

12-5371. Prepaid wireless 911 fee. (a) There is hereby imposed a prepaid wireless 911 fee of 1.06% per retail transaction or, on and after the effective date of an adjusted amount per retail transaction that is established under subsection (f), such adjusted amount.

(b) The prepaid wireless 911 fee shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless 911 fee shall be either separately stated on an invoice, receipt or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

(c) For purposes of subsection (b), a retail transaction that is effected in person by a consumer 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.

(d) The prepaid wireless 911 fee is the liability of the consumer and not of the seller nor of any provider, except that the seller shall be liable to remit all prepaid wireless 911 fees that the seller collects from consumers pursuant to this section, and amendments thereto, 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 to the consumer by the seller.

(e) The amount of the prepaid wireless 911 fee that is collected by a seller from a consumer, if such amount is separately stated on an invoice, receipt or other similar document provided to the consumer by the seller, 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) The prepaid wireless 911 fee shall be proportionately increased or reduced, as applicable, upon any change to the fee imposed by subsection (a) of K.S.A. 2014 Supp. 12-5369, and amendments thereto. The adjusted amount shall be determined by dividing the amount of the fee imposed by subsection (a) of K.S.A. 2014 Supp. 12-5369, and amendments thereto, by \$50. Such increase or reduction shall be effective on the effective date of the change to the fee imposed by subsection (a) of K.S.A. 2014 Supp. 12-5369, and amendments thereto, or, if later, the first day of the calendar quarter to occur at least 60 days after the enactment to the change to the fee imposed by subsection (a) of K.S.A. 2014 Supp. 12-5369, and amendments thereto. The department shall provide not less than 60 days' notice of such increase or decrease on the department's website.

(g) When prepaid wireless service is sold with one or more other products or services for a single, non-itemized price, then the percentage specified in subsection (a) shall apply to the entire non-itemized price unless the seller elects to apply such percentage to: (1) If the amount of the prepaid wireless service is disclosed to the consumer as a dollar amount, such dollar amount; or (2) if the seller can identify the portion of the price that is attributable to the prepaid wireless service by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes, such portion.

(h) This section shall take effect on and after January 1, 2012.

History: L. 2011, ch. 84, § 10; May 26.