

1 AN ACT relating to commercial mobile radio service charges and declaring an  
2 emergency.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 65.7636 is amended to read as follows:

5 (1) As used in this section, "Lifeline provider" means a CMRS provider that the  
6 Kentucky Public Service Commission has deemed or deems eligible to participate  
7 in the wireless low-income Lifeline program and to receive reimbursement from the  
8 universal service fund managed by the Federal Communications Commission  
9 pursuant to the federal Telecommunications Act of 1996, 47 U.S.C. secs. 151 et  
10 seq.

11 (2) A Lifeline provider shall be liable for a CMRS service charge equal to the amount  
12 of the CMRS postpaid service charge levied under KRS 65.7629 and shall remit a  
13 monthly payment to the Kentucky 911 Services Board~~, less the administrative fee~~  
14 ~~described in subsection (6) of this section, as follows:~~

15 ~~(a) Beginning February 1, 2017, an amount~~ equal to the product of the following  
16 factors:

17 ~~(a)~~<sup>{1-}</sup> The amount of the postpaid CMRS service charge levied under KRS  
18 65.7629; and

19 ~~(b)~~<sup>{2-}</sup> The number of unique end users with Kentucky addresses for which the  
20 Lifeline provider received reimbursement from the universal service fund  
21 during the immediately preceding month.

22 ~~{(b) A Lifeline provider liable for the CMRS service charge levied under this~~  
23 ~~subsection may bill and collect from each end user the charges calculated~~  
24 ~~under this subsection with respect to each end user. The Lifeline provider~~  
25 ~~shall determine the manner it uses to bill and collect the charges owed under~~  
26 ~~this subsection. A Lifeline provider shall not bill or collect from an end user~~  
27 ~~an amount greater than the charges paid by the Lifeline provider to the~~

1           ~~Kentucky 911 Services Board with respect to each end user.]~~

2     ~~(3) Each Lifeline provider shall act as a collection agent of the service charge levied by~~  
3       ~~this section for the CMRS fund. Each Lifeline provider shall list the service charge~~  
4       ~~as a separate entry on any bill which includes the service charge.~~

5     ~~(4) A Lifeline provider has no obligation to take any legal action to enforce the~~  
6       ~~collection of the service charge levied by this section. Collection actions to enforce~~  
7       ~~the collection of the service charge against any CMRS customer may, however, be~~  
8       ~~initiated by the state, on behalf of the board, in the Circuit Court of the county of~~  
9       ~~residence of the end user, and the reasonable costs and attorney's fees which are~~  
10      ~~incurred in connection with any such collection action may be awarded by the court~~  
11      ~~to the prevailing party in the action.~~

12    ~~(5) State and local taxes shall not apply to a separately stated service charge levied by~~  
13      ~~this section.~~

14    ~~(6) To reimburse itself for the cost of collecting and remitting the service charge levied~~  
15      ~~by this section, each Lifeline provider may deduct and retain from the service~~  
16      ~~charges it collects during each calendar month an amount not to exceed one and~~  
17      ~~one-half percent (1.5%) of the gross aggregate amount of the service charges it~~  
18      ~~collected that month.~~

19    ~~(7) All service charges levied by this section [collected by each Lifeline provider, less~~  
20      ~~the administrative fee described in subsection (6) of this section,] are due and~~  
21      ~~payable to the board monthly and shall be remitted on or before thirty (30) days~~  
22      ~~after the end of the calendar month. Collection actions may be initiated by the state,~~  
23      ~~on behalf of the board, in the Franklin Circuit Court or any other court of competent~~  
24      ~~jurisdiction, and the reasonable costs and attorney's fees which are incurred in~~  
25      ~~connection with any such collection action may be awarded by the court to the~~  
26      ~~prevailing party in the action.~~

27    ~~(4)(8) Nothing in this section shall be interpreted or otherwise construed to impact~~

1           litigation pending in the courts of the Commonwealth commencing on or before  
2           March 1, 2016, regarding the application of CMRS fees imposed prior to January 1,  
3           2017, to CMRS providers receiving reimbursement from the universal service fund.

4           ➔Section 2. Whereas the collection of the CMRS service charge imposed by  
5           Section 1 of this Act on all Lifeline providers is critical to the funding and operation of  
6           emergency communication services in the Commonwealth, an emergency is declared to  
7           exist, and this Act takes effect upon its passage and approval by the Governor or upon its  
8           otherwise becoming a law.