

§ 12-10-326. Prepaid wireless E911 service charges

(a) As used in this section:

- (1) “Consumer” means a person who purchases prepaid wireless telecommunications service in a retail transaction;
- (2) “Occurring in this state” means a retail transaction that is:
  - (A) Conducted in person by a consumer at a business location of a seller in this state; or
  - (B) Treated as occurring in this state for purposes of the gross receipts tax provided under § 26-52-521(b);
- (3) “Prepaid wireless E911 charge” means the charge for prepaid wireless telecommunications service that is required to be collected by a seller from a consumer under subsection (b) of this section;
- (4) “Provider” means a person that provides prepaid wireless telecommunications service under a license issued by the Federal Communications Commission;
- (5) (A) “Retail transaction” means each purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

(B)(i) “Retail transaction” includes a separate purchase of prepaid wireless telecommunications service that is paid contemporaneously with another purchase of prepaid wireless telecommunications service if separately stated on an invoice, receipt, or similar document provided by the seller to the consumer at the time of sale.

(ii) “Retail transaction” includes a recharge as defined in § 26-52-314 of prepaid wireless telecommunications service;

- (6) “Seller” means a person who sells prepaid wireless telecommunications service to another person; and
- (7) “Wireless telecommunications service” means a commercial mobile radio service as defined under § 12-10-303.

(b)(1) For each retail transaction occurring in this state, the seller shall collect from the consumer a prepaid wireless E911 charge of sixty-five cents (65¢).

(2) (A) The amount of the prepaid wireless E911 charge shall be stated either separately on an invoice, receipt, or similar document that is provided to the consumer at the time of sale by the seller or otherwise disclosed to the consumer.

- (B) If the amount of the prepaid wireless E911 charge is stated separately on an invoice, receipt, or similar document provided to the consumer at the time of sale by the seller, the amount of the prepaid wireless E911 charge shall not be included in the base for measuring any tax, fee, surcharge, or other charge that is imposed by the state, a political subdivision of the state, or an intergovernmental agency.
- (c) If prepaid wireless telecommunications service of ten (10) minutes or less or five dollars (\$5.00) or less is sold with a prepaid wireless device for a single, nonitemized price, then the seller is not required to collect the fee specified in subdivision (b)(1) of this section.
- (d)(1) Except as provided in subdivision (d)(2) of this section, a seller shall report and pay one hundred percent (100%) of the prepaid wireless E911 charge plus any penalties and interest due to the Director of the Department of Finance and Administration in the same manner and at the same time as the gross receipts tax under the Arkansas Gross Receipts Act of 1941, [§ 26-52-101 et seq.](#)
- (2) A seller that meets the prompt payment requirements of [§ 26-52-503](#) may deduct and retain three percent (3%) of the prepaid wireless E911 charge.
- (e) The Arkansas Tax Procedure Act, [§ 26-18-101 et seq.](#), applies to a prepaid wireless E911 charge.
- (f) The Department of Finance and Administration shall pay all remitted prepaid wireless E911 charges within thirty (30) days of receipt to the Arkansas Emergency Telephone Services Board for use by the board under [§ 12-10-318\(c\)](#).
- (g) A provider or seller is not liable for damages to a person resulting from or incurred in connection with:
- (1) Providing or failing to provide 911 or E911 service;
  - (2) Identifying or failing to identify the telephone number, address, location, or name associated with a person or device that is accessing or attempting to access 911 or E911 service; or
  - (3) Providing lawful assistance to a federal, state, or local investigator or law enforcement officer conducting a lawful investigation or other law enforcement activity.
- (h) A provider or seller is not liable for civil damages or criminal liability in connection with:
- (1) The development, design, installation, operation, maintenance, performance, or provision of 911 service; or
  - (2) The release of subscriber information to a governmental entity as required by this subchapter.

(i)(1) The prepaid wireless E911 charge imposed by this section shall be the only E911 funding obligation imposed for prepaid wireless telecommunications service in this state.

(2) Except for the prepaid wireless E911 charge imposed under this section, no other tax, fee, surcharge, or other charge shall be imposed upon prepaid wireless telecommunication services by the state, a political subdivision of the state, or an intergovernmental agency for the purpose of implementing and supporting emergency telephone services.