AN ACT concerning criminal procedure; relating to telecommunications; mobile communications devices identification system.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) (1) The Kansas bureau of investigation shall establish a mobile communications devices identification system which shall be a central repository of information received by sellers from purchasers and maintained for the purpose of providing information to law enforcement. All information in the system shall be the property of the bureau and shall not be sold or used for any purpose unless authorized by this section or pursuant to rules and regulations adopted by the bureau. The bureau may retain information collected in the mobile communications devices identification system for up to two calendar years from the date the information was added to the system. Any information associated with a record that has been stored in the system for two calendar years and that is not part of an on-going judicial process must be destroyed.

(2) The mobile communications devices identification system, all information contained therein and any records maintained by the bureau, or by any entity contracting with the bureau, submitted to, maintained or stored as a part of the system, shall be confidential, may only be used for investigatory or evidentiary purposes related to criminal violations of state or federal law, shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, and only shall be released to law enforcement pursuant to this section.

(b) (1) All sellers in this state, prior to the completion of any sale of a pre-paid mobile device or SIM card to a purchaser, shall: (A) Require a purchaser to provide a government issued identification card; and

(B) record the purchaser's full name, complete home address and the mobile equipment identifier or the international mobile station equipment identity of the pre-paid mobile device or SIM card to be purchased, or, if neither are available, the activation code of such device or SIM card.

(2) The seller shall report the record of the sale of a pre-paid mobile device or SIM card to the Kansas bureau of investigation through an electronic filing process at the time of such sale. The bureau shall have the authority to contract with any software or hardware vendors necessary to facilitate this instantaneous transfer of reports from the seller to the mobile
communications devices identification system. Such reports shall be made
and transferred in accordance with rules and regulations adopted pursuant
to this section.

(c) The information in the mobile communications devices
identification system established pursuant to this section shall be available
to all law enforcement officers in this state which have a need for
information relating to prepaid mobile devices or SIM cards, upon
production of a subpoena or other court order. Information in the system
may be provided without a subpoena or court order if a law enforcement
officer determines that information in the system is necessary in order to
respond to a call for emergency services or in an emergency situation that
involves the risk of death or serious physical harm.

(d) Any seller that willfully fails to make any report required by this
section shall be liable to the state for the payment of a civil penalty,
recoverable in an action brought by the attorney general, in an amount not
exceeding $100 for each failure to report. The seller shall be liable for an
additional civil penalty of up to $1,000 for subsequent failures to report.
Any civil penalty recovered under this subsection shall be transferred to
the state treasurer in accordance with the provisions of K.S.A. 75-4215,
and amendments thereto. Upon receipt of each such remittance, the state
treasurer shall deposit the entire amount in the state treasury to the credit
of the attorney general's litigation fund.

(e) Effective January 1, 2015, there is hereby imposed a mobile
communications devices identification fee of 0.4% per retail transaction.
On and after January 1, 2016, the mobile communications devices
identification fee shall be 0.05% per retail transaction. The fee shall be
collected by the seller from the purchaser with respect to each retail
transaction occurring in this state. The amount of the mobile
communications devices identification fee shall be either separately stated
on an invoice, receipt or other similar document that is provided to the
purchaser by the seller, or otherwise disclosed to the purchaser. The
amount of the fee that is collected by a seller from a purchaser, if such
amount is separately stated on an invoice, receipt or other similar
document provided to the purchaser, shall not be included in the base for
measuring any tax, fee, surcharge or other charge that is imposed by this
state, any political subdivision of this state or any intergovernmental
agency.

(f) A seller may charge up to a $2 administrative fee per retail
transaction to compensate the seller for expenses associated with reporting
the required sales information.

(g) For the purposes of this section, a retail transaction that is effected
in person by a purchaser in a business location of the seller shall be treated
as occurring in this state if that business location is in this state, and any
other retail transaction shall be treated as occurring in this state if the retail
transaction is treated as occurring in this state for the purposes of
subsection (c)(3) of K.S.A. 79-3673, and amendments thereto.

(h) The mobile communications devices identification fee is the
liability of the purchaser and not the seller, except that the seller shall be
liable to remit all mobile communications devices identification fees that
the seller collects from purchasers pursuant to this section, including all
such fees that the seller is deemed to collect where the amount of the
charge has not been separately stated in an invoice, receipt or other similar
document provided by the seller.

(i) All mobile communications devices identification fees collected
by sellers shall be remitted to the department by electronic filing that is
consistent with the provisions of article 36 of chapter 79 of the Kansas
Statutes Annotated, and amendments thereto. The department shall
establish registration and payment procedures for the collection of the
mobile communications devices identification fee. The department shall
establish procedures by which a seller may document that a sale is not a
retail sale, which procedures shall substantially coincide with procedures
for documenting sale for resale transactions for article 36 of chapter 79 of
the Kansas Statutes Annotated, and amendments thereto.

(j) The department shall transfer all remitted mobile communications
devices identification fees to the state treasurer in accordance with the
provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
each such remittance, the state treasurer shall deposit the entire amount in
the state treasury to the credit of the mobile communications devices
identification system fee fund, which is hereby established in the state
treasury, to be used for the creation and maintenance of the mobile
communications devices identification system established in this section.
During fiscal year 2015, the department may retain up to $70,000 of
remitted funds only for use in paying for programming and other one-time
costs for establishing a system for collecting the mobile communications
devices identification fee. During any fiscal year hereafter, the department
shall not retain any remitted funds.

(k) To minimize additional costs to the department, the department
may conduct audits of sellers in conjunction with sales and use tax audits.
The department is authorized to provide the Kansas bureau of
investigation and the attorney general with information obtained in such
audits if such information indicates that a seller may not be complying
with the provisions of this section. The Kansas bureau of investigation
may request the department to initiate collection or audit procedures on
individual sellers if collection efforts have been unsuccessful.

(l) On July 1, 2014, or as soon thereafter as moneys are available,
or any other statute, the director of accounts and reports shall transfer
$300,000 from the state highway fund of the department of transportation
to the mobile communications devices identification system fee fund of
the bureau of investigation.

(2) On or before June 30, 2019, the transfer made in subsection (l)(1)
shall be repaid in full to the state highway fund of the department of
transportation by the bureau of investigation. Such transfer of money shall
not bear interest and shall not be deemed to be an indebtedness or debt of
the state of Kansas within the meaning of section 6 of article 11 of the
constitution of the state of Kansas. During fiscal year 2015, the secretary
of transportation is hereby authorized to enter into an agreement with the
bureau of investigation to provide for the repayment of such transfer
including other terms and conditions as may be prescribed by the secretary
of transportation. Any such transfer may be repaid from the mobile
communications devices identification system fee fund, the state general
fund, any appropriate special revenue funds in the state treasury or any
other source of funds of the bureau of investigation. That all moneys
received by the department of transportation for repayment of the transfer
made under this subsection shall be deposited in the state treasury in
accordance with the provisions of K.S.A. 75-4215, and amendments
thereto, and shall be credited to the state highway fund.

(m) The director of the Kansas bureau of investigation shall adopt
rules and regulations necessary to effectuate the provisions of this act.

(n) As used in this section: (1) "Department" means the department of
revenue;
(2) "international mobile station equipment identity" means an
equipment identification number, similar to a serial number, used to
identify a mobile station;
(3) "mobile equipment identifier" means a globally unique number
for a physical piece of mobile station equipment;
(4) "mobile station" means all user equipment and software needed
for communication with a mobile network;
(5) "pre-paid mobile device" means any cellular phone or similar
wireless communication device for which the mobile device user
purchases a set allotment of wireless communication services provided by
a wireless carrier;
(6) "purchaser" means any person that purchases a pre-paid mobile
device or SIM card from a seller;
(7) "retail transaction" means the purchase of a pre-paid mobile
device or SIM card from a seller for any purpose other than resale, not
including the use, storage or consumption of such services;
(8) "seller" means any business subject to the provisions of article 36
of chapter 79 of the Kansas Statutes Annotated, and amendments thereto,
that sells pre-paid mobile devices or SIM cards;
(9) "SIM card" means a subscriber identity module or functionally 
equivalent data storage device; and
(10) "wireless carrier" has the meaning provided in 47 U.S.C. § 
615b(4), as in effect on the effective date of this act.
Sec. 2. This act shall take effect and be in force from and after its 
publication in the statute book.