARAGRAPH FOR AT LEAST 4 YEARS AFTER THE FEE IS**
20 **REMITTED; AND**

21 **[(iii)] (IV)** is entitled to credit, against the money from the 9–1–1 fees
22 to be remitted to the Comptroller, an amount equal to **[0.75%] 0.50%** of the 9–1–1 fees to
23 cover the expenses of billing, collecting, **[and]** remitting**, AND KEEPING RECORDS OF** the
24 9–1–1 fees and any additional charges.

25 (3) The Comptroller shall deposit the money remitted in the 9–1–1 Trust
26 Fund.

27 (e) (1) Each 9–1–1 service carrier shall add the 9–1–1 fee to all current bills
28 rendered for CMRS or other 9–1–1–accessible service in the State.

29 (2) Each 9–1–1 service carrier:

30 (i) shall act as a collection agent for the 9–1–1 Trust Fund with
31 respect to the 9–1–1 fees;

1   (ii)   shall remit all money collected to the Comptroller on a monthly
2   basis; **[**and**]**

3   **(III)   SHALL KEEP RECORDS OF 9–1–1 FEES COLLECTED AND**
4   **REMITTED UNDER THIS PARAGRAPH FOR AT LEAST 4 YEARS AFTER THE FEE IS**
5   **REMITTED; AND**

6   **[**(iii)**] (IV)**   is entitled to credit, against the money from the 9–1–1 fees
7   to be remitted to the Comptroller, an amount equal to **[**0.75%**] 0.50%** of the 9–1–1 fees to
8   cover the expenses of billing, collecting, **[**and**]** remitting**, AND KEEPING RECORDS OF** the
9   9–1–1 fees and any additional charges.

10   (3)   The Comptroller shall deposit the money remitted in the 9–1–1 Trust
11   Fund.

12   **[**(4)**] (F)   (1)**   The **COMPTROLLER, IN CONSULTATION WITH THE**
13   Board**,** shall adopt procedures for auditing surcharge collection and remittance by
14   **TELEPHONE COMPANIES AND** CMRS providers **OF 9–1–1 FEES <u>COLLECTED UNDER</u>**
15   **<u>THIS SECTION AND UNDER § 1–311 OF THIS SUBTITLE</u>**.

16   **(2)   THE PROCEDURES ADOPTED UNDER PARAGRAPH (1) OF THIS**
17   **SUBSECTION SHALL BE CONSISTENT WITH THE AUDIT AND APPEAL PROCEDURES**
18   **ESTABLISHED FOR THE SALES AND USE TAX UNDER TITLES 11 AND 13 OF THE**
19   **TAX – GENERAL ARTICLE.**

20   **(3)   THE COMPTROLLER MAY ISSUE AN ADMINISTRATIVE SUBPOENA**
21   **TO COMPEL COMPLIANCE WITH AN AUDIT CONDUCTED UNDER THIS SUBSECTION.**

22   **(4)   THE   COMPTROLLER   SHALL   DEVELOP   AND   DISTRIBUTE**
23   **INFORMATIONAL MATERIALS TO TELEPHONE COMPANIES AND CMRS PROVIDERS**
24   **REGARDING:**

25   **(I)   PROPER COLLECTION AND REMITTANCE OF 9–1–1 FEES;**
26   **AND**

27   **(II)   THE AUDIT PROCEDURES ADOPTED UNDER PARAGRAPH (1)**
28   **OF THIS SUBSECTION.**

29   (5)   On request of a **TELEPHONE COMPANY OR** CMRS provider, and except
30   as otherwise required by law, the information that the **TELEPHONE COMPANY OR** CMRS
31   provider reports to the **[**Board**] COMPTROLLER** shall be confidential, privileged, and
32   proprietary and may not be disclosed to any person other than the **TELEPHONE COMPANY**
33   **OR** CMRS provider.

1   **(6)**   **THE COMPTROLLER IS ENTITLED TO AN AMOUNT EQUAL TO 0.5%**
2 **OF THE 9–1–1 FEES <u>COLLECTED UNDER THIS SECTION</u> TO COVER THE EXPENSES OF**
3 **CONDUCTING AUDITS UNDER THIS SUBSECTION.**

4   **(7)**   **ON OR BEFORE DECEMBER 1 EACH YEAR, THE COMPTROLLER**
5 **SHALL SUBMIT AN ANNUAL REPORT TO THE BOARD DETAILING THE AUDITS**
6 **CONDUCTED DURING THE IMMEDIATELY PRECEDING YEAR AND THE OUTCOME OF**
7 **EACH AUDIT.**

8   **(8)**   **THE COMPTROLLER MAY ADOPT REGULATIONS NECESSARY TO**
9 **CARRY OUT THE REQUIREMENTS OF THIS SUBSECTION.**

10   **[**(f)**] (G)**   Notwithstanding any other provision of this subtitle, the 9–1–1 fee does
11 not apply to an intermediate service line used exclusively to connect a CMRS or other
12 9–1–1–accessible service, other than a switched local access service, to another telephone
13 system or switching device.

14   **[**(g)**] (H)**   A CMRS provider that pays or collects 9–1–1 fees under this section has
15 the same immunity from liability for transmission failures as that approved by the Public
16 Service Commission for local exchange telephone companies that are subject to regulation
17 by the Commission under the Public Utilities Article.

18   **<u>Article – Tax – General</u>**

19 <u>13–203.</u>

20   <u>(c)</u>   <u>Tax information may be disclosed to:</u>

21   <u>(8)</u>   <u>the Maryland Department of Health in accordance with the federal</u>
22 <u>Children's Health Insurance Program Reauthorization Act of 2009;</u> **[**and**]**

23   <u>(9)</u>   <u>the State Board of Individual Tax Preparers</u>**; AND**

24   **(10)**   **THE <u>EMERGENCY NUMBER SYSTEMS BOARD</u>**.

25   SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
26 measure, is necessary for the immediate preservation of the public health or safety, has
27 been passed by a yea and nay vote supported by three–fifths of all the members elected to
28 each of the two Houses of the General Assembly, and shall take effect from the date it is
29 enacted.