

Office of Emergency Services  
911 Sustainment

REVENUE AND TAXATION CODE - RTC

DIVISION 2. OTHER TAXES [6001 - 60709]

( *Heading of Division 2 amended by Stats. 1968, Ch. 279.*  )

PART 20. EMERGENCY TELEPHONE USERS SURCHARGE ACT [41001 - 41176]

( *Heading of Part 20 amended by Stats. 2017, Ch. 561, Sec. 241.*  )

CHAPTER 1. General Provisions and Definitions [41001 - 41019.5]

( *Chapter 1 added by Stats. 1976, Ch. 443.*  )

**41001.** This part is known and may be cited as the “Emergency Telephone Users Surcharge Act”.

(*Added by Stats. 1976, Ch. 443.*)

**41002.** Except where the context otherwise requires, the definitions given in this chapter govern the construction of this part.

(*Added by Stats. 1976, Ch. 443.*)

**41003.** “Person” includes an individual, firm, partnership, joint venture, limited liability company, association, cooperative organization, fraternal organization, nonprofit organization, corporation, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy.

“Person” does not include a nonprofit hospital, nonprofit educational organization, or a public agency.

(*Amended by Stats. 1994, Ch. 1200, Sec. 73. Effective September 30, 1994.*)

**41004.** “Board” means the ~~State Board of Equalization~~ California Department of Tax and Fee Administration.

(*Added by Stats. 1976, Ch. 443.*)

**41005.** “In this state” means within the exterior limits of the State of California and includes all territory within those limits owned by or ceded to the United States of America.

(*Added by Stats. 1974, Ch. 443.*)

**41006.** “Public agency” means this state, and any city, county, city and county, municipal corporation, public district, or public authority located in whole or in part within this state which provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services.

*(Added by Stats. 1976, Ch. 443.)*

**41007.** ~~(a) “Service supplier” shall mean both of the following: a person supplying an access line to a service user in this state.~~

~~(1) A person supplying intrastate telephone communication services to a service user in this state pursuant to California intrastate tariffs and providing access to the “911” emergency system by utilizing the digits 9-1-1.~~

~~(2) A person supplying Voice over Internet Protocol (VoIP) service to a service user in this state and providing access to the “911” emergency system by utilizing the digits 9-1-1.~~

~~(b) On and after January 1, 1988, “service supplier” also includes a person supplying intrastate telephone communication services for whom the Public Utilities Commission, by rule or order, modifies or eliminates the requirement for that person to prepare and file California intrastate tariffs.~~

41007.1 is added

**41007.1** “Access line” shall mean:

(a) A wireline communications service line;

(b) A wireless communications service line; or

(c) A VoIP service line.

41007.2 is added

**41007.2** (a) “Wireline communications service” shall mean a local exchange service provided at a physical location in this state that enables access to the 9-1-1 emergency communications system.

(b) For the purposes of the surcharge imposed by Chapter 2 of Part 20:

(1) A wireline communications service access line does not include a direct inward dialing number, extension, or other similar feature that routes an inbound call and cannot provide access to the 9-1-1 emergency communications system.

(2) The number of surcharges imposed shall not exceed the total number of concurrent outbound calls that can be placed to the emergency communications system at a single point of time.

(c) This definition shall apply only to this part.

41007.3 is added

**41007.3** (a) “Wireless communications service line” shall mean a mobile telecommunications service provided to an end user with a place of primary use in this state that enables the end user to access the 9-1-1 emergency communications system including prepaid mobile telephony service.

(b) For the purposes of the surcharge imposed by this Chapter 2 of Part 20, not more than one surcharge may be imposed per mobile telephone number assigned to an end user of mobile telecommunications service.

(c) This definition shall apply only to this part.

**1008.** As used in this part, “month” shall mean a calendar month.

*(Added by Stats. 1976, Ch. 443.)*

**41009.** “Service user” means any person ~~using intrastate telephone communication services or VoIP service~~ an access line in this state who is required to pay a surcharge under the provisions of this part.

*(Amended by Stats. 2008, Ch. 17, Sec. 2. Effective May 21, 2008.)*

**41010.** “Intrastate telephone communication services” means all local or toll telephone services where the point or points of origin and the point or points of destination of the service are all located in this state.

*(Added by Stats. 1976, Ch. 443.)*

**41011.** (a) “Charges for services” means all charges billed by a service supplier to a service user for intrastate telephone communication services and shall mean local telephone service and include monthly service flat-rate charges for usage, message unit charges and shall mean toll charges, and include intrastate wide area telephone service charges and also means all charges billed by a service supplier to a service user for VoIP service.

(b) (1) “Charges for services” shall not include any tax imposed by the United States or by any charter city, charges for service paid by inserting coins in a public coin-operated telephone, and shall not apply to amounts billed to nonsubscribers for coin shortages. Where a coin-operated telephone service is furnished for a guarantee or other periodic amount, such amount is subject to the surcharge imposed by this part.

(2) “Charges for services” shall not include charges for intrastate toll calls where bills for such calls originate out of California.

(3) "Charges for services" shall not include charges for any nonrecurring, installation, service connection or one-time charge for service or directory advertising, and shall not include private communication service charges, charges for other than communication service, or any charge made by a hotel or motel for service rendered in placing calls for its guests regardless of how such hotel or motel charge is denominated or characterized by an applicable tariff of the Public Utilities Commission of this state.

(4) "Charges for services" shall not include charges for basic exchange line service for lifeline services.

*(Amended by Stats. 2010, Ch. 328, Sec. 219. (SB 1330) Effective January 1, 2011.)*

**41012.** "Public telephone" means any coin-operated telephone provided by the serving telephone company accessible to the public.

*(Added by Stats. 1976, Ch. 443.)*

**41013.** "Surcharge" means a tax levied by this state.

*(Added by Stats. 1976, Ch. 443.)*

**41014.** Notwithstanding any other provision of law to the contrary, persons subject to the jurisdiction of the Public Utilities Commission of the State of California need not obtain an authorization from the commission to comply with the provisions of this part, nor shall such persons obtain any such authorization on behalf of any hotel or motel, in order that such entities be permitted to collect and recoup the surcharge imposed hereby upon any charge for services measured by time units or other time measurement, from their guests, in addition to any applicable tariff rates.

*(Added by Stats. 1974, Ch. 443.)*

**41015.** "Local telephone service" shall mean both of the following:

(a) The access to a local telephone system, and the privilege of telephonic quality communication with substantially all persons having telephone or radiotelephone stations constituting a part of the local telephone system.

(b) Any facility or service provided in connection with a service described in subdivision (a).

The term "local telephone service" does not include any service which is a "toll telephone service" or a "private communication service."

*(Amended by Stats. 1987, Ch. 38, Sec. 9.)*

**41016.** "Toll telephone service" means either of the following:

(a) A telephonic quality communication that meets both of the following requirements:

(1) There is a toll charge for the service that varies in amount with either the distance or elapsed transmission time, or the distance and elapsed transmission time, of each individual communication.

(2) The charge is paid within the United States.

(b) A service which entitles the subscriber, upon payment of a periodic charge (determined as a flat amount or upon the basis of total elapsed transmission time), to the privilege of a predetermined amount of units or dollars of telephonic communications or an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radiotelephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

*(Amended by Stats. 2008, Ch. 17, Sec. 4. Effective May 21, 2008.)*

**41016.5.** (a) “VoIP service” means any service that satisfies the requirements set forth in paragraph (1) and (2).

(1) Does all of the following:

(A) Enables real-time, two-way voice communication that originates from and terminates to the user’s location using Internet Protocol (IP) or any successor protocol.

(B) Requires a broadband connection from the user’s location.

(C) Permits users, generally, to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(2) Does at least one of the following:

(A) Requires Internet protocol-compatible customer premises equipment (CPE).

(B) When necessary, is converted to or from transmission control protocol (TCP)/IP by the service user’s service supplier before or after being switched by the public switched telephone network.

(C) Is a service that the Federal Communications Commission (FCC) has affirmatively required to provide 911 or E911 service.

(b) For the purposes of the surcharge imposed by Chapter 2 of Part 20:

(1) A VoIP service line does not include a direct inward dialing number, extension, or other similar feature that routes an inbound call and cannot provide access to the 9-1-1 emergency communications system.

(2) The number of surcharges imposed shall not exceed the total number of concurrent outbound calls that can be placed to the emergency communications system at a single point of time.

(b)c) This definition shall only apply to this part.

**41017.** “Private communication service” shall mean

(a) The communication service furnished to a subscriber which entitles the subscriber—

- (1) To exclusive or priority use of any communication channel or groups of channels, or
  - (2) To the use of an intercommunication system for the subscriber's stations, regardless of whether such channel, groups of channels, or intercommunication system may be connected through switching with a service described in Sections 41015 and 41016,
- (b) Switching capacity, extension lines and stations, or other associated services which are provided in connection with, and are necessary or unique to the use of channels or systems described in subdivision (a), and
- (c) The channel ~~mileage~~ which connects a telephone station located outside a local telephone system area with a central office in such local telephone system, except that such term shall not include any communication service unless a separate charge is made for such service.

*(Added by Stats. 1976, Ch. 443.)*

**41018.** "Communications equipment company" shall mean a manufacturer or vendor that sells or leases communications equipment.

*(Added by Stats. 1976, Ch. 443.)*

**41019.** No surcharge shall be imposed on charges for any types of service or equipment furnished by a service supplier subject to state or federal public utility regulation during any period in which the same or similar services or equipment are also available for sale or lease from persons not subject to state or federal public utility regulation.

*(Amended by Stats. 1986, Ch. 1477, Sec. 2. Effective September 30, 1986.)*

**41019.5.** (a) It is the intent of the Legislature that telephone quality communication utilizing VoIP shall not be regulated by the enactment of Senate Bill 1040 of the 2007–08 Regular Session. The sole purpose of this act is to ensure that all forms of telephonic quality communications that connect to the "911" emergency system contribute to the State Emergency Telephone Number Account and that this act may not be used by a court or administrative body for any purpose other than to interpret and apply this part.

(b) For purposes of this section only, "VoIP" means any service that:

- (1) Enables real-time or two-way voice communication that originates or terminates from the user's location using IP or any successor protocol.
- (2) Uses a broadband connection from the user's location, including any service that permits users, generally, to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

*(Added by Stats. 2008, Ch. 17, Sec. 6. Effective May 21, 2008.)*

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*( Heading of Division 2 amended by Stats. 1968, Ch. 279. )*

**PART 20. EMERGENCY TELEPHONE USERS SURCHARGE ACT [41001 - 41176]**

*( Heading of Part 20 amended by Stats. 2017, Ch. 561, Sec. 241. )*

**CHAPTER 2. The Surcharge [41020 - 41041]**

*( Chapter 2 added by Stats. 1976, Ch. 443. )*

**ARTICLE 1. Imposition of the Surcharge [41020 - 41027]**

*( Article 1 added by Stats. 1976, Ch. 443. )*

**41020.** ~~(a) A surcharge is hereby imposed on amounts paid by every person in the state for both of the following:~~

~~(1) (A) Intrastate telephone communication service in this state. service user at an amount determined under Article 2 of this Chapter.~~

~~(B) (b) (1) Notwithstanding subparagraph subdivision (Aa), on and after January 1, 2016, and before until January 1, 2020, in lieu of the surcharge imposed under subparagraph subdivision (Aa), a surcharge shall be imposed on amounts paid for prepaid mobile telephony services pursuant to the Prepaid Mobile Telephony Services Surcharge Collection Act (Part 21 (commencing with Section 42001)).~~

~~(2) VoIP service that provides access to the “911” emergency system by utilizing the digits 9-1-1 by any service user in this state commencing on January 1, 2009. The surcharge shall not apply to charges for VoIP service where any point of origin or destination is outside of this state.~~

~~(b) (1) Notwithstanding Section 41025, charges not subject to the surcharge may be calculated by a service supplier based upon books and records kept in the regular course of business, and, for purposes of calculating the interstate revenue portion not subject to the surcharge, a service supplier may also choose a reasonable and verifiable method from the following:~~

~~(A) Books and records kept in the regular course of business.~~

~~(B) Traffic or call pattern studies representative of the service supplier’s business within California.~~

~~(C) For VoIP service only, the VoIP safe harbor factor established by the FCC to be used to calculate the service supplier’s contribution to the federal Universal Service Fund. The FCC safe harbor factor in effect for VoIP service on September 1 of each year shall apply for the period of January 1 to December 31, inclusive, of the next succeeding calendar year for purposes of this method. At the time the FCC establishes a safe harbor factor for the federal Universal Service Fund for VoIP service that is greater than 75 percent for interstate revenue or abolishes the safe~~

~~harbor factor applicable to VoIP service, this method shall become void and of no effect, in which case a VoIP service supplier may use an alternative method approved in advance by the board, which shall be available to all VoIP service suppliers. The FCC safe harbor factor applicable to VoIP service, as described in this subparagraph, is used solely as a mechanism to calculate the charges not subject to the surcharge for VoIP service and is not necessarily reflective of the intrastate portion of VoIP service. The use of the FCC safe harbor factor authorized by this subdivision shall not be interpreted to permit application of any intrastate requirement, other than the surcharge imposed under this part, upon VoIP service suppliers.~~

~~(2) Any method chosen by a service supplier shall remain in effect for at least one calendar year.~~

~~(3) If a service supplier reasonably relies upon books and records kept in the regular course of business or any documentation that satisfies the reasonable and verifiable method, then the service supplier's determination of the portion of the billed amount attributable to services not subject to the surcharge shall be rebuttably presumed to be correct. The service supplier's choice of books and records or other method and surcharge billing practice shall also be rebuttably presumed to be fair and legal business practices.~~

~~(4) It is the intent of the Legislature that the provisions of subparagraph (C) shall not be considered to be a precedent for the application of the surcharge or any other tax or fee where a person is required to collect a tax or fee imposed upon another.~~

~~(e) The surcharge imposed shall be at the rate of one half of 1 percent of the charges made for the services to and including November 1, 1982, and thereafter at a rate fixed pursuant to Article 2 (commencing with Section 41030).~~

After January 1, 2020, the prepaid mobile telephone services will be subject to the surcharge imposed by subdivision (a).

(2) Notwithstanding subdivision (a), on and after January 1, 2016, and until January 1, 2020, the 9-1-1 surcharge imposed on prepaid mobile telephony services shall be three-quarters of one percent of the charges for mobile telecommunications services.

~~(d)~~ The surcharge shall be paid by the service user as hereinafter provided.

~~(e)~~ The surcharge imposed shall not apply to either of the following:

(1) In accordance with the Mobile Telecommunications Sourcing Act (Public Law 106-252), which is incorporated herein by reference, to any charges for mobile telecommunications services billed to a customer where those services are provided, or deemed provided, to a customer whose place of primary use is outside this state. Mobile telecommunications services shall be deemed provided by a customer's home service provider to the customer if those services are provided in a taxing jurisdiction to the customer, and the charges for those services are billed by or for the customer's home service provider.

(2) To any charges for VoIP service billed to a customer where those services are provided to a customer whose place of primary use of VoIP service is outside this state.

~~(f)~~ For purposes of this section:

(1) "Charges for mobile telecommunications services" means any charge for, or associated with, the provision of commercial mobile radio service, as defined in Section 20.3 of Title 47 of the



Code of Federal Regulations, as in effect on June 1, 1999, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service, that is billed to the customer by or for the customer's home service provider, regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(2) "Customer" means (A) the person or entity that contracts with the home service provider for mobile telecommunications services, or with a VoIP service provider for VoIP service, or (B) if the end user of mobile telecommunications services or VoIP service is not the contracting party, the end user of the mobile telecommunications service or VoIP service. This paragraph applies only for the purpose of determining the place of primary use. The term "customer" does not include (A) a reseller of mobile telecommunications service or VoIP communication service, or (B) a serving carrier under an arrangement to serve the mobile customer outside the home service provider's licensed service area.

(3) "Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(4) "Licensed service area" means the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

(5) "Mobile telecommunications service" means commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, as in effect on June 1, 1999.

(6) "Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service or VoIP service primarily occurs, that must be:

(A) The residential street address or the primary business street address of the customer.

(B) With respect to mobile telecommunications service, within the licensed service area of the home service provider.

(7) (A) "Reseller" means a provider who purchases telecommunications services or VoIP service from another telecommunications service provider or VoIP service and then resells the services, or uses the services as a component part of, or integrates the purchased services into, a mobile telecommunications service or VoIP service.

(B) "Reseller" does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(8) "Serving carrier" means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed area.

(9) "Taxing jurisdiction" means any of the several states, the District of Columbia, or any territory or possession of the United States, any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other political subdivision within the territorial limits of the United States with the authority to impose a tax, charge, or fee.

(10) "VoIP service provider" means that provider of VoIP service with whom the end user customer contracts for the provision of VoIP services for the customer's own use and not for resale.

(11) "Prepaid mobile telephony services" has the same meaning as in subdivision (k) of Section 42004.

*(Amended by Stats. 2014, Ch. 885, Sec. 4. (AB 1717) Effective September 30, 2014.)*

**41021.** (a) A service supplier shall collect the surcharge from each service user at the time it collects its billings from the service user, provided that the duty to collect the surcharge from a service user shall commence with the beginning of the first regular billing period applicable to that person which starts on or after the operative date of the surcharge imposed by this part. If the stations or lines of more than one service supplier are utilized in furnishing the telephone communication services to the service user, the service supplier that bills the customer shall collect the surcharge from the customer.

(b) Only one payment under this part shall be required with respect to the surcharge on a service, notwithstanding that the lines or stations of one or more service suppliers are used in furnishing that service.

*(Amended by Stats. 2008, Ch. 179, Sec. 205. Effective January 1, 2009.)*

**41022.** The surcharge required to be collected by the service supplier shall be added to and stated separately in its billings to the service user.

*(Added by Stats. 1976, Ch. 443.)*

**41023.** The surcharge required to be collected by the service supplier, and any amount unreturned to the service user which is not a surcharge but was collected from the service user as representing a surcharge, constitute debts owed by the service supplier to this state.

A service supplier that has collected any amount of surcharge in excess of the amount of surcharge imposed by this part and actually due from a service user, may refund such amount to the service user, even though such surcharge amount has already been paid over to the board and no corresponding credit or refund has yet been secured. Any service supplier making a refund of any charge to a service user upon which surcharge is collected under this part from the service user may repay therewith the amount of the surcharge paid. The service supplier may claim credit for such overpayment against the amount of surcharge imposed by this part which is due upon any other quarterly return, providing such credit is claimed in a return dated no later than three years from the date of overpayment.

*(Added by Stats. 1976, Ch. 443.)*

**41024.** Every service user in this state is liable for the surcharge until it has been paid to this state, except that payment to a service supplier registered under this part is sufficient to relieve the user from further liability for the tax.

Any surcharge collected from a service user which has not been remitted to the board shall be deemed a debt owed to the State of California by the person required to collect and remit such surcharge. Nothing in this part shall impose any obligation upon a service supplier to take any legal action to enforce the collection of the utility users surcharge imposed by this part. The service supplier shall provide the board with amounts uncollected which total three dollars (\$3)

or more on a cumulative basis with respect to a single service user along with the names, addresses and reasons of the service users refusing to pay the surcharge imposed by this part.

*(Amended by Stats. 1981, Ch. 947, Sec. 23.)*

41025. Repealed.

~~**41025.** If a bill is rendered to persons using intrastate telephone services or VoIP service, the amount on which the surcharge with respect to such services shall be based shall be the sum of all charges for such services included in the bill; except that if the person who renders the bill groups individual items for purposes of rendering the bill and computing the surcharge, then the amount on which the surcharge with respect to each such group shall be based shall be the sum of all items within that group, and the surcharge on the remaining items not included in any such group shall be based on the charge for each item separately.~~

~~*(Amended by Stats. 2008, Ch. 17, Sec. 8. Effective May 21, 2008.)*~~

**41026.** In the payment of the surcharge imposed by this part, a fractional part of a cent shall be disregarded unless it amounts to one-half or more, in which case it shall be increased to one cent.

*(Added by Stats. 1976, Ch. 443.)*

**41027.** Nothing in this part shall be construed as imposing a surcharge upon amounts paid by any person when imposition of such surcharge would be in violation of the Constitution of the United States, the United States Code, or the laws of the State of California, nor upon toll charges used in the collection and dissemination of news for the public press or on charges for wide area telephone service used by common carriers in the conduct of their business.

*(Added by Stats. 1976, Ch. 443.)*

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#### CHAPTER 2. The Surcharge [41020 - 41041]

( *Chapter 2 added by Stats. 1976, Ch. 443.*  )

#### ARTICLE 2. Adjustment of Surcharge Rate Amount [41030 - 41033]

( *Article 2 added by Stats. 1976, Ch. 443.*  )

**41030.** (a) The Office of Emergency Services shall determine annually, on or before October 1, to be effective on January 1 of the following year, a surcharge ~~rate~~ amount pursuant to subdivision (b) that it estimates will produce sufficient revenue to fund the current fiscal year's 911 costs.

(b) ~~(1)~~ The surcharge ~~rate~~ amount shall be determined annually by dividing the costs (including incremental costs) the Office of Emergency Services estimates for the current fiscal year of 911 costs approved pursuant to Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, less the available balance in the State Emergency Telephone Number Account in the General Fund and less estimated 911 revenues from the Prepaid MTS surcharge described in Section 41020(b), by its estimate of the charges for intrastate telephone communications services and VoIP service number of access lines to which the surcharge will apply ~~for the period of January 1, 2015, to December 31, inclusive, of the next succeeding calendar year, per month for a period of January 1 to December 31,~~ but in no event shall the surcharge ~~rate~~ amount in any year be greater than three-quarters of 1 percent nor less than one-half of 1 percent month be greater than eighty cents per access line per month nor less than twenty cents per access line per month.

~~(2) Commencing with the calculation made October 1, 2015, to be effective January 1, 2016, the surcharge shall be determined by dividing the costs (including incremental costs) the Office of Emergency Services estimates for the current fiscal year of 911 costs approved pursuant to Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, less the available balance in the State Emergency Telephone Number Account in the General Fund, by its estimate of the charges for intrastate telephone communications services, the intrastate portion of prepaid mobile telephony services, and VoIP service to which the surcharge will apply for the period of January 1 to December 31, inclusive, of the next succeeding calendar year, but in no event shall the surcharge rate in any year be greater than three-quarters of 1 percent or less than one-half of 1 percent. In making its computation of the charges that are applicable to the intrastate portion of prepaid mobile telephony services, the Office of Emergency Services shall use the computation method~~

~~developed by the Public Utilities Commission and reported to the Office of Emergency Services pursuant to subdivisions (a) and (b) of Section 319 of the Public Utilities Code.~~

(c) When determining the surcharge ~~rates~~ amount pursuant to this section, the office shall include the costs it expects to incur to plan, test, implement, and operate Next Generation 911 technology and services, including text to 911 service, consistent with the plan and timeline required by Section 53121 of the Government Code.

(d) Service suppliers will report the total number of access lines to the Office of Emergency Services, on or before August 1, for the previous period of January 1 through December 31. The total number of access lines must include: wireline communication service, wireless communication service line, prepaid mobile telephony service line, and VoIP service line. The number of access line figures must also be reported individually for these listed categories.

(e) The office will perform a validation of the number of access lines using FCC Form 477 Reporting data, pertaining to California. FCC Form 477 collects information about connections to end-user locations in the 50 states, the District of Columbia, and the Territories and possessions (see 47 U.S.C. § 153(58)). Data obtained from this form will be used to validate the access line data from the service suppliers.

~~(df) The office shall notify the board of the surcharge ~~rate~~ amount imposed under this part, determined pursuant to this section on or before October 1 of each year and the surcharge rate applicable to prepaid mobile telephony services determined pursuant to this section for purposes of the prepaid MTS surcharge calculated under Part 21 (commencing with Section 42001) on or before October 15 of each year.~~

(eg) At least 30 days prior to determining the surcharge pursuant to subdivision (a), the Office of Emergency Services shall prepare a summary of the calculation of the proposed surcharge and make it available to the public, the Legislature, the 911 Advisory Board, and on its Internet Web site. The summary shall contain all of the following:

- (1) The prior year revenues to fund 911 costs, including, but not limited to, revenues from prepaid service.
- (2) Projected expenses and revenues from all sources, including, but not limited to, prepaid service to fund 911 costs.
- (3) The rationale for adjustment to the surcharge determined pursuant to subdivision (b), including, but not limited to, all impacts from the surcharge collected pursuant to Part 21 (commencing with Section 42001).

(fh) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

*(Amended (as amended by Stats. 2014, Ch. 926, Sec. 2.5) by Stats. 2015, Ch. 25, Sec. 49. (SB 84) Effective June 24, 2015. Repealed as of January 1, 2020, by its own provisions. See later operative version added by Sec. 2.7 of Stats. 2014, Ch. 926.)*

**41030.** (a) The Office of Emergency Services shall determine annually, on or before October 1, a surcharge ~~rate~~ amount that it estimates will produce sufficient revenue to fund the current fiscal year's 911 costs.

(b) The surcharge ~~rate amount~~ shall be determined annually by dividing the costs (including incremental costs) the Office of Emergency Services estimates for the current fiscal year of 911 costs approved pursuant to Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, less the available balance in the State Emergency Telephone Number Account in the General Fund, by its estimate of the ~~charges for intrastate telephone communications services and VoIP service~~ number of access lines to which the surcharge will apply per month for the period of January 1 to December 31, inclusive, of the next succeeding calendar year, but in no event shall the surcharge ~~rate amount~~ in any ~~year~~ month be greater than ~~three quarters of 1 percent nor less than one half of 1 percent~~ eighty cents per access line per month nor less than twenty cents per access line per month.

(~~b~~c) When determining the surcharge ~~rate amount~~, the office shall include the costs it expects to incur to plan, test, implement, and operate Next Generation 911 technology and services, including text to 911 service, consistent with the plan and timeline required by Section 53121 of the Government Code.

(d) Service suppliers will report the total number of access lines to the Office of Emergency Services, on or before August 1, for the previous period of January 1 through December 31. The total number of access lines must include: wireline communication service, wireless communication service line, prepaid mobile telephony service line, and VoIP service line. The number of access line figures must also be reported individually for these listed categories.

(e) The office will perform a validation of the number of access lines using FCC Form 477 Reporting data, pertaining to California. FCC Form 477 collects information about connections to end-user locations in the 50 states, the District of Columbia, and the Territories and possessions (see 47 U.S.C. § 153(58)). Data obtained from this form will be used to validate the access line data from the service suppliers.

(f) The office shall notify the board of the surcharge amount imposed under this part, determined pursuant to this section on or before October 1 of each year.

(~~e~~g) At least ~~one month~~ 30 days before determining the surcharge ~~rate amount~~ pursuant to subdivision (a), the office shall prepare a summary of the calculation of the proposed surcharge and make it available to the Legislature and the 911 Advisory Board, and on the office's Internet Web site.

(~~d~~h) This section shall become operative on January 1, 2020.

*(Repealed (in Sec. 2.5) and added by Stats. 2014, Ch. 926, Sec. 2.7. (SB 1211) Effective January 1, 2015. Section operative as of January 1, 2020, by its own provisions.)*

**41031.** The Office of Emergency Services shall make its determination of the surcharge ~~rate amount~~ each year no later than October 1 and shall notify the board of the new ~~rate amount~~, which shall be fixed by the board to be effective with respect to ~~charges made for intrastate telephone communication services and VoIP service~~ access lines on or after January 1 of the next succeeding calendar year.

*(Amended by Stats. 2013, Ch. 28, Sec. 79. (SB 71) Effective June 27, 2013. Operative July 1, 2013, by Sec. 93 of Ch. 28.)*

**41032.** Immediately upon notification by the Office of Emergency Services and fixing the surcharge rate amount, the board shall each year no later than November 15 publish in its minutes the new rate amount, and it shall notify every service supplier registered with it of the new rate amount by a means, or means determined by the board, that may include, but is not limited to, mail, electronic mail, or Internet Web site postings.

*(Amended by Stats. 2015, Ch. 25, Sec. 50. (SB 84) Effective June 24, 2015.)*

41033. Repealed

**41033.** (a) ~~For purposes of this section, the following terms have the following meanings:~~

~~(1) “Direct seller,” “prepaid mobile telephony services,” “prepaid MTS provider,” “retail transaction,” and “seller” have the same meanings as defined in Section 42004.~~

~~(2) “Prepaid MTS 911 Account” means the Prepaid MTS 911 Account created in the Prepaid Mobile Telephony Services Surcharge Fund pursuant to Section 42023.~~

~~(b) (1) For each fiscal year, beginning with the 2016–17 fiscal year and ending with the 2018–19 fiscal year, the board shall calculate the following on or before the November 1 following the end of that fiscal year:~~

~~(A) The total collections for the fiscal year of that portion of the prepaid MTS surcharge that is for the emergency telephone users surcharge, net of any amounts that a seller was permitted to deduct and retain pursuant to subdivision (e) of Section 42010.~~

~~(B) Less the expenses incurred and reimbursed to the board for the fiscal year from that portion of the prepaid MTS surcharge that is for the emergency telephone users surcharge pursuant to subdivision (e) of Section 42020.~~

~~(2) The board shall provide notification of whether the amount calculated in this section exceeds or is less than nine million nine hundred thousand dollars (\$9,900,000) on its Internet Web site by December 15 following the calculation, along with the underlying calculations, assumptions, and methodology.~~

~~(c) If for any fiscal year the calculation performed pursuant to subdivision (b) results in an amount less than nine million nine hundred thousand dollars (\$9,900,000), the deficiency shall be the responsibility, on a pro rata basis of each prepaid MTS provider or direct seller, as provided in this subdivision. The board shall calculate the deficiency and bill each prepaid MTS provider or direct seller its pro rata share of that deficiency based upon each prepaid MTS provider’s or direct seller’s percentage share of total California intrastate prepaid mobile telephony services revenues, as reported to the Public Utilities Commission pursuant to Section 319 of the Public Utilities Code for the prior fiscal year.~~

~~(d) For each fiscal year, beginning with the 2016–17 fiscal year and ending with the 2018–19 fiscal year, each prepaid MTS provider or direct seller shall, on or before September 1 of each year, report to the board the amount of that portion of the prepaid MTS surcharge that is for the~~

~~emergency telephone users surcharge, remitted by the provider or seller pursuant to subdivision (f) of Section 42010 for the prior fiscal year.~~

~~(e) The Public Utilities Commission, within 45 days of request, shall provide the board the name and address of each prepaid MTS provider and direct seller and each prepaid MTS provider's and direct seller's California intrastate prepaid mobile telephone services revenue, along with the provider's and seller's percentage share of total California intrastate prepaid mobile telephony services revenue for the prior fiscal year, and any other information the board deems necessary.~~

~~(f) The obligation of each prepaid MTS provider and direct seller shall be enforced by serving a notice in the manner prescribed for service of a notice of a deficiency determination, not later than three years after the date the board determines that the calculation performed pursuant to subdivision (b) results in a deficiency for the previous fiscal year. Notwithstanding any provisions to the contrary in this part, a petition for a redetermination of a notice issued pursuant to this subdivision may be filed within 60 days after service upon the person of notice thereof. Solely for purposes of a notice issued pursuant to this subdivision, interest shall begin to accrue at the expiration of the 60 day period. If a petition for redetermination is not filed within the 60-day period, the determination becomes final at the expiration of that period. All determinations made by the board under this section are due and payable at the time they become final. If they are not paid when due and payable, a penalty of 10 percent of the amount of the determination, exclusive of interest and penalties, shall be added thereto. Interest shall apply in accordance with Article 6 (commencing with Section 41095). The liability imposed by this section shall be collected by the board in accordance with the provisions of this part.~~

~~(g) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.~~

*(Added by Stats. 2014, Ch. 885, Sec. 7. (AB 1717) Effective September 30, 2014. Repealed as of January 1, 2020, by its own provisions.)*



**REVENUE AND TAXATION CODE - RTC**

**DIVISION 2. OTHER TAXES [6001 - 60709]**

*( Heading of Division 2 amended by Stats. 1968, Ch. 279. )*

**PART 20. EMERGENCY TELEPHONE USERS SURCHARGE ACT [41001 - 41176]**

*( Heading of Part 20 amended by Stats. 2017, Ch. 561, Sec. 241. )*

**CHAPTER 4. Determination of Surcharge [41050 - 41099]**

*( Chapter 4 added by Stats. 1976, Ch. 443. )*

**ARTICLE 1. Due and Payable Dates [41050 - 41056]**

*( Article 1 added by Stats. 1976, Ch. 443. )*

**41050.**

The surcharge imposed by Section 41020 attaches at the time charges for the intrastate telephone communication services and VoIP service are billed by the service supplier to the service user and shall be paid by the service user when paying for such services.

*(Amended by Stats. 2008, Ch. 17, Sec. 12. Effective May 21, 2008.)*

**41051.**

The surcharges imposed by this part and the amounts thereof required to be collected are due monthly, and the amount of surcharge collected in one calendar month by the service supplier shall be remitted to the board on or before the last day of the second month following the month in which the surcharges were collected. However, the fourth quarter collection for the 1996 calendar year shall be remitted no later than February 15, 1997.

*(Amended by Stats. 1996, Ch. 432, Sec. 1. Effective January 1, 1997.)*

**41052.** On or before the last day of the second month following each month in which the surcharges were collected, a return for that month shall be filed with the board in the form as prescribed by the board, which may include, but not be limited to, electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

The service supplier shall include a list of any service users who have refused to pay a cumulative total of three dollars (\$3) or more of the surcharge imposed by this part with each return filing.

*(Amended by Stats. 2002, Ch. 459, Sec. 19. Effective January 1, 2003.)*

**41052.1.** If the board deems it necessary in order to ensure payment or to facilitate the collection by the state of the amount of taxes, the board may require returns and payment of the amount of surcharges for a calendar quarter or calendar year period.

*(Amended by Stats. 1998, Ch. 350, Sec. 2. Effective January 1, 1999.)*

**41053.** The person required to file the return shall deliver the return together with a remittance of the amount of the surcharge payable to the office of the board.

*(Added by Stats. 1976, Ch. 443.)*

**41054.** (a) Except as provided in subdivision (b), the board for good cause may extend not to exceed one month the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

(b) (1) In the case of a disaster, the board, for a period not to exceed three months, may extend the time for making any report or return or paying any tax required under this part. The extension may be granted at any time provided a request therefor is filed with the board within or before the period for which the extension may be granted.

(2) For purposes of this section, “disaster” means fire, flood, storm, tidal wave, earthquake, or similar public calamity, whether or not resulting from natural causes.

*(Amended by Stats. 2016, Ch. 257, Sec. 8. (AB 1559) Effective September 9, 2016.)*

**41055.** All amounts required to be paid to the state under this part shall be paid to the board in the form of remittances payable to the ~~State Board of Equalization of the State of California~~ California Department of Tax and Fee Administration, as defined in section 41004.

*(Added by Stats. 1976, Ch. 443.)*

**41056.** The service supplier shall maintain such records as may be necessary to determine the amount of surcharge collected under provisions of this part. Those records shall be maintained for a period of four years from the time the surcharge is due.

*(Amended by Stats. 1987, Ch. 38, Sec. 10.)*

**REVENUE AND TAXATION CODE - RTC**

**DIVISION 2. OTHER TAXES [6001 - 60709]**

*( Heading of Division 2 amended by Stats. 1968, Ch. 279. )*

**PART 20. EMERGENCY TELEPHONE USERS SURCHARGE ACT [41001 - 41176]**

*( Heading of Part 20 amended by Stats. 2017, Ch. 561, Sec. 241. )*

**CHAPTER 4. Determination of Surcharge [41050 - 41099]**

*( Chapter 4 added by Stats. 1976, Ch. 443. )*

**ARTICLE 6. Interest and Penalties [41095 - 41099]**

*( Article 6 added by Stats. 1976, Ch. 443. )*

**41095.** (a) Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 41070) or Article 4 (commencing with Section 41080), within the time required shall pay a penalty of 10 percent of the surcharge or amount of the surcharge or ten dollars (\$10), whichever is greater, in addition to the surcharge or amount of surcharge, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment.

(b) Any person who fails to file a return in accordance with the due date set forth in Section 41052 or the due date established by the board in accordance with Section 41052.1, shall pay a penalty of 10 percent of the amount of the surcharge with respect to the period for which the return is required, or ten dollars (\$10), whichever is greater.

(c) The penalties imposed by this section shall be limited to either 10 percent of the surcharge for which the return is required for any one return, or ten dollars (\$10), whichever is greater.

*(Amended by Stats. 2000, Ch. 923, Sec. 35. Effective January 1, 2001.)*

**41095.5.** (a) If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the surcharge was due until the date of payment, if all of the following occur:

- (1) The payment of the surcharge was made one business day after the date the surcharge was due.
- (2) The person was granted relief from all penalties that applied to that payment of the surcharge.
- (3) The person files a request for an oral hearing before the board.

(b) For purposes of this section, “modified adjusted daily rate” means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, “board” means the members of the Board, as defined in 41004, meeting as a public body.

(d) For purposes of this section, “business day” means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(e) This section shall not apply to any payment made pursuant to a deficiency determination, or a determination where no return has been filed.

(f) This section shall only apply to electronic payments of surcharges.

*(Repealed and added by Stats. 2016, Ch. 264, Sec. 16. (AB 2201) Effective January 1, 2017.)*

**41096.** (a) If the board finds that a person’s failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person’s control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 41060, 41080, 41090, and 41095.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

*(Amended by Stats. 2000, Ch. 1052, Sec. 49.5. Effective January 1, 2001.)*

**41097.** If the board finds that a person’s failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 41054, 41060, 41082, and 41095.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

*(Amended by Stats. 2000, Ch. 923, Sec. 37. Effective January 1, 2001.)*

**41097.5.** (a) The board, in its discretion, may relieve all or any part of the interest imposed on a person by this part where the failure to pay tax is due in whole or in part to an unreasonable error or delay by an employee of the board acting in his or her official capacity.

(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the taxpayer.

(c) Any person seeking relief under this section shall file with the board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the board may require.

(d) The board may grant relief only for interest imposed on tax liabilities that arise during taxable periods commencing on or after January 1, 2000.

*(Amended by Stats. 2001, Ch. 251, Sec. 29. Effective January 1, 2002.)*

**41098.** (a) If the board finds that a person's failure to make a timely return or payment is due to the person's reasonable reliance on written advice from the board, the person may be relieved of the surcharge imposed by this part and any penalty or interest added thereto.

(b) For purposes of this section, a person's failure to make a timely return or payment shall be considered to be due to reasonable reliance on written advice from the board, only if the board finds that all of the following conditions are satisfied:

(1) The person requested in writing that the board advise him or her whether a particular activity or transaction is subject to the surcharge under this part. The specific facts and circumstances of the activity or transaction shall be fully described in the request.

(2) The board responded in writing to the person regarding the written request for advice, stating whether or not the described activity or transaction is subject to the surcharge, or stating the conditions under which the activity or transaction is subject to the surcharge.

(3) The liability for surcharges applied to a particular activity or transaction which occurred before either of the following:

(A) Before the board rescinded or modified the advice so given, by sending written notice to the person of rescinded or modified advice.

(B) Before a change in statutory or constitutional law, a change in the board's regulations, or a final decision of a court, which renders the board's earlier written advice no longer valid.

(c) Any person seeking relief under this section shall file with the board all of the following:

(1) A copy of the person's written request to the board and a copy of the board's written advice.

(2) A statement under penalty of perjury setting forth the facts on which the claim for relief is based.

(3) Any other information which the board may require.

(d) Only the person making the written request shall be entitled to rely on the board's written advice to that person.

*(Added by Stats. 1990, Ch. 987, Sec. 8.)*

**41099.** (a) Under regulations prescribed by the board, if:

(1) A surcharge liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of surcharge liability

is attributable to one spouse; or any amount of the surcharge reported on a return was unpaid and the nonpayment of the reported surcharge liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in surcharge attributable to that understatement or nonpayment,

then the other spouse shall be relieved of liability for the surcharge, including interest, penalties, and other amounts, to the extent that the liability is attributable to that understatement or nonpayment of the surcharge.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months, quarters, or years subject to the provisions of this part, but shall not apply to a calendar month, quarter, or year that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), “reason to know” means whether a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, “attributable to one spouse” may be determined by whether a spouse rendered substantial service as a service supplier of intrastate telephone communication services to service users or as a user of intrastate telephone communication services to which the understatement is attributable. If neither spouse rendered substantial services as a service supplier or as a service user, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for an unpaid surcharge or deficiency, or any portion of either, attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to January 1, 2008.

*(Amended by Stats. 2008, Ch. 179, Sec. 207. Effective January 1, 2009.)*

**REVENUE AND TAXATION CODE - RTC**

**DIVISION 2. OTHER TAXES [6001 - 60709]**

*( Heading of Division 2 amended by Stats. 1968, Ch. 279. )*

**PART 20. EMERGENCY TELEPHONE USERS SURCHARGE ACT [41001 - 41176]**

*( Heading of Part 20 amended by Stats. 2017, Ch. 561, Sec. 241. )*

**CHAPTER 7. Administration [41128 - 41176]**

*( Chapter 7 added by Stats. 1976, Ch. 443. )*

**ARTICLE 2. Disposition of Proceeds [41135 - 41142]**

*( Article 2 added by Stats. 1976, Ch. 443. )*

**41135.** All amounts required to be paid to the state under this part shall be paid to the board in the form of remittances payable to the ~~State Board of Equalization of the State of California, as defined in Section 41004.~~ The board shall transmit the payments to the State Treasurer to be deposited in the State Treasury to the credit of the State Emergency Telephone Number Account in the General Fund, which is hereby created.

*(Added by Stats. 1976, Ch. 443.)*

**41136.** From the funds in the State Emergency Telephone Number Account, a minimum of ~~one-half of 1 percent of the charges for intrastate telephone communications and VoIP service to which the surcharge applies shall~~ seventy five percent of the surcharge collected, when appropriated by the Legislature, be spent solely for the following purposes:

- (a) To pay refunds authorized by this part.
- (b) To pay the ~~State Board of Equalization~~ Board, as defined in Section 41004, for the cost of the administration of this part.
- (c) To pay the Office of Emergency Services for its costs in administration of the “911” emergency telephone number system.
- (d) To pay bills submitted to the Office of Emergency Services by service suppliers or communications equipment companies for the installation of, and ongoing expenses for, the following communications services supplied to local agencies in connection with the “911” emergency phone number system:
  - (1) A basic system, defined as 9-1-1 systems, including but not limited to Next Generation 9-1-1, and the subsequent technologies, and interfaces needed to deliver 9-1-1 voice and data information from the 9-1-1 caller to the emergency responder.
  - (2) A basic system with telephone central office identification.
  - (3) A system employing automatic call routing.

(4) Approved incremental costs.

(e) To pay claims of local agencies for approved incremental costs, not previously compensated for by another governmental agency.

(f) To pay claims of local agencies for incremental costs and amounts, not previously compensated for by another governmental agency, incurred prior to the effective date of this part, for the installation and ongoing expenses for the following communication services supplied in connection with the “911” emergency telephone number system:

(1) A basic system, defined as 9-1-1 systems, including but not limited to Next Generation 9-1-1, and the subsequent technologies, and interfaces needed to deliver 9-1-1 voice and data information from the 9-1-1 caller to the emergency responder.

(2) A basic system with telephone central office identification.

(3) A system employing automatic call routing.

(4) Approved incremental costs. Incremental costs shall not be allowed unless the costs are concurred in by the Office of Emergency Services.

*(Amended by Stats. 2013, Ch. 353, Sec. 124. (SB 820) Effective September 26, 2013. Operative July 1, 2013, by Sec. 129 of Ch. 353.)*

**41136.1.** For each fiscal year, moneys in the State Emergency Telephone Number Account not appropriated for a purpose specified in Section 41136 shall be held in trust for future appropriation for upcoming, planned “911” emergency telephone number projects that have been approved by the Office of Emergency Services, even if the projects have not yet commenced.

*(Amended by Stats. 2013, Ch. 28, Sec. 82. (SB 71) Effective June 27, 2013. Operative July 1, 2013, by Sec. 93 of Ch. 28.)*

**41137.** The Office of Emergency Services shall pay, from funds appropriated from the State Emergency Telephone Number Account by the Legislature, as provided in Section 41138, bills submitted by service suppliers or communications equipment companies for the installation and ongoing costs of the following communication services provided local agencies by service suppliers in connection with the “911” emergency telephone number system:

(a) A basic system, defined as 9-1-1 systems, including but not limited to Next Generation 9-1-1, and the subsequent technologies, and interfaces needed to deliver 9-1-1 voice and data information from the 9-1-1 caller to the emergency responder.

(b) A basic system with telephone central office identification.

(c) A system employing automatic call routing.

(d) Approved incremental costs that have been concurred in by the Office of Emergency Services.

*(Amended by Stats. 2013, Ch. 28, Sec. 83. (SB 71) Effective June 27, 2013. Operative July 1, 2013, by Sec. 93 of Ch. 28.)*



**41137.1.** The Office of Emergency Services shall pay, from funds appropriated from the State Emergency Telephone Number Account by the Legislature, as provided in Section 41138, claims submitted by local agencies for approved incremental costs and for the cost of preparation of final plans submitted to the Office of Emergency Services for approval on or before October 1, 1978, as provided in Section 53115 of the Government Code.

*(Amended by Stats. 2013, Ch. 28, Sec. 84. (SB 71) Effective June 27, 2013. Operative July 1, 2013, by Sec. 93 of Ch. 28.)*

**41138.** (a) It is the intent of the Legislature that the reimbursement rates for “911” emergency telephone number equipment shall not exceed specified amounts negotiated with each interested supplier and approved by the Office of Emergency Services. The Office of Emergency Services shall negotiate supplier pricing to ensure cost-effectiveness and the best value for the “911” emergency telephone number system. The Office of Emergency Services shall pay those bills as provided in Section 41137 only under the following conditions:

(1) The Office of Emergency Services shall have received the local agency’s “911” emergency telephone number system plan by July 1 of the prior fiscal year and approved the plan by October 1 of the prior fiscal year.

(2) The Legislature has appropriated in the Budget Bill an amount sufficient to pay those bills.

(3) The Office of Emergency Services has reviewed and approved each line item of a request for funding to ensure the necessity of the proposed equipment or services and the eligibility for reimbursement.

(4) The amounts to be paid do not exceed the pricing submitted by the supplier and approved by the Office of Emergency Services. Extraordinary circumstances may warrant spending in excess of the established rate, but shall be preapproved by the Office of Emergency Services. In determining the reimbursement rate, the Office of Emergency Services shall utilize the approved pricing submitted by the supplier providing the equipment or service.

(b) This section shall not be construed to limit an agency’s ability to select a supplier or procure telecommunications equipment as long as the supplier’s pricing is preapproved by the Office of Emergency Services. Agencies shall be encouraged to procure equipment on a competitive basis. Any amount in excess of the pricing approved by the Office of Emergency Services shall not be reimbursed.

*(Amended by Stats. 2013, Ch. 28, Sec. 85. (SB 71) Effective June 27, 2013. Operative July 1, 2013, by Sec. 93 of Ch. 28.)*

**41139.** From funds appropriated by the Legislature from the Emergency Telephone Number Account, the Office of Emergency Services shall begin paying bills as provided in Sections 41137, 41137.1, and 41138 in the 1977–78 fiscal year for plans submitted by local agencies by July 1, 1976, to the Office of Emergency Services which the Office of Emergency Services has approved.

*(Amended by Stats. 2013, Ch. 28, Sec. 86. (SB 71) Effective June 27, 2013. Operative July 1, 2013, by Sec. 93 of Ch. 28.)*

**41140.** The Office of Emergency Services shall reimburse local agencies, from funds appropriated from the Emergency Telephone Number Account by the Legislature, for amounts not previously compensated for by another governmental agency, which have been paid by agencies for approved incremental costs or to service suppliers or communication equipment companies for the following communications services supplied in connection with the “911” emergency telephone number, provided local agency plans had been approved by the Office of Emergency Services:

- (a) A basic system, defined as 9-1-1 systems, including but not limited to Next Generation 9-1-1, and the subsequent technologies, and interfaces needed to deliver 9-1-1 voice and data information from the 9-1-1 caller to the emergency responder.
- (b) A basic system with telephone central office identification.
- (c) A system employing automatic call routing.
- (d) Approved incremental costs.

*(Amended by Stats. 2013, Ch. 28, Sec. 87. (SB 71) Effective June 27, 2013. Operative July 1, 2013, by Sec. 93 of Ch. 28.)*

**41141.** Claims for reimbursement shall be submitted by local agencies to the Office of Emergency Services, which shall determine payment eligibility and shall reduce the claim for charges that exceed the approved incremental costs, approved contract amounts, or the established tariff rates for costs. No claim shall be paid until funds are appropriated by the Legislature.

*(Amended by Stats. 2013, Ch. 28, Sec. 88. (SB 71) Effective June 27, 2013. Operative July 1, 2013, by Sec. 93 of Ch. 28.)*

**41142.** Notwithstanding any other provision of this article, if the Legislature fails to appropriate an amount sufficient to pay bills submitted to the Office of Emergency Services by service suppliers or communications equipment companies for the installation and ongoing communications services supplied local agencies in connection with the “911” emergency telephone number system, and to pay claims of local agencies which, prior to the effective date of this part, paid amounts to service suppliers or communications equipment companies for the installation and ongoing expenses in connection with the “911” emergency telephone number system, the obligation of service suppliers and local agencies to provide “911” emergency telephone service shall terminate and service shall not again be required until the Legislature has appropriated an amount sufficient to pay those bills or claims. This part shall not preclude local agencies from purchasing or acquiring any communication equipment from companies other than the telephone service suppliers.

*(Amended by Stats. 2013, Ch. 28, Sec. 89. (SB 71) Effective June 27, 2013. Operative July 1, 2013, by Sec. 93 of Ch. 28.)*

**REVENUE AND TAXATION CODE - RTC**

**DIVISION 2. OTHER TAXES [6001 - 60709]**

*( Heading of Division 2 amended by Stats. 1968, Ch. 279. )*

**PART 20. EMERGENCY TELEPHONE USERS SURCHARGE ACT [41001 - 41176]**

*( Heading of Part 20 amended by Stats. 2017, Ch. 561, Sec. 241. )*

**CHAPTER 7. Administration [41128 - 41176]**

*( Chapter 7 added by Stats. 1976, Ch. 443. )*

**ARTICLE 4. Purpose [41150 - 41152]**

*( Article 4 added by Stats. 1976, Ch. 443. )*

**41150.** The Legislature hereby declares and finds that to enable public agencies to implement “911” emergency phone systems required by the provisions of Chapter 1005 of the 1972 Regular Session (Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code) it is necessary that a surcharge be imposed upon ~~amounts paid~~ access lines used by every person in the state ~~for intrastate telephone communication services in this state~~ to access the 9-1-1 emergency communication system. This bill will provide funding for basic 911, ~~basic 911 (including telephone central office identification)~~ 911 with selective routing or a combination of the above. These services will include ~~incoming 911 lines/trunks, 911 answering positions including common control equipment, transfer lines and transfer positions~~ as defined in Section 41136 and the technology and interfaces needed to deliver 9-1-1 voice and data information from the 9-1-1 caller to the emergency responder. In addition, this part will provide funding for incremental costs.

*(Added by Stats. 1976, Ch. 443.)*

**41152.** The Legislature finds and declares all of the following:

- (a) Access to emergency telephone service has been a longstanding goal of the state.
- (b) The Emergency Telephone Users Surcharge Act remains an important means for making emergency telephone service available to every person in this state.
- (c) Every reasonable means should be employed by telephone corporations and every provider of telephone quality communication to ensure that every person using their service is informed of and is afforded the opportunity to use emergency telephone service, regardless of the means by which emergency telephone calls are placed.
- (d) The furnishing of emergency telephone service is in the public interest and should be supported fairly and equitably by every telephone corporation and every provider of telephone quality communication in a way that is equitable, nondiscriminatory, and competitively neutral.

*(Added by Stats. 2008, Ch. 17, Sec. 13. Effective May 21, 2008.)*

## **REVENUE AND TAXATION CODE - RTC**

### **DIVISION 2. OTHER TAXES [6001 - 60709]**

*( Heading of Division 2 amended by Stats. 1968, Ch. 279. )*

### **PART 21. Prepaid Mobile Telephony Services Surcharge Collection Act [42001 - 42024]**

*( Part 21 added by Stats. 2014, Ch. 885, Sec. 8. )*

### **CHAPTER 1. General Provisions and Definitions [42001 - 42004]**

*( Chapter 1 added by Stats. 2014, Ch. 885, Sec. 8. )*

**42001.** This part shall be known, and may be cited, as the Prepaid Mobile Telephony Services Surcharge Collection Act.

*(Added by Stats. 2014, Ch. 885, Sec. 8. (AB 1717) Effective September 30, 2014. Repealed as of January 1, 2020, pursuant to Section 42024.)*

**42002.** The Legislature finds and declares all of the following:

- (a) Maintaining effective and efficient communications services, 911 emergency systems, communications-related public policy programs to promote universal service, and various local programs across the state benefits all persons with access to the telecommunications system.
- (b) Providers of end-use communications services, including providers of mobile voice telecommunications services, which the Federal Communications Commission terms mobile telephony service, are required to collect and remit communications taxes, fees, and surcharges on various types of communication service revenues, as provided by existing state or local law.
- (c) Consumers purchase prepaid mobile telephony services at a wide variety of retail locations and other distribution channels, as well as through service providers.
- (d) Prepaid mobile telephony services are an important and growing segment of the communications industry. Prepaid mobile telephony services are often the only means by which persons with low incomes can obtain limited access to the telecommunications system.
- (e) To ensure equitable contributions from end-use consumers of postpaid and prepaid mobile telephony services in this state, there should be standardization with respect to the method used to collect communications taxes, fees, and surcharges from end-use consumers of prepaid mobile telephony services.
- (f) Prepaid mobile telephony services are frequently sold by a third-party retailer that is not the provider of mobile telephony services, and collecting taxes, fees, and surcharges from prepaid consumers of mobile telephony services at the time of the retail transaction is necessary and the most efficient and competitively neutral means of collection.

(g) An equitable distribution mechanism is necessary to ensure that utility user taxes and other telecommunication charges are collected on behalf of cities and counties and are properly distributed to those jurisdictions.

*(Added by Stats. 2014, Ch. 885, Sec. 8. (AB 1717) Effective September 30, 2014. Repealed as of January 1, 2020, pursuant to Section 42024.)*

**42004.** For purposes of this part, the following terms have the following meanings:

- (a) “Board” means the ~~State Board of Equalization~~ Board as defined in Section 41004.
- (b) (1) “Direct seller” means a prepaid MTS provider or service supplier, as defined in Section 41007, that makes a sale of prepaid mobile telephony services directly to a prepaid consumer for any purpose other than resale in the regular course of business. A direct seller includes, but is not limited, to any of the following:
  - (A) A telephone corporation, as defined by Section 234 of the Public Utilities Code.
  - (B) An interconnected Voice over Internet Protocol (VoIP) service, as defined in Section 285 of the Public Utilities Code.
  - (C) A retailer, as defined by Section 6203, that is a member of the same commonly controlled group, as defined in Section 25105, or that is a member of the same combined reporting group, as defined in paragraph (3) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations, as an entity described in subparagraph (A) or (B).
- (2) For purposes of this subdivision, “sale” means any transfer of title, possession, exchange, or barter, conditional or otherwise.
- (c) “Emergency telephone users surcharge” means surcharges authorized pursuant to the Emergency Telephone Users Surcharge Act (Part 20 (commencing with Section 41001)) to be collected from prepaid consumers of mobile telephony services.
- (d) “In this state” means within the exterior limits of the State of California and includes all territory within those limits owned by or ceded to the United States of America.
- (e) “Local charges” means those charges described in subdivision (a) of Section 42101.
- (f) “Local jurisdiction” or “local agency” means a city, county, or city and county, which includes a charter city, county, or city and county.
- (g) “Mobile data service” has the same meaning as defined in Section 224.4 of the Public Utilities Code.
- (h) “Mobile telephony service” or “MTS” has the same meaning as defined in Section 224.4 of the Public Utilities Code.
- (i) “Person” includes any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, the United States, this state, any city, county, city and county, municipality, district, or other political subdivision of the state, or any other group or combination acting as a unit.

(j) “Prepaid consumer” means a person who purchases prepaid mobile telephony services in a retail transaction.

(k) “Prepaid mobile telephony services” means the right to utilize a mobile device for mobile telecommunications services or information services, including the download of digital products delivered electronically, content, and ancillary services, or both telecommunications services and information services, that must be purchased in advance of usage in predetermined units or dollars. For these purposes, “telecommunications service” and “information service” have the same meanings as defined in Section 153 of Title 47 of the United States Code.

(l) “Prepaid MTS provider” means a telephone corporation, pursuant to Section 234 of the Public Utilities Code, that provides prepaid mobile telephony services.

(m) “Prepaid MTS surcharge” means the surcharge that consists of the emergency telephone users surcharge and the Public Utilities Commission surcharges, as calculated pursuant to subdivision (b) of Section 42010, that is required to be collected by a seller from a prepaid consumer.

(n) “Public Utilities Commission surcharges” means surcharges authorized by the Public Utilities Commission to be billed and collected from end-use consumers of wireless communications services, and of which the commission provides the board with notice pursuant to Section 319 of the Public Utilities Code, including:

(1) The California High-Cost Fund-A Administrative Committee Fund program surcharge (Section 275.6 of the Public Utilities Code).

(2) The California High-Cost Fund-B Administrative Committee Fund program surcharge (Section 739.3 of the Public Utilities Code).

(3) The Deaf and Disabled Telecommunications Program Administrative Committee Fund surcharge (Section 2881 of the Public Utilities Code).

(4) The California Teleconnect Fund Administrative Committee Fund program surcharge (Section 280 of the Public Utilities Code).

(5) The California Advanced Services Fund program surcharge (Section 281 of the Public Utilities Code).

(6) The Moore Universal Telephone Service Act (Article 8 (commencing with Section 871) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code).

(7) Public Utilities Commission reimbursement fees imposed pursuant to Chapter 2.5 (commencing with Section 401) of Part 1 of Division 1 of the Public Utilities Code.

(o) “Retail transaction” means the purchase of prepaid mobile telephony services, either alone or in combination with mobile data or other services, from a seller for any purpose other than resale in the regular course of business. For these purposes, a “purchase” means any transfer of title or possession, exchange, or barter, conditional or otherwise.

(p) “Seller” means a person that sells prepaid mobile telephony service to a person in a retail transaction.

*(Added by Stats. 2014, Ch. 885, Sec. 8. (AB 1717) Effective September 30, 2014. Repealed as of January 1, 2020, pursuant to Section 42024.)*

## REVENUE AND TAXATION CODE - RTC

### DIVISION 2. OTHER TAXES [6001 - 60709]

( *Heading of Division 2 amended by Stats. 1968, Ch. 279.*  )

### PART 21. Prepaid Mobile Telephony Services Surcharge Collection Act [42001 - 42024]

( *Part 21 added by Stats. 2014, Ch. 885, Sec. 8.*  )

### CHAPTER 2. The Prepaid Mobile Telephony Services Surcharge [42010 - 42018]

( *Chapter 2 added by Stats. 2014, Ch. 885, Sec. 8.*  )

**42010.** (a) (1) On and after January 1, 2016, a prepaid MTS surcharge shall be imposed on each prepaid consumer and shall be collected by a seller from each prepaid consumer at the time of each retail transaction in this state. The prepaid MTS surcharge shall be imposed as a percentage of the sales price of each retail transaction that occurs in this state.

(2) The prepaid MTS surcharge shall be in lieu of any charges imposed pursuant to the Emergency Telephone Users Surcharge Act (Part 20 (commencing with Section 41001)) and the Public Utilities Commission surcharges for prepaid mobile telephony services.

(b) The prepaid MTS surcharge shall be annually calculated by the board by no later than November 1 of each year commencing November 1, 2015, by adding the following:

(1) The surcharge rate reported pursuant to ~~subdivision (d) of Section 41030~~ Part 20, Chapter 2 of this Division.

(2) The Public Utilities Commission's reimbursement fee and telecommunications universal service surcharges, established by the Public Utilities Commission pursuant to subdivisions (b) and (c) of Section 319 of the Public Utilities Code.

(c) (1) The board shall post, for each local jurisdiction, the combined total of the rates of prepaid MTS surcharge and the rate or rates of local charges, as calculated pursuant to Sections 42102 and 42102.5, that each local jurisdiction has adopted, not later than December 1 of each year, on its Internet Web site. The posted combined rate shall be the rate that applies to all retail transactions during the calendar year beginning April 1 following the posting.

(2) Notwithstanding paragraph (1), if a local agency notifies the board pursuant to subdivision (d) of Section 42101.5 that the posted rate is inaccurate or it no longer imposes a local charge or local charges or that the rate of its local charge or local charges has decreased, the board shall promptly post a recalculated rate that is applicable to the jurisdiction of that local agency. The change shall become operative on the first day of the calendar quarter commencing more than 60 days from the date the local agency notifies the board of the inaccuracy or that it no longer imposes a local charge or that the rate of its local charge has decreased. Nothing in this section modifies the notice obligations of Section 799 of the Public Utilities Code. However, beginning January 1, 2016, the notification and implementation requirements of paragraphs (5) and (6) of subdivision (a) of Section 799 of the Public Utilities Code shall not apply to prepaid mobile telephony services.

(3) The board shall also separately post on its Internet Web site the individual rates for each of the following:

(A) Each of the Public Utilities Commission surcharges that make up the Public Utilities Commission surcharge portion of the prepaid MTS surcharge, as reported pursuant to Section 319 of the Public Utilities Code.

(B) The rate for the emergency telephone users surcharge reported pursuant to ~~subdivision (d) of Section 41030~~ Part 20, Chapter 2 of this Division.

(C) Each of the individual local charges reported pursuant to Section 42101.5.

(4) A seller collecting the prepaid MTS surcharge and local charges pursuant to this part and Part 21.1 (commencing with Section 42100) may rely upon the accuracy of the information posted on the board's Internet Web site in collecting and remitting all amounts of the prepaid MTS surcharge and local charges.

(d) (1) Except for amounts retained pursuant to subdivision (e), and except as provided in subdivision (f) for a seller that is a direct seller, all amounts of the prepaid MTS surcharge and local charges collected by sellers shall be remitted to the board pursuant to Chapter 3 (commencing with Section 42020).

(2) A seller that is authorized to provide lifeline service under the state lifeline program or federal lifeline program, that sells prepaid mobile telephony services directly to the prepaid customer, shall remit the prepaid MTS surcharge to the board, less any applicable exemption from the surcharge that is applicable to the retail transaction pursuant to Section 42012.

(e) A seller that is not a direct seller shall be permitted to deduct and retain an amount equal to 2 percent of the amounts that are collected by the seller from prepaid consumers for the prepaid MTS surcharge and local charges, on a pro rata basis, according to that portion of the revenues collected by the seller for each of the following:

(1) The emergency telephone users surcharge.

(2) The Public Utilities Commission surcharges.

(3) Local charges.

(f) A direct seller shall remit the prepaid MTS surcharge and local charges as follows:

(1) That portion of the prepaid MTS surcharge that consists of the Public Utilities Commission surcharges shall be remitted to the commission with those reports required by the commission. The amounts remitted to the Public Utilities Commission pursuant to this paragraph shall be deposited into the respective universal service funds created pursuant to Chapter 1.5 (commencing with Section 270) of Part 1 of Division 1 of the Public Utilities Code and to the Public Utilities Commission Utilities Reimbursement Account described in Chapter 2.5 (commencing with Section 401) of Part 1 of Division 1 of the Public Utilities Code.

(2) That portion of the prepaid MTS surcharge that consists of the emergency telephone users surcharge shall be remitted to the board pursuant to the Emergency Telephone Users Surcharge Act (Part 20 (commencing with Section 41001)) for those retail transactions with a prepaid consumer in the state, with a return filed with the board using electronic media. The amount remitted to the board pursuant to this paragraph shall be deposited into the State Emergency Telephone Number Account in the General Fund.



(3) Local charges, if applicable, shall be remitted to the local jurisdiction or local agency imposing the local charge. Remittance of the local charges shall be separately identified from any other local taxes or other charges that are remitted to the local jurisdiction or local entity imposing the local tax or other charge. The amounts remitted to the local jurisdiction or local agency imposing the local charge pursuant to this paragraph shall be deposited into the respective local jurisdiction or local agency account.

(g) A direct seller shall utilize the amounts posted by the board pursuant to subdivision (c) when determining what amounts to remit to the Public Utilities Commission, the board, and each local jurisdiction or local agency.

(h) A prepaid MTS provider shall offer prepaid consumers the option to make payment for additional prepaid usage directly to the prepaid MTS provider at the provider's retail location or Internet Web site.

(i) The amount of the combined prepaid MTS surcharge and local charges shall be separately stated on an invoice, receipt, or other similar document that is provided to the prepaid consumer of mobile telephony services by the seller, or otherwise disclosed electronically to the prepaid consumer, at the time of the retail transaction.

(j) The prepaid MTS surcharge that is required to be collected by a seller and any amount unreturned to the prepaid consumer of mobile telephony services that is not owed as part of the surcharge, but was collected from the prepaid consumer under the representation by the seller that it was owed as part of the surcharge, constitute debts owed by the seller to this state. The local charge that is required to be collected by a seller and any amounts unreturned to the prepaid consumer of mobile telephony services that are not owed as part of the local charge, but that were collected from the prepaid consumer under the representation by the seller that they were owed as part of the local charge, constitute debts owed by the seller jointly to the state, for purposes of collection on behalf of, and payment to, the local jurisdiction and to the local jurisdiction imposing that local charge.

(k) A seller that has collected any amount of prepaid MTS surcharge and local charges in excess of the amount of the surcharge imposed by this part and actually due from a prepaid consumer may refund that amount to the prepaid consumer, even though the surcharge amount has already been paid over to the board and no corresponding credit or refund has yet been secured. Any seller making a refund of any charge to a prepaid consumer may repay therewith the amount of the surcharge paid.

(l) (1) Every prepaid consumer of mobile telephony services in this state is liable for the prepaid MTS surcharge and any local charges until they have been paid to this state, except that payment to a seller registered under this part relieves the prepaid consumer from further liability for the surcharge and local charges. Any surcharge collected from a prepaid consumer that has not been remitted to the board shall be a debt owed to the state by the person required to collect and remit the surcharge. Any local charge collected from a prepaid consumer that has not been remitted to the board shall be a debt owed jointly to the state, for purposes of collection on behalf of, and payment to, the local jurisdiction and to the local jurisdiction imposing the local charge by the person required to collect and remit the local charge. Nothing in this part shall impose any obligation upon a seller to take any legal action to enforce the collection of the surcharge or local charge imposed by this section.

(2) A credit shall be allowed against, but shall not exceed, the prepaid MTS surcharge and local charges imposed on any prepaid consumer of mobile telephony services by this part to the extent that the prepaid consumer has paid emergency telephone users charges, state utility regulatory commission fees, state universal service charges, or local charges on the purchase to any other state, political subdivision thereof, or the District of Columbia. The credit shall be apportioned to the charges against which it is allowed in proportion to the amounts of those charges.

(m) (1) A seller is relieved from liability to collect the prepaid MTS surcharge imposed by this part that became due and payable, insofar as the base upon which the surcharge is imposed is represented by accounts that have been found to be worthless and charged off for income tax purposes by the seller or, if the seller is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A seller that has previously paid the surcharge may, under rules and regulations prescribed by the board, take as a deduction on its return the amount found worthless and charged off by the seller. If any such accounts are thereafter in whole or in part collected by the seller, the amount so collected shall be included in the first return filed after such collection and the surcharge shall be paid with the return.

(2) The board may by regulation promulgate such other rules with respect to uncollected or worthless accounts as it shall deem necessary to the fair and efficient administration of this part.

*(Amended by Stats. 2016, Ch. 89, Sec. 1. (SB 1481) Effective January 1, 2017. Repealed as of January 1, 2020, pursuant to Section 42024.)*

**42010.7.** (a) Commencing January 1, 2017, a seller, other than a direct seller, with de minimis sales of prepaid mobile telephony services of less than fifteen thousand dollars (\$15,000) during the previous calendar year is not required to collect the prepaid MTS surcharge pursuant to Section 42010. The Department of Finance shall annually review and adjust that de minimis sales threshold as necessary to minimize program administration costs and maintain revenues to support program administration, enforcement, and Public Utilities Commission public purpose programs and rulemaking activities. Any adjustment of the de minimis sales threshold shall become operative on January 1 of the following calendar year. Nothing in this section prevents a seller from collecting and remitting the surcharge on a voluntary basis even if the seller meets the de minimis sales threshold.

(b) For purposes of this section, the de minimis sales threshold shall be based on the aggregate of all sales of prepaid mobile telephone services subject to the local charges at all retail locations operated by the seller and not the individual sales at each retail location operated by the seller.

*(Added by Stats. 2015, Ch. 25, Sec. 52. (SB 84) Effective June 24, 2015. Repealed as of January 1, 2020, pursuant to Section 42024.)*

**42012.** (a) For purposes of this section, “state lifeline program” means the program furnishing lifeline voice communication service pursuant to the Moore Universal Telephone Service Act (Article 8 (commencing with Section 871) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code).

(b) The purchase in a retail transaction in this state of prepaid mobile telephony services, either alone or in combination with mobile data or other services, by a consumer is exempt from the prepaid MTS surcharge if all of the following apply:

(1) The prepaid consumer is certified as eligible for the state lifeline program or federal lifeline program.

(2) The seller is authorized to provide lifeline service under the state lifeline program or federal lifeline program.

(3) The exemption is applied only to the amount paid for the portion of the prepaid mobile telephony service that the lifeline program specifies is exempt from the surcharges and fees that comprise the prepaid MTS surcharge.

*(Added by Stats. 2014, Ch. 885, Sec. 8. (AB 1717) Effective September 30, 2014. Repealed as of January 1, 2020, pursuant to Section 42024.)*

**42014.** (a) For purposes of this part, a retail transaction occurs in the state under any of the following circumstances:

(1) The prepaid consumer makes the retail transaction in person at a business location in the state (point-of-sale transaction).

(2) If paragraph (1) is not applicable, the prepaid consumer's address is in the state (known-address transaction). A known-address transaction occurs in the state under any of the following circumstances:

(A) The retail sale involves shipping of an item to be delivered to, or picked up by, the prepaid consumer at a location in the state.

(B) If the prepaid consumer's address is known by the seller to be in the state, including if the seller's records maintained in the ordinary course of business indicate that the prepaid consumer's address is in the state and the records are not made or kept in bad faith.

(C) The prepaid consumer provides an address during consummation of the retail transaction that is in the state, including an address provided with respect to the payment instrument if no other address is available and the address is not given in bad faith.

(3) If an address is not available to the seller to determine whether any of the circumstances in paragraph (2) exist, the transaction will be deemed to be a known-address transaction occurring in this state if the mobile telephone number is associated with a location in this state.

(b) (1) A retail transaction shall occur at only one location for purposes of determining local charges. If the retail transaction is a point-of-sale transaction, the consumption of, use of, or access to, the prepaid mobile telephony service shall be presumed to be at that location.

(2) If the retail transaction is a known-address transaction, the location shall be as determined in descending order beginning with subparagraph (A) of paragraph (2) of subdivision (a); if subparagraph (A) of that paragraph is inapplicable, then pursuant to subparagraph (B) of that paragraph; if both subparagraphs (A) and (B) of that paragraph are inapplicable, then subparagraph (C) of that paragraph; and if subparagraphs (A), (B), and (C) of that paragraph are inapplicable, then paragraph (3) of subdivision (a). In a known-address transaction, the

consumption of, use of, or access to, the prepaid mobile telephony service shall be presumed to be at the known address.

(c) (1) A seller that relies in good faith on information provided by the board to match the location of a point-of-sale transaction to the applicable prepaid MTS surcharge amount and local charges, that collects that amount from the prepaid consumer, and that remits the amount to the board in compliance with this part, shall not be liable for any additional MTS surcharge or local charges and shall not be required to refund any amounts collected and paid to the board to the prepaid consumer.

(2) For a known-address transaction, the seller may collect the prepaid MTS surcharge and local charges that correspond to the five-digit postal ZIP Code of the prepaid consumer's address. A seller that, with due diligence and in good faith, relies on credible information to match the five-digit postal ZIP Code of the prepaid consumer's address to the applicable prepaid MTS surcharge and local charges amount, that collects that amount from the prepaid consumer, and that remits the amount to the board in compliance with this part, shall not be liable for any additional MTS surcharge or local charges and shall not be required to refund any amounts collected and paid to the board to the prepaid consumer, even if the five-digit postal ZIP Code of the prepaid consumer's address that the seller uses corresponds to more than one local charge.

*(Amended by Stats. 2016, Ch. 89, Sec. 2. (SB 1481) Effective January 1, 2017. Repealed as of January 1, 2020, pursuant to Section 42024.)*

**42018.** (a) Except as provided in subdivisions (b) and (c), if prepaid mobile telephony services are sold in combination with mobile data services or any other services or products for a single price, then the prepaid MTS surcharge and local charges shall apply to the entire price.

(b) If prepaid mobile telephone services are sold with a mobile telephone service communication device, commonly termed a cellular telephone, for a single, nonitemized price, then the prepaid MTS surcharge and local charges shall apply to the entire nonitemized price, except if the purchase price for the cellular phone component of the bundled charge is disclosed to the prepaid consumer on a receipt, invoice, or other written or electronic documentation provided to the prepaid consumer, the prepaid MTS surcharge and local charges may be calculated excluding the separately stated price of the cellular telephone.

(c) If a minimal amount of prepaid mobile telephony service is sold for a single, nonitemized price with a mobile telephony service communications device, the seller shall not apply the prepaid MTS surcharge or local charges to the transaction. For these purposes, a service allotment denominated as 10 minutes or less, or five dollars (\$5) or less, is a minimal amount.

*(Added by Stats. 2014, Ch. 885, Sec. 8. (AB 1717) Effective September 30, 2014. Repealed as of January 1, 2020, pursuant to Section 42024.)*