

HEINONLINE

Citation: 1 Wireless Communications and Public Safety Act of
P.L. 106-81 113 Stat. 1286 October 26 1999 I 1999

Content downloaded/printed from
HeinOnline (<http://heinonline.org>)
Tue Apr 16 16:47:08 2013

- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at <http://heinonline.org/HOL/License>
- The search text of this PDF is generated from uncorrected OCR text.

Calendar No. 255

106TH CONGRESS }
1st Session }

SENATE

{ REPORT
106-138

WIRELESS COMMUNICATIONS AND PUBLIC
SAFETY ACT OF 1999

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 800



AUGUST 4, 1999.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

69-010

WASHINGTON : 1999

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

JOHN McCAIN, Arizona, *Chairman*

TED STEVENS, Alaska	ERNEST F. HOLLINGS, South Carolina
CONRAD BURNS, Montana	DANIEL K. INOUE, Hawaii
SLADE GORTON, Washington	JOHN D. ROCKEFELLER IV, West Virginia
TRENT LOTT, Mississippi	JOHN F. KERRY, Massachusetts
KAY BAILEY HUTCHISON, Texas	JOHN B. BREAU, Louisiana
OLYMPIA SNOWE, Maine	RICHARD H. BRYAN, Nevada
JOHN ASHCROFT, Missouri	BYRON L. DORGAN, North Dakota
BILL FRIST, Tennessee	RON WYDEN, Oregon
SPENCER ABRAHAM, Michigan	MAX CLELAND, Georgia
SAM BROWNBACK, Kansas	

MARK BUSE, *Staff Director*

MARTHA P. ALLBRIGHT, *General Counsel*

IVAN A. SCHLAGER, *Democratic Chief Counsel and Staff Director*

KEVIN D. KAYES, *Democratic General Counsel*

Calendar No. 255

106TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 106-138

WIRELESS COMMUNICATIONS AND PUBLIC SAFETY ACT OF 1999

AUGUST 4, 1999.—Ordered to be printed

Mr. MCCAIN, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 800]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 800) "A Bill to promote and enhance public safety through use of 9-1-1 as the universal emergency assistance number, further deployment of wireless 9-1-1 service, support of States in upgrading 9-1-1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous, and reliable networks for personal wireless services, and for other purposes", having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

This legislation promotes public safety by making 9-1-1 the universal emergency assistance number, by furthering deployment of wireless 9-1-1 capabilities and related functions, and by encouraging construction and operation of seamless, ubiquitous, and reliable networks for wireless services.

BACKGROUND AND NEEDS

Over the years Americans facing emergency situations have become accustomed to dialing 9-1-1 on their wireline telephone. Today, however, more than 74 million Americans subscribe to wireless telephone service as a supplement to, or replacement for, their wireline telephone service. Many of them do so for safety reasons, especially when traveling.

However, in many areas contacting safety services using a wireless telephone is not simply a matter of dialing 9-1-1, as it is using a wireline phone. In fact, there are more than 20 different emergency wireless numbers across the United States. For example, a motorist traveling from Kansas City to Washington on Interstate 70 would need to know to dial "Star" 55 in Missouri, "Star" 999 in Illinois, 9-1-1 in Indiana, "Star" DUI in Ohio, 9-1-1 in Pennsylvania and "Star" 77 in Maryland. Moreover, there may even be different emergency numbers at different points along the interstate highways within one state. This lack of consistency hampers the usefulness of wireless telephones in sudden emergencies, and fosters confusion and uncertainty for those who need assistance. According to testimony before the Committee, the Saint Louis Dispatch recently reported that more than 50 percent of Missourians surveyed did not know that "Star 55" is the emergency number to call on their wireless phone.

Additionally, wireless telephone subscribers also lack the benefits provided to wireline telephone subscribers, namely enhanced 9-1-1 service. Enhanced 9-1-1 service provides emergency operators with the name, address, and telephone number of the caller. Because wireline phones are at a fixed location, a public safety answering point (PSAP) can determine the location of the caller. But because wireless phones are mobile, without enhanced capabilities emergency services have no means of identifying and locating wireless callers in the event of catastrophic injury or danger. Moreover, in part because wireless companies have not been provided with the same liability standards as wireline companies, Enhanced 9-1-1 services have not been nationally implemented on wireless networks and, many PSAPs lack the funds to upgrade their equipment to be compatible with Enhanced 9-1-1.

S. 800 promotes public safety by establishing 9-1-1 as the universal emergency telephone number within the United States. This bill also provides for the prompt deployment of a reliable and ubiquitous national wireless 9-1-1 system and calls for the Federal Communications Commission, states, and local governments to develop coordinated plans to implement wireless E-9-1-1. The bill also directs the Federal Communications Commission to support state efforts to create an end-to-end communications network. Establishing this national wireless 9-1-1 system will help people notify emergency services quickly, and thus reduce the time it takes to assist those in need.

S. 800 also confers upon wireless telecommunications users and providers of 9-1-1 the same liability protection that a given state confers on its wireline users and carriers, and establishes that the Public Safety Answering Point, or PSAP, has the same immunity from liability regardless of whether the 9-1-1 call is made on a wireless or wireline system. Finally, the bill provides privacy protection for the call location information of users of wireless phones, including such information provided by an automatic crash notification system. Thus, S. 800 will help expedite the development of an ubiquitous, national, enhanced, emergency services network.

LEGISLATIVE HISTORY

On April 14, 1999, S. 800, the Wireless Communications and Public Safety Act of 1999, was introduced by Senator McCain (R-AZ), Chairman of the Committee on Commerce, Science, and Transportation, and Senator Burns (R-MT), Chairman of the Subcommittee on Communications. On May 12, 1999, Senator Burns chaired a hearing to review the current status of safety and emergency service for wireless telephone users. Testimony was given by Mr. George Heinrichs, President and CEO, SCC Communications Corp.; Mr. Thomas Wheeler, President and CEO, Cellular Telecommunications Industry Association; and Mr. Mark Wildey, Director of Communications Technology, West Metro Fire Protections District. On June 23, 1999, the Committee on Commerce, Science, and Transportation ordered the bill to be reported (with amendments) favorably.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 800—Wireless Communications and Public Safety Act of 1999

Summary: CBO estimates that enacting S. 800 would have no significant effect on the federal budget. The bill would require the Federal Communications Commission (FCC) to designate 911 as the universal emergency telephone number for wireline and wireless service within the United States for reporting an emergency to appropriate authorities and requesting assistance. The bill also would provide protection for wireless carriers and persons using wireless 911 services from liability associated with transmission errors or other technical failures. Under the bill, such liability protection would be no less than that provided in federal and state law for wireline 911 services and users.

S. 800 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but would impose no costs on state, local, or tribal governments. The bill would preempt state laws that establish different standards of liability for wireless and wireline users and providers in certain circumstances.

S. 800 would impose a new private-sector mandate on local phone companies and wireless carriers that provide telephone exchange service. CBO estimates that the cost of the mandate would be well below the statutory threshold established in UMRA (\$100 million in 1996, adjusted annually for inflation).

Estimated cost to Federal Government: Based on information from the FCC, CBO estimates that promulgating regulations to implement this bill would cost less than \$500,000, assuming the availability of appropriated funds. Furthermore, under current law the FCC is authorized to collect fees from the telecommunications industry sufficient to offset the cost of its regulatory program.

Therefore, CBO estimates the net budgetary impact of S. 800 would be negligible.

Pay-as-you-go considerations: None

Estimated impact on State, local, and tribal governments: *Mandates*.—S. 800 contains intergovernmental mandates as defined in UMRA, but CBO estimates that these mandates would impose no costs on state, local, or tribal governments. The bill would require that states provide an equal standard of liability for: (1) users of wireless 911 services and users of 911 wireline services, (2) wireless communication companies and wireline communication companies, (3) wireless public safety answering points (PSAPs) and wireline PSAPs, and (4) 911 services provided by wireless companies and 911 services provided by wireline companies.

Information from industry sources and associations of state and local governments indicates that many states currently have no wireless liability laws, and in states that do, they are modeled after and in no case exceed the standards applied to wireline communication companies. Consequently, this provision would not affect state and local budgets.

Other impacts—Section 3 of the bill would direct the FCC to designate 911 as the universal emergency telephone number. Currently, 911 emergency systems are designated at the local level and many jurisdictions use numbers other than 911 for emergency wireless service (e.g., “*55” or “#77”). Because the FCC’s authority over 911 service is limited to private carriers, not state and local governments, CBO believes it is unlikely that this section would result in an intergovernmental mandate requiring state and local governments to change their emergency numbering systems.

Estimated impact on the private sector: S. 800 would impose a new private sector mandate on local phone companies and wireless carriers that provide telephone exchange service. Under the bill, those companies would be required to provide subscriber identification information (including unlisted and unpublished information) to providers of 911 emergency services and to providers of certain emergency support services used to assist or deliver emergency services. According to industry sources, nearly all local phone companies voluntarily provide such information to 911 providers. Current regulations require that wireless carriers transmit 911 calls (with subscriber identification information) to a designated facility to handle emergency calls. Consequently, CBO believes that this private-sector mandate would have little effect on the operations of those telecommunications carriers and, therefore, would have direct costs well below the statutory threshold established in UMRA (\$100 million in 1996, adjusted annually for inflation).

Previous CBO estimate: On February 23, 1999, CBO transmitted a cost estimate for H.R. 438, the Wireless Communications and Public Safety Act of 1999, as ordered reported by the House Committee on Commerce on February 11, 1999. H.R. 438 and S. 800 are very similar, and CBO estimated that the net budgetary impact of H.R. 438 also would be negligible.

Estimate prepared by: Federal Costs: Mark Hadley. Impact on State, Local, and Tribal Governments: Shelley Finlayson. Impact on the Private Sector: Jean Wooster.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

The Committee believes that the bill will not subject any individuals or businesses affected by the bill to any additional regulation.

ECONOMIC IMPACT

After full implementation of the bill, individuals and businesses will benefit from the increased certainty provided by a national emergency number and Enhanced 9-1-1 services. Moreover, the bill encourages the establishment of a national, ubiquitous, reliable end-to-end infrastructure for communications, which will help meet the Nation's public safety and other communications needs.

PRIVACY

S. 800, the Wireless Communications and Public Safety Act of 1999, will not have any adverse impact on the personal privacy of individuals. Although the bill involves the transfer of personal information, Section 5 specifically limits the use of such information solely for purposes of delivering or assisting in the delivery of emergency services. There will be no impact on personal privacy as a result of this legislation.

PAPERWORK

Although the provision of personal information to emergency providers and related entities will entail an increase in the transfers of that information, such transfers will most likely be done electronically. Thus, S. 800, the Wireless Communications and Public Safety Act of 1999, will not increase actual paperwork requirements.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides the short title of the legislation as reported as the "Wireless Communications and Public Safety Act".

Section 2. Findings

In general, this section outlines the importance of establishing and maintaining an end-to-end communications infrastructure for emergency services. This section also recognizes that the deployment of emergency services requires statewide coordination among local public safety, law enforcement and transportation officials and emergency dispatch providers. This section also recognizes that prompt notifications will improve emergency care systems, especially in rural areas.

Section 3. Universal emergency telephone number

Section 3(a) requires the Federal Communications Commission, and any agency or entity to which it has delegated authority under Section 251(e) of the Communications Act of 1934, to designate the number 9-1-1 as the universal emergency telephone number within the United States for reporting an emergency to authorities and requesting assistance. The universal number applies both to wireless and wireline telephone service. Recognizing that many PSAPs currently have insufficient funding to make the technical changes necessary to adopt 9-1-1 as their emergency telephone number, the Federal Communications Commission is directed to provide appropriate transition periods in areas where 9-1-1 is not currently in use as an emergency telephone number. The Committee recognizes that the transition to a national 9-1-1 system will be facilitated by cooperation between state and local governments and the private sector. This legislation is intended to encourage cooperation in the development and implementation of coordinated state plans to upgrade 9-1-1 systems.

Section 3(b) requires the Federal Communications Commission to encourage and support state efforts to deploy comprehensive end-to-end emergency communications infrastructure and programs. The Commission is to consult and cooperate with various state and local public emergency service agencies as well as public safety and the telecommunications industry. The Federal Communications Commission shall also encourage each state to develop and implement coordinated deployment plans. These state deployment plans are to be developed by an entity designated by the state governor that includes broad representation from public safety or emergency service providers as well as industry. The Committee notes that to be most effective, the development of deployment plans should include all affected parties, including for example, emergency service providers, transportation officials, and medical leaders.

Section 4. Parity protection for provision or use of 9-1-1 service

Section 4(a) provides wireless carriers, and their officers, directors, employees, vendors and agents the same immunity or protection from liability as local exchange companies enjoy in the same jurisdiction. It is the Committee's intent that the definition of "vendors" include, but not be limited to, the owners of the property on which a wireless facility is situated, emergency location service providers and providers of database management.

The Committee notes that wireline carriers receive liability protection from a variety of sources, including tariff filings. This section provides wireless carriers with same degree of protection as wireline carriers under State or Federal law, but it does not require wireline carriers to file tariffs, or take other affirmative action to secure equivalent liability protection. The Committee's intent is to establish liability parity between wireline and wireless carriers. To ensure the existence of a truly competitive market, the Committee believes the same liability should apply to both wireline and wireless carriers. The Committee wishes to make clear that this provision extends liability parity to wireless carriers for both 9-1-1 and non-9-1-1 calls. To the extent that a wireline telecommunications carrier is protected from liability on non-9-1-1 calls,

regardless of the source of these protections, then the same protections in the same manner are to extend to a wireless carrier. The Committee notes that this provision does not preempt state liability law as practical matter. Information from industry sources and associations of state and local governments indicates that many states currently have no wireless liability laws, and in states that do, they are modeled after, and in no case exceed, the standards applied to wireline communication companies. Moreover, under this legislation states are still free to establish and determine liability. They must simply do so on a technology-neutral basis.

Section 4(b) provides users of wireless 9-1-1 service the same immunity or protection from liability as users of non-wireless 9-1-1 service enjoy in a particular jurisdiction. Liability protections for users of 9-1-1 services should be equally applicable regardless of the type of phone from which the emergency call is made.

Section 4(c) provides a PSAP (including its employees, vendors, agents and any authorizing government entity) the same immunity or other protection from liability in matters related to a wireless 9-1-1 communication that it would for a wireline 9-1-1 communications. As in section 4(a), the Committee intends that the definition of "vendors" include, but not be limited to, the owners of the property on which a wireless facility is situated, emergency location service providers and providers of database management. Section 4(a) provides wireless carrier parity with the wireline carriers on liability issues. This section creates the same liability parity for PSAPs regardless of whether the communication is made via wireline or wireless technology. In this context, both the commercial communications carriers and the PSAPs are acting to protect property and human safety. Thus, the Committee intends that the same standards of liability protections apply to both and finds no compelling reason for disparate treatment. For example, wireless carriers should have the same protections as wireline telecommunications carriers for acts or omissions involving the release to a PSAP, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital or emergency or trauma care facility of subscriber information related to emergency calls or emergency services.

Section 4(d) sets forth that this Federal substantive law is enacted to enforce the Fourteenth Amendment's guarantee of equal protection of the law and as an exercise of the power of Congress to regulate interstate and foreign commerce.

Section 5. Authority to provide customer information

This section amends Section 222 of the Communications Act of 1934 to address the need for use of, disclosure of, and access to certain information in the provision of emergency services. This section requires the provision of call location information to emergency service personnel and data management services solely for the purpose of assisting in the delivery of emergency services. It specifically authorizes the transmission of automatic crash notification information as part of the operation of an automatic crash notification system. The Committee does not intend the phrase "solely for the purposes of delivering or assisting in the delivery of emergency services" to address whether a telecommunications carrier that pro-

vides telephone exchange service must unbundle the elements to non-telecommunications carriers.

The Committee notes that when 9-1-1 is dialed from a wireline phone, the dispatcher receives data indicating the phone number and the address from which the call was placed. This "Enhanced 9-1-1" information can help emergency service personnel reestablish contact if the call is disconnected or locate an individual unable to communicate. However, PSAPs in the United States report that between 25 to 33 percent of the calls they receive are from wireless phones and, unfortunately, Enhanced 9-1-1 is currently not deployed on many wireless systems. Thus, when 9-1-1 is dialed from a wireless phone, the emergency service personnel may not receive identifying information indicating the phone number or location of the caller. As a result, they may be unable to recontact or locate the caller.

In order to address this problem, and thereby enhance the ability of emergency service personnel to locate citizens using a wireless phone to call for assistance, this legislation adds a new section, Section 222(g). Section 222(g) requires a telecommunications carrier to provide subscriber information in its possession or control on a timely and unbundled basis, and under non-discriminatory and reasonable rates, terms and conditions to the providers of emergency services, solely for the purpose of delivering those emergency services. This section imposes an affirmative duty on a telecommunications carrier to provide subscriber information in its possession or control, including information that is unlisted or unpublished. Moreover, because lives may be lost by delay and transmission of this information, the Committee intends that the subscriber information be transmitted in near real time. By "unbundled" the Committee means that information must be made available separate from customer proprietary network information except as may otherwise be permitted under Section 222.

Section 6. Definitions

This section defines "Public Safety Answering Point," "Wireless Carrier," "Wireless 911 Service," "Enhanced Wireless 911 Service" and other terms.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

SEC. 222. [47 U.S.C. 222] PRIVACY OF CUSTOMER INFORMATION.

(a) **IN GENERAL.**—Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.

(b) **CONFIDENTIALITY OF CARRIER INFORMATION.**—A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommuni-

cations service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

(c) CONFIDENTIALITY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—

(1) PRIVACY REQUIREMENTS FOR TELECOMMUNICATIONS CARRIERS.—Except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

(2) DISCLOSURE ON REQUEST BY CUSTOMERS.—A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

(3) AGGREGATE CUSTOMER INFORMATION.—A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate customer information other than for the purposes described in paragraph (1). A local exchange carrier may use, disclose, or permit access to aggregate customer information other than for purposes described in paragraph (1) only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request therefor.

(d) EXCEPTIONS.—Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents—

(1) to initiate, render, bill, and collect for telecommunications services;

(2) to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; [or]

(3) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such [service.] service; and

(4) to provide call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d))—

(A) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service, or law enforcement official, or hospital emergency or trauma care facility, in order to respond to the user's call for emergency services;

(B) to inform the user's legal guardian or members of the user's immediate family of the user's location in an emergency situation that involves the risk of death or serious physical harm; or

(C) to providers of information or database management services solely for purposes of assisting in the delivery of emergency services in response to an emergency.

(e) **SUBSCRIBER LIST INFORMATION.**—Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

(f) **AUTHORITY TO USE WIRELESS LOCATION INFORMATION.**—For purposes of subsection (c)(1), without the express prior authorization of the customer, a customer shall not be considered to have approved the use or disclosure of or access to—

(1) call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d)), other than in accordance with subsection (d)(4); or

(2) automatic crash notification information to any person other than for use in the operation of an automatic crash notification system.

(g) **SUBSCRIBER LISTED AND UNLISTED INFORMATION FOR EMERGENCY SERVICES.**—Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service shall provide information described in subsection (i)(3)(A) (including information pertaining to subscribers whose information is unlisted or unpublished) that is in its possession or control (including information pertaining to subscribers of other carriers) on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions to providers of emergency services, and providers of emergency support services, solely for purposes of delivering or assisting in the delivery of emergency services.

[f] (h) DEFINITIONS.—As used in this section:

(1) **CUSTOMER PROPRIETARY NETWORK INFORMATION.**—The term “customer proprietary network information” means—

(A) information that relates to the quantity, technical configuration, type, destination, *location*, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier;

except that such term does not include subscriber list information.

(2) **AGGREGATE INFORMATION.**—The term “aggregate customer information” means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.

(3) **SUBSCRIBER LIST INFORMATION.**—The term “subscriber list information” means any information—

(A) identifying the listed names of subscribers of a carrier and such subscribers’ telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

(4) **PUBLIC SAFETY ANSWERING POINT.**—*The term “public safety answering point” means a facility that has been designated to receive emergency calls and route them to emergency service personnel.*

(5) **EMERGENCY SERVICES.**—*The term “emergency services” means 9-1-1 emergency services and emergency notification services.*

(6) **EMERGENCY NOTIFICATION SERVICES.**—*The term “emergency notification services” means services that notify the public of an emergency.*

(7) **EMERGENCY SUPPORT SERVICES.**—*The term “emergency support services” means information or data base management services used in support of emergency services.*

* * * * *

PART II—DEVELOPMENT OF COMPETITIVE MARKETS

SEC. 251. [47 U.S.C. 251] INTERCONNECTION.

(a) **GENERAL DUTY OF TELECOMMUNICATIONS CARRIERS.**—Each telecommunications carrier has the duty—

(1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers; and

(2) not to install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to section 255 or 256.

(b) **OBLIGATIONS OF ALL LOCAL EXCHANGE CARRIERS.**—Each local exchange carrier has the following duties:

(1) **RESALE.**—The duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services.

(2) **NUMBER PORTABILITY.**—The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

(3) **DIALING PARITY.**—The duty to provide dialing parity to competing providers to telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.

(4) **ACCESS TO RIGHTS-OF-WAY.**—The duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with section 224.

(5) **RECIPROCAL COMPENSATION.**—The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

(c) **ADDITIONAL OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS.**—In addition to the duties contained in subsection (b), each incumbent local exchange carrier has the following duties:

(1) **DUTY TO NEGOTIATE.**—The duty to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection. The requesting telecommunications carrier also has the duty to negotiate in good faith the terms and conditions of such agreements.

(2) **INTERCONNECTION.**—The duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network—

(A) for the transmission and routing of telephone exchange service and exchange access;

(B) at any technically feasible point within the carrier's network;

(C) that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary affiliate, or any other party to which the carrier provides interconnection; and

(D) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

(3) **UNBUNDLED ACCESS.**—The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

(4) **RESALE.**—The duty—

(A) to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers; and

(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications service, except that a State commission may, consistent with regulations prescribed by the Commission under this section, prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers.

(5) **NOTICE OF CHANGES.**—The duty to provide reasonable public notice of changes in the information necessary for the

transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.

(6) COLLOCATION.—The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

(d) IMPLEMENTATION.—

(1) IN GENERAL.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete all actions necessary to establish regulations to implement the requirements of this section.

(2) ACCESS STANDARDS.—In determining what network elements should be made available for purposes of subsection (c)(3), the Commission shall consider, at a minimum, whether—

(A) access to such network elements as are proprietary in nature is necessary; and

(B) the failure to provide access to such network elements would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer.

(3) PRESERVATION OF STATE ACCESS REGULATIONS.—In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that—

(A) establishes access and interconnection obligations of local exchange carriers;

(B) is consistent with the requirements of this section; and

(C) does not substantially prevent implementation of the requirements of this section and the purposes of this part.

(e) NUMBERING ADMINISTRATION.—

(1) COMMISSION AUTHORITY AND JURISDICTION.—The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction.

(2) COSTS.—The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.

(3) *UNIVERSAL EMERGENCY TELEPHONE NUMBER.*—The Commission and any agency or entity to which the Commission has delegated authority under this subsection shall designate 9-1-1 as the universal emergency telephone number within the United States for reporting an emergency to appropriate authorities and requesting assistance. The designation shall apply to both wireline and wireless telephone service. In making the designation, the Commission (and any such agency or entity) shall provide appropriate transition periods for areas in which 9-1-1 is not in use as an emergency telephone number on the date of enactment of the Wireless Communications and Public Safety Act of 1999.

(f) **EXEMPTIONS, SUSPENSIONS, AND MODIFICATIONS.**—

(1) **EXEMPTION FOR CERTAIN RURAL TELEPHONE COMPANIES.**—

(A) **EXEMPTION.**—Subsection (c) of this section shall not apply to a rural telephone company until (i) such company has received a bona fide request for interconnection, services, or network elements, and (ii) the State commission determines (under subparagraph (B)) that such request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof).

(B) **STATE TERMINATION OF EXEMPTION AND IMPLEMENTATION SCHEDULE.**—The party making a bona fide request of a rural telephone company for interconnection, services, or network elements shall submit a notice of its request to the State commission. The State commission shall conduct an inquiry for the purpose of determining whether to terminate the exemption under subparagraph (A). Within 120 days after the State commission receives notice of the request, the State commission shall terminate the exemption if the request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof). Upon termination of the exemption, a State commission shall establish an implementation schedule for compliance with the request that is consistent in time and manner with Commission regulations.

(C) **LIMITATION ON EXEMPTION.**—The exemption provided by this paragraph shall not apply with respect to a request under subsection (c) from a cable operator providing video programming, and seeking to provide any telecommunications service, in the area in which the rural telephone company provides video programming. The limitation contained in this subparagraph shall not apply to a rural telephone company that is providing video programming on the date of enactment of the Telecommunications Act of 1996.

(2) **SUSPENSIONS AND MODIFICATIONS FOR RURAL CARRIERS.**—

A local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) to telephone exchange service facilities speci-

fied in such petition. The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification—

(A) is necessary—

(i) to avoid a significant adverse economic impact on users of telecommunications services generally;

(ii) to avoid imposing a requirement that is unduly economically burdensome; or

(iii) to avoid imposing a requirement that is technically infeasible; and

(B) is consistent with the public interest, convenience, and necessity.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

(g) CONTINUED ENFORCEMENT OF EXCHANGE ACCESS AND INTERCONNECTION REQUIREMENTS.—On and after the date of enactment of the Telecommunications Act of 1996, each local exchange carrier, to the extent that it provides wireline services, shall provide exchange access, information access, and exchange services for such access to interexchange carriers and information service providers in accordance with the same equal access and nondiscriminatory interconnection restrictions and obligations (including receipt of compensation) that apply to such carrier on the date immediately preceding the date of enactment of the Telecommunications Act of 1996 under any court order, consent decree, or regulation, order, or policy of the Commission, until such restrictions and obligations are explicitly superseded by regulations prescribed by the Commission after such date of enactment. During the period beginning on such date of enactment and until such restrictions and obligations are so superseded, such restrictions and obligations shall be enforceable in the same manner as regulations of the Commission.

(h) DEFINITION OF INCUMBENT LOCAL EXCHANGE CARRIER.—

(1) DEFINITION.—For purposes of this section, the term “incumbent local exchange carrier” means, with respect to an area, the local exchange carrier that—

(A) on the date of enactment of the Telecommunications Act of 1996, provided telephone exchange service in such area; and

(B)(i) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to section 69.601(b) of the Commission’s regulations (47 C.F.R. 69.601(b)); or

(ii) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in clause (i).

(2) TREATMENT OF COMPARABLE CARRIERS AS INCUMBENTS.—The Commission may, by rule, provide for the treatment of a local exchange carrier (or class or category thereof) as an incumbent local exchange carrier for purposes of this section if—

(A) such carrier occupies a position in the market for telephone exchange service within an area that is com-

parable to the position occupied by a carrier described in paragraph (1);

(B) such carrier has substantially replaced an incumbent local exchange carrier described in paragraph (1); and

(C) such treatment is consistent with the public interest, convenience, and necessity and the purposes of this section.

(i) SAVINGS PROVISION.—Nothing in this section shall be construed to limit or otherwise affect the Commission's authority under section 201.

○

