

**HOUSE . . . . . No. 2131**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Michael A. Costello***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a prepaid wireless E911 surcharge.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michael A. Costello</i>	<i>1st Essex</i>	<i>1/16/2013</i>
<i>Edward F. Copping</i>	<i>10th Suffolk</i>	<i>1/23/2013</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>	<i>1/16/2013</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>1/30/2013</i>
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>	<i>1/16/2013</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>	
<i>Martha M. Walz</i>	<i>8th Suffolk</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	
<i>Michael D. Brady</i>	<i>9th Plymouth</i>	
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>	
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>	
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	



**HOUSE . . . . . No. 2131**

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By Mr. Costello of Newburyport, a petition (accompanied by bill, House, No. 2131) of Michael A. Costello and others relative to establishing a prepaid wireless enhanced 911 surcharge. Public Safety and Homeland Security.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 643 OF 2011-2012.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the Year Two Thousand Thirteen**  
\_\_\_\_\_

An Act establishing a prepaid wireless E911 surcharge.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 6A of the General Laws is hereby amended by striking out section  
2 18A and inserting in place thereof the following new section:-

3 Section 18A. In this section, and in sections 18B to 18J, inclusive, of this chapter, and in  
4 section 14A of chapter 166, the following words shall, unless the context clearly requires  
5 otherwise, have the following meanings:

6 “Automatic location identification”, an enhanced 911 service capability that allows for  
7 the automatic display of information relating to the geographical location of the communication  
8 device used to place a 911 call.

9 “Automatic number identification”, an enhanced 911 service capability that allows for the  
10 automatic display of a telephone number used to place or route a 911 call.

11 “Commission”, the state 911 commission.

12 “Communication services”, includes any of the following: (a) the transmission,  
13 conveyance or routing of real-time, two-way voice communications to a point or between or  
14 among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline,  
15 wireless or other medium or method, regardless of the protocol used; (b) the ability to provide

16 two-way voice communication on the public switched network; (c) wireless enhanced 911  
17 service; (d) wireline enhanced 911 service; (e) interconnected VoIP provider service as defined  
18 by the regulations of the FCC regulations; (f) IP -enabled service; or (g) prepaid wireless service.

19 “Communication service provider”, an entity that provides communication services to a  
20 subscriber.

21 ”Consumer”, a person who purchases prepaid wireless telecommunications service in a  
22 retail transaction.

23 “Department”, the state 911 department.

24 “Director”, the executive director of the state 911 department.

25 “Emergency medical dispatch”, the management of requests for emergency medical  
26 assistance by utilizing a system of: (a) tiered response or priority dispatching of emergency  
27 medical resources based on the level of medical assistance needed by the victim; and (b) pre-  
28 arrival first aid or other medical instructions given by trained personnel responsible for receiving  
29 911 calls and directly dispatching emergency response services.

30 “Enhanced 911 Fund”, the fund established under section 35JJ of chapter 10.

31 “Enhanced 911 service provider”, any entity that provides 1 or more of the following 911  
32 elements: network, database or PSAP customer premises equipment.

33 “Enhanced 911 service”, a service consisting of communication network, database and  
34 equipment features provided for subscribers of communication services enabling such  
35 subscribers or consumers of prepaid wireless telecommunications service to reach a PSAP by  
36 dialing the digits 911, or by other means approved by the department, that directs calls to  
37 appropriate PSAPs based on selective routing and provides the capability for automatic number  
38 identification and automatic location identification.

39 “Enhanced 911 network features”, the components of enhanced 911 service that provide  
40 selective routing, automatic number identification and automatic location identification.

41 “Enhanced 911 systems”, a distinct entity or geographical segment in which enhanced  
42 911 service is provided, consisting of network routing elements serving as a control office and  
43 trunking connecting all central offices within a geographical segment, and including PSAPs and  
44 network used to deliver location data to PSAPs from a data base.

45 “FCC”, the Federal Communications Commission.

46 “FCC order”, all orders issued by the FCC under the proceeding entitled “Revision of the  
47 Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems”  
48 (CC Docket No. 94-102; RM 8143), or any successor proceeding, including all other criteria

49 established therein, regarding the delivery of wireless enhanced 911 service by a wireless carrier,  
50 and all orders issued by the FCC under the proceeding entitled “In the Matter of IP-Enabled  
51 Services; E911 Requirements for IP-Enabled Service Providers”(WC Docket No 05-196), or any  
52 successor proceeding, including all other criteria established therein, regarding the delivery of  
53 enhanced 911 service by an IP-enabled service provider.

54 “Governmental body” shall include any governmental body as defined in section 11A of  
55 chapter 30A or section 23A of chapter 39.

56 “Interconnected VoIP service”, voice over the internet protocol services as defined by the  
57 FCC in 47 CFR 9.3.

58 “IP-enabled service”, a service, device or application which makes use of Internet  
59 Protocol, or IP, and capable of entering the digits 911, or by other means as approved by the  
60 department, for the purposes of interconnecting users to the enhanced 911 system including, but  
61 not limited to, voice over IP and other services, devices, or applications provided through or  
62 using wireline, cable, wireless, or satellite facilities or any other facility that may be provided in  
63 the future. “Limited secondary PSAP”, a PSAP equipped, at a minimum, with automatic number  
64 identification and automatic location identification display or printout capability. It receives 911  
65 calls only if transferred from the primary PSAP. Data sent to a limited secondary PSAP cannot  
66 be re-routed to another location and may not necessarily be transmitted simultaneously with the  
67 voice call.

68 “Local exchange service”, telephone exchange lines or channels that provide local access  
69 from the premises of a subscriber in the commonwealth to the local telecommunications network  
70 to effect the transfer of information.

71 “Network components”, any software or hardware for a control switch, other switch  
72 modification, trunking or any components of a computer storage system or database used for  
73 selective routing of 911 calls, automatic number identification and automatic location  
74 identification, including a PSAP.

75 “Next generation 911”, an enhanced 911 system that incorporates the handling of all 911  
76 calls and messages, including those using IP-enabled services or other advanced communications  
77 technologies in the infrastructure of the 911 system itself.

78 “Prepaid wireless telecommunications service”, a commercial mobile radio service as  
79 defined by section 20.3 of title 47 of the Code of Federal Regulations, as amended, that allows a  
80 caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold  
81 in predetermined units or dollars of which the number declines with use in a known amount.  
82 Such predetermined units may be measured in units of time, not to exceed one month.

83 “Prepaid wireless telecommunications service provider”, a person that provides prepaid  
84 wireless telecommunications service pursuant to a license issued by the Federal Communications  
85 Commission.

86 “PSAP customer premises equipment”, enhanced 911 call processing equipment located  
87 at a PSAP.

88 “Primary PSAP”, a PSAP equipped with automatic number identification and automatic  
89 location identification displays, and is the first point of reception of a 911 call. It serves the  
90 municipality in which it is located.

91 “Private safety department”, an entity, except for a municipality or a public safety  
92 department, that provides emergency police, fire, ambulance or medical services.

93 “Public safety answering point” or “PSAP”, a facility assigned the responsibility of  
94 receiving 911 calls and, as appropriate, directly dispatching emergency response services or  
95 transferring or relaying emergency 911 calls to other public or private safety agencies or other  
96 PSAPs.

97 “Public safety department”, a functional division of a municipality or a state that provides  
98 fire fighting, law enforcement, ambulance, medical or other emergency services.

99 “Regional emergency communication center”, a facility operated by or on behalf of 2 or  
100 more municipalities or governmental bodies, or combination thereof, as approved by the  
101 department, that enter into an agreement for the establishment and provision of regional dispatch  
102 and coordination of emergency services for all such municipalities or governmental bodies  
103 including, but not limited to, a regional PSAP that provides enhanced 911 service and police, fire  
104 protection, and emergency medical services dispatch, including services provided by a private  
105 safety department. The regional PSAP portion of the center shall be equipped with automatic  
106 number identification and automatic location identification displays, as approved by the  
107 department, and is the first point of reception of a 911 call.

108 “Regional PSAP”, a PSAP operated by or on behalf of 2 or more municipalities or  
109 governmental bodies, or combination thereof, approved by the department, for the operation of  
110 enhanced 911 call taking and call transfer activities. A regional PSAP may also be engaged in,  
111 by agreement, the dispatching or control of public safety resources serving some or all of the  
112 municipalities or governmental bodies that comprise the regional PSAP, including where  
113 services are provided by a private safety department. If the regional PSAP serves all such  
114 municipalities or governmental bodies for the operation of enhanced 911 call taking and call  
115 transfer activities and dispatch services including where dispatch services are provided by a  
116 private safety department, it shall be considered a regional emergency communication center for  
117 the purposes of section 18B. The regional PSAP shall be equipped with automatic number

118 identification and automatic location identification displays, as approved by the department, and  
119 is the first point of reception of a 911 call.

120 “Regional secondary PSAP”, a facility operated by or on behalf of 3 or more  
121 municipalities or governmental bodies, or a combination thereof, approved by the department,  
122 that enter into an agreement for the establishment and provision of regional dispatch and  
123 coordination of either police, fire protection or emergency medical services, or any combination  
124 thereof. A regional secondary PSAP is equipped with automatic number identification and  
125 automatic location identification displays. It receives 911 calls only when transferred from a  
126 primary or regional PSAP or on an alternative routing basis when calls cannot be completed to  
127 the primary or regional PSAP.

128 “Retail transaction”, the purchase of prepaid wireless telecommunications service from a  
129 seller for any purpose other than resale.

130 “Ringling PSAP”, a PSAP equipped for receipt of voice communications only, and may  
131 not operate 24 hours each day. It receives 911 calls that are transferred from the primary PSAP.

132 “Secondary PSAP”, a PSAP equipped with automatic number identification and  
133 automatic location identification displays. It receives 911 calls only when they are transferred  
134 from the primary PSAP or on an alternative routing basis when calls cannot be completed to the  
135 primary PSAP.

136 “Selective routing”, the method to direct 911 calls to the appropriate PSAP using a call  
137 routing database derived from the geographical location from which the call originated.

138 ”Seller”, a person who sells prepaid wireless telecommunications service to another  
139 person.

140 “Subscriber”, a person who uses communication services; provided, however, that such  
141 term does not include a consumer of prepaid wireless telecommunications service.

142 “Telephone company”, a person, firm, corporation, association or joint stock association  
143 or company, as defined in chapter 159 , furnishing or rendering local telephone exchange  
144 service.

145 “VoIP or voice over internet protocol”, a type of IP-enabled service that allows for the  
146 two-way real time transmission of voice communications and has access to the public switched  
147 network.

148 “Wholesale”, sales by the prepaid wireless telephone service provider to a non-prepaid  
149 wireless telephone service provider that sells service on behalf of the prepaid wireless telephone  
150 service provider.

151 “Wireless carrier”, a commercial mobile radio service, as defined in 47 U S C 332(d),  
152 including resellers and prepaid wireless telecommunications service providers.

153 “Wireless enhanced 911 service”, the service required to be provided by wireless carriers  
154 under, and governed by, FCC order.

155 “Wireless state police PSAP”, a state police facility assigned the responsibility of  
156 primarily or entirely receiving wireless 911 calls and, as appropriate, directly dispatching  
157 emergency response services or transferring or relaying emergency 911 calls to other public or  
158 private safety departments or other PSAPs.

159 “Wireline carrier”, an incumbent local exchange carrier or local exchange carrier  
160 operating in the commonwealth, or a telephone company, or any other person, corporation or  
161 entity that provides local exchange service.

162 “Wireline enhanced 911 service”, service provided by a wireline carrier that connects a  
163 subscriber dialing or entering the digits 911 to a PSAP.

164 SECTION 2. Said chapter 6A is hereby further amended by striking out section 18H, as  
165 so appearing, and inserting in place thereof the following section:-

166 Section 18H. (a) There shall be imposed on each subscriber whose communication  
167 services are capable of accessing and utilizing an enhanced 911 system, a surcharge in the  
168 amount of 75 cents per month for expenses associated with services provided under sections 18A  
169 to 18J, inclusive, and sections 14A and 15E of chapter 166. For wireline enhanced 911 service,  
170 the charge shall be imposed on each voice grade exchange telephone line of business and  
171 residence customers within the commonwealth, but the surcharge applicable to centrex service  
172 and ISDN primary rate interface service shall be based on an equivalency ratio provided to each  
173 private branch exchange trunk. For wireless enhanced 911 service, the charge shall be imposed  
174 on the subscriber per their place of primary use as required pursuant to the Mobile  
175 Telecommunications Sourcing Act, Title 4 of US Code section 116 to 124. For interconnected  
176 VoIP provider service, the charge shall be imposed on each voice grade telephone line of  
177 business and residence customers within the commonwealth, but the surcharge applicable to such  
178 interconnected VoIP provider service that is comparable to centrex service and ISDN primary  
179 rate interface service associated with wireline enhanced 911 service shall be based on an  
180 equivalency ratio similar to that used for wireline enhanced 911 service. For IP-enabled service,  
181 the charge shall be imposed based on the subscriber’s billing address in the commonwealth  
182 except for interconnected VoIP provider service, unless a different method is approved by the  
183 department.

184 The surcharge shall be collected by the communication service provider and shall be  
185 shown on the subscriber's bill as “Disability Access/Enhanced 911 Service Surcharge”, or an  
186 appropriate abbreviation. The surcharge shall not be subject to sales or use tax. The subscriber



187 shall be liable for the surcharge imposed under this section, and the communication service  
188 provider shall not be financially liable for surcharges billed on behalf of the commonwealth but  
189 not collected from subscribers. Partial subscriber payments shall be first applied to outstanding  
190 communication service provider charges.

191 (a2) 1. There shall be imposed a prepaid wireless E911 surcharge. The prepaid wireless  
192 E911 surcharge shall be 75 cents per retail transaction or, on and after the effective date of an  
193 adjusted amount per retail transaction that is established under paragraph 6 of this subsection,  
194 such adjusted amount.

195 2. The prepaid wireless E911 surcharge shall be collected by the seller from the consumer  
196 with respect to each retail transaction occurring in this state. The amount of the prepaid wireless  
197 E911 surcharge shall be either separately stated on an invoice, receipt, or similar document that  
198 is provided to the consumer by the seller, or otherwise disclosed to the consumer.

199 3. For purposes of paragraph 2 of this subsection, a retail transaction that is effected in  
200 person by a consumer at a business location of the seller shall be treated as occurring in this state  
201 if that business location is in this state, and any other retail transaction shall be treated as  
202 occurring in this state if the retail transaction is treated as occurring in this state under Section 1  
203 of Chapter 64H of Title IX of the General Laws.

204 4. The prepaid wireless E911 charge is the liability of the consumer and not of the seller  
205 or of any prepaid wireless telecommunications service provider, except that the seller shall be  
206 liable to remit all prepaid wireless E911 surcharges that the seller collects from consumers as  
207 provided in this subsection, including all such charges that the seller is deemed to collect where  
208 the amount of the charge has not been separately stated on an invoice, receipt, or other similar  
209 document provided by the consumer to the seller.

210 5. The amount of the prepaid wireless E 911 charge that is collected by a seller from a  
211 consumer, if such amount is separately stated on an invoice, receipt, or other similar document  
212 provided to the consumer by the seller, shall not be included in the base for measuring any tax,  
213 fee, surcharge, or other charge that is imposed by this state, any political subdivision of this state,  
214 or any intergovernmental entity.

215 6. The prepaid wireless E911 charge shall be proportionately increased or reduced, as  
216 applicable, upon any change to the surcharge imposed under subsection (a1) of this section as  
217 provided under subsection (b) of this section. Such increase or reduction shall be effective on the  
218 effective date of the change to the charge imposed under subsection (a1) or, if later, the first day  
219 of the first calendar month to occur at least 60 days after implementation of the change to the  
220 charge imposed under paragraph (a1). The Department of Revenue shall provide not less than 30  
221 days of advance notice of such increase or reduction in its public website.

222 7. Prepaid wireless E911 surcharges collected by sellers shall be remitted to the  
223 Department of Revenue at the times and in the same manner as the tax imposed under Chapter  
224 64H of Title IX of the General Laws. The Department of Revenue shall establish registration and  
225 payment procedures that substantially coincide with the registration and payment procedures that  
226 apply to Sections 3 and 7 of Chapter 64H of the Title IX of the General Laws.

227 8. A seller shall be permitted to deduct and retain three percent (3%) of prepaid wireless  
228 E911 surcharges that are collected by the seller from consumers.

229 9. The audit and appeal procedures applicable under Chapter 64H of Title IX of the  
230 General Laws shall apply to prepaid wireless E911 charges.

231 10. The Department of Revenue shall establish procedures by which a seller of prepaid  
232 wireless telecommunications service may document that a sale is not a retail transaction. Such  
233 procedures shall substantially coincide with the procedures for documenting sale for resale  
234 transactions under section 8 of Chapter 64H of Title IX of the General Laws.

235 11. The Department of Revenue shall transfer all remitted prepaid wireless E911  
236 surcharges to the state treasurer for deposit in the Enhanced 911 Fund for use as provided in this  
237 section within 30 days of receipt after deducting an amount, not to exceed two percent (2%) of  
238 remitted charges, that shall be retained by the Department of Revenue to reimburse its direct  
239 costs of administering the collection and remittance of prepaid wireless E911 surcharges.

240 12. No prepaid wireless telecommunications service provider or seller shall be liable for  
241 damages to any person resulting from or incurred in connection with the provision of, or failure  
242 to provide, 911 or E911 service, or for identifying, or failing to identify, the telephone number,  
243 address, location, or name associated with any person or device that is accessing or attempting to  
244 access 911 or E911 service.

245 13. In addition to the provisions of paragraph 12 of this subsection, each prepaid wireless  
246 telecommunications provider and seller shall be covered by the liability protections of subsection  
247 (g) of this section.

248 14. The prepaid wireless E911 surcharge imposed by this subsection shall be the only  
249 E911 funding obligation imposed with respect to prepaid wireless telecommunications service in  
250 this state and not tax, fee, surcharge, or other charge shall be imposed by this state, any political  
251 subdivision of this state, or any intergovernmental agency, for E911 funding purposes, upon any  
252 prepaid wireless telecommunications service provider, seller, or consumer with respect to the  
253 sale, purchase, use, or provision of prepaid wireless telecommunications service.

254 (b) The department may petition the department of telecommunications and cable for an  
255 adjustment in the surcharge established in subsection (a1). The department of  
256 telecommunications and cable shall be responsible for establishing the new surcharge, and all

257 future surcharges, upon petition of the department. The department of telecommunications and  
258 cable, at its discretion but not more than once per calendar year, may investigate the prudence of  
259 the department's revenue and expenditures for the purpose of recalculating the surcharge, and  
260 may hire experts to assist in its investigation. The reasonable cost of such experts shall be  
261 charged to the Enhanced 911 Fund, but in no event shall such cost exceed \$200,000, which may  
262 be adjusted to reflect changes in the consumer price index. The department of  
263 telecommunications and cable shall conduct its review and issue a decision within 90 days of the  
264 date of the commencement of the investigation, but the surcharge shall be deemed approved if  
265 the department of telecommunications and cable does not issue its decision within such 90 days.  
266 The department of telecommunications and cable shall adopt rules that provide for the funding of  
267 prudently incurred expenses associated with services provided by sections 18A to 18J, inclusive,  
268 and sections 14A and 15E of chapter 166, by means of the surcharge. The department shall  
269 report annually to the department of telecommunications and cable on the financial condition of  
270 the Enhanced 911 Fund and on the department's assessment of new developments affecting the  
271 enhanced 911 system. The report shall be submitted to the department of telecommunications  
272 and cable within 60 days of the end of each fiscal year. The department of telecommunications  
273 and cable shall file an annual report with the clerks of the house of representatives and the senate  
274 relative to the financial condition of the Enhanced 911 Fund.

275 (c) The department shall seek the approval of the department of telecommunications and  
276 cable for projected total expenditures that exceed total expenditures of the previous fiscal year by  
277 10 per cent or more. The department of telecommunications and cable may investigate the  
278 reasonableness of the expenditures and shall conduct its review and issue a decision within 90  
279 days from the date the department files its request for approval, but the request for approval shall  
280 be deemed approved if the department of telecommunications and cable does not issue its  
281 decision within such 90 days. The department of telecommunications and cable shall notify the  
282 department of its intent to investigate within 20 days of the date the department files its request  
283 for approval. The department's request for approval shall be deemed approved in the absence of  
284 the department of telecommunication and cable's notification to the department of its intent to  
285 investigate. If the department of telecommunication and cable notifies the department that it  
286 intends to investigate an expenditure, the department of telecommunications and cable may hire  
287 experts to assist in its investigation. The reasonable cost of the experts shall be charged to the  
288 Enhanced 911 Fund, but in no event shall such cost exceed \$200,000, which may be adjusted to  
289 reflect changes in the consumer price index.

290 (d) Each communication service provider shall remit the surcharge revenues collected  
291 from its subscribers to the state treasurer for deposit in the Enhanced 911 Fund. The surcharge  
292 revenues shall be expended for the administration and programs of the department including, but  
293 not limited to, salaries, enhanced 911 training programs, enhanced 911 public education  
294 programs, the creation of PSAP customer premises equipment for, and maintenance of, primary  
295 and regional PSAPs, the programs mandated by section 18B and sections 14A and 15E of

296 chapter 166, and for the implementation and administration of enhanced 911 service in the  
297 commonwealth.

298 (e) Each communication service provider required to remit surcharge revenues shall  
299 submit to the department and the department of telecommunications and cable information on its  
300 business entity including, but not limited to, name, business address, contact person and the  
301 telephone number, fax number and e-mail address of such contact person. Each such provider  
302 shall update this information annually.

303 (f) Each communication service provider shall report to the department on a monthly  
304 basis the total surcharge revenues collected from its subscribers during the preceding month, the  
305 total uncollected surcharge revenues from subscribers during the preceding month, the total  
306 amount billed to the department for administration costs to cover the expenses of billing,  
307 collecting and remitting the surcharge during the preceding month, and the total amount billed to  
308 the department for non-recurring and recurring costs associated with any service, operation,  
309 administration or maintenance of enhanced 911 service during the preceding month. Such  
310 monthly report shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or  
311 section 10 of chapter 66.

312 (g) A communication service provider shall forward to any PSAP or any other answering  
313 point equipped for enhanced 911 service, or upon request consistent with federal law, to a  
314 municipal, state, or federal law enforcement agency, the department of telecommunications and  
315 cable, the FCC or the department, the telephone number and street address or location of any  
316 telephone used to place a 911 call, and any other call data or information required by the FCC to  
317 be transmitted to a PSAP.

318 Subscriber information or data provided in accordance with this section shall be used,  
319 consistent with federal law, only for the purpose of responding to emergency calls, administering  
320 and operating the enhanced 911 system and providing enhanced 911 service, or for use in any  
321 ensuing investigation or prosecution, including the investigation of false or intentionally  
322 misleading reports of incidents requiring emergency service. No communication service provider  
323 or officers, directors, employees, vendors or agents shall be liable in any action to any person for  
324 releases of information authorized by this section or for civil action resulting from or caused by  
325 such providers for participation or omissions in the development, installation, operation,  
326 maintenance, performance or provision of enhanced 911 service except for wanton or willful  
327 misconduct. Release to or use by any person of a communication service provider's subscriber  
328 information or data for any use other than the purposes enumerated in this subsection shall be  
329 prohibited. Notwithstanding any general or special law to the contrary, such information or data  
330 shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or section 10 of  
331 chapter 66, except that aggregated information that does not identify or effectively identify  
332 specific subscriber information or data may be made public.

333           (h) The department shall examine call volumes of all primary, regional and regional  
334 secondary PSAPs, and the population changes of the municipalities they serve, and may use such  
335 information in determining the disbursement of funds as set forth in section 18B.

336           SECTION 3. This act shall take effect on July 1, 2013.