

12-10-326. Prepaid wireless public safety charge – Definitions

(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;

(B) Treated as occurring in this state for purposes of the gross receipts tax provided under § 26-52-521(b); or

(C) Taxable under § 26-53-106;

(3) “Prepaid wireless public safety 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)(A) “Prepaid wireless service” means any prepaid wireless service sold to consumers in the state.

(B) “Prepaid wireless service” includes without limitation:

(i) Prepaid wireless cards;

(ii) Telephones or other devices that are loaded with prepaid wireless minutes; and

(iii) Any transaction that reloads a prepaid wireless card or a telephone or other device with prepaid wireless minutes;

(5) “Provider” means a person that provides prepaid wireless telecommunications service under a license issued by the Federal Communications Commission;

(6)(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;

(7) “Seller” means a person who sells prepaid wireless telecommunications service to another person; and

(8) “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, a seller of prepaid wireless services shall collect from the consumer a public safety charge equal to ten percent (10%) of the value of the prepaid wireless service.

(2)(A) The amount of the prepaid wireless public safety charge shall be stated 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 public safety 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 public safety 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)(i) To ensure there is no overlap of the E911 charge previously assessed under this section before October 1, 2019, and the new public safety charge assessed under subdivision (b)(1) of this section, a seller shall continue to collect the public safety charge in effect one (1) day before October 1, 2019, through September 30, 2019.

(ii) The funds collected through September 30, 2019, shall be remitted according to the same terms and process as previously remitted under this section before October 1, 2019.

(D) On and after October 1, 2019, a seller shall begin collecting the public safety charge under subdivision (b)(1) of this section and shall remit the funds as prescribed in subsection (c) of this section.

(c)(1) A seller shall electronically report and pay one hundred percent (100%) of the prepaid wireless public safety charge plus any penalties and interest due to the Secretary 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 two percent (2%) of the prepaid wireless public safety charge.

(d)(1) The Arkansas Tax Procedure Act, [§ 26-18-101 et seq.](#), applies to a prepaid wireless public safety charge.

(2) If the Department of Finance and Administration becomes aware of any seller who is not collecting and remitting the public safety charge, the department shall provide notice of the requirements under this section and the associated penalties for failure to pay the charge.

(e) The department shall pay all remitted prepaid wireless public safety funds to the Arkansas Public Safety Trust Fund on or before the fifteenth business day of December 2019 and on or before the fifteenth business day of each month thereafter.

(f) 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 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 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.

(g) 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.

(h)(1) The prepaid wireless public safety 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 public safety 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.