

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 248

An Act to amend and reenact §§ 37.2-311.1, as it shall become effective, 56-484.12, 56-484.17, and 56-484.17:1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 37.2-311.2 through 37.2-311.6, relating to crisis call centers; Crisis Call Center Fund established.

[S 1302]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-311.1, as it shall become effective, 56-484.12, 56-484.17, and 56-484.17:1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 37.2-311.2 through 37.2-311.6 as follows:

§ 37.2-311.1. (Effective March 1, 2021) Comprehensive crisis system; Marcus alert system; powers and duties of the Department related to comprehensive mental health, substance abuse, and developmental disability crisis services.

A. As used in this section *and §§ 37.2-311.2 through 37.2-311.6*, unless the context requires a different meaning:

"Community care team" means a team of mental health service providers, and may include registered peer recovery specialists and law-enforcement officers as a team, with the mental health service providers leading such team, to help stabilize individuals in crisis situations. Law enforcement may provide backup support as needed to a community care team in accordance with the protocols and best practices developed pursuant to § 9.1-193. In addition to serving as a co-response unit, community care teams may, at the discretion of the employing locality, engage in community mental health awareness and services.

"Comprehensive crisis system" means the continuum of care established by the Department of Behavioral Health and Developmental Services pursuant to this section.

"Crisis call center" means a call center that provides crisis intervention that meets ~~National Suicide Prevention Lifeline~~ NSPL standards for risk assessment and engagement *and the requirements of § 37.2-311.2.*

"Crisis stabilization center" means a facility providing short-term (under 24 hours) observation and crisis stabilization services to all referrals in a home-like, nonhospital environment.

"Fund" means the Crisis Call Center Fund established under § 37.2-311.4.

"Historically economically disadvantaged community" means the same as that term is defined in § 56-576.

"Mental health awareness response and community understanding services alert system" or "Marcus alert system" means a set of protocols to (i) initiate a behavioral health response to a behavioral health crisis, including for individuals experiencing a behavioral health crisis secondary to mental illness, substance abuse, developmental disabilities, or any combination thereof; (ii) divert such individuals to the behavioral health or developmental services system whenever feasible; and (iii) facilitate a specialized response in accordance with § 9.1-193 when diversion is not feasible.

"Mobile crisis response" means the provision of professional, same-day intervention for children or adults who are experiencing crises and whose behaviors are consistent with mental illness or substance abuse, or both, including individuals experiencing a behavioral health crisis that is secondary to mental illness, substance abuse, developmental or intellectual disability, brain injury, or any combination thereof. "Mobile crisis response" may be provided by a community care team or a mobile crisis team, and a locality may establish either or both types of teams to best meet its needs.

"Mobile crisis team" means a team of one or more qualified or licensed mental health professionals and may include a registered peer recovery specialist or a family support partner. A law-enforcement officer shall not be a member of a mobile crisis team, but law enforcement may provide backup support as needed to a mobile crisis team in accordance with the protocols and best practices developed pursuant to § 9.1-193.

"NSPL" or "National Suicide Prevention Lifeline" means the national suicide prevention and mental health crisis hotline established by the federal government in accordance with 42 U.S.C. § 290bb-36c to provide a national network of crisis centers linked by a toll-free number to route callers in suicidal crisis or emotional distress to the closest certified local crisis center.

"NSPL Administrator" means the entity designated by the federal government to administer the NSPL.

"Registered peer recovery specialist" means the same as such term is defined in § 54.1-3500.

"SAMHSA" or "Substance Abuse and Mental Health Services Administration" means the agency within the U.S. Department of Health and Human Services that leads federal behavioral health efforts.

B. The Department shall have the following duties and responsibilities for the provision of crisis services and support for individuals with mental illness, substance abuse, developmental or intellectual disabilities, or brain injury who are experiencing a crisis related to mental health, substance abuse, or behavioral support needs:

1. The Department shall develop a comprehensive crisis system, with such funds as may be appropriated for such purpose, based on national best practice models and composed of a crisis call center, community care and mobile crisis teams, crisis stabilization centers, and the Marcus alert system. *In addition to all requirements under this section, the crisis call center shall meet the requirements of § 37.2-311.2.*

2. By July 1, 2021, the Department, in collaboration with the Department of Criminal Justice Services and law-enforcement, mental health, behavioral health, developmental services, emergency management, brain injury, and racial equity stakeholders, shall develop a written plan for the development of a Marcus alert system. Such plan shall (i) inventory past and current crisis intervention teams established pursuant to Article 13 (§ 9.1-187 et seq.) of Chapter 1 of Title 9.1 throughout the Commonwealth that have received state funding; (ii) inventory the existence, status, and experiences of community services board mobile crisis teams and crisis stabilization units; (iii) identify any other existing cooperative relationships between community services boards and law-enforcement agencies; (iv) review the prevalence of crisis situations involving mental illness or substance abuse, or both, including individuals experiencing a behavioral health crisis that is secondary to mental illness, substance abuse, developmental or intellectual disability, brain injury, or any combination thereof; (v) identify state and local funding of emergency and crisis services; (vi) include protocols to divert calls from the 9-1-1 dispatch and response system to a crisis call center for risk assessment and engagement, including assessment for mobile crisis or community care team dispatch; (vii) include protocols for local law-enforcement agencies to enter into memorandums of agreement with mobile crisis response providers regarding requests for law-enforcement backup during a mobile crisis or community care team response; (viii) develop minimum standards, best practices, and a system for the review and approval of protocols for law-enforcement participation in the Marcus alert system set forth in § 9.1-193; (ix) assign specific responsibilities, duties, and authorities among responsible state and local entities; and (x) assess the effectiveness of a locality's or area's plan for community involvement, including engaging with and providing services to historically economically disadvantaged communities, training, and therapeutic response alternatives.

C. 1. No later than December 1, 2021, the Department shall establish five Marcus alert programs and community care or mobile crisis teams, one located in each of the five Department regions.

2. No later than July 1, 2023, the Department shall establish five additional Marcus alert system programs and community care or mobile crisis teams, one located in each of the five Department regions. Community services boards or behavioral health authorities that serve the largest populations in each region, excluding those community services boards or behavioral health authorities already selected under subdivision 1, shall be selected for programs under this subdivision.

3. The Department shall establish additional Marcus alert systems and community care teams in geographical areas served by a community services board or behavioral health authority by July 1, 2024; July 1, 2025; and July 1, 2026. No later than July 1, 2026, all community services board and behavioral health authority geographical areas shall have established a Marcus alert system that uses a community care or mobile crisis team.

4. *All community care teams and mobile crisis teams established under this section shall meet the standards set forth in § 37.2-311.3.*

D. The Department shall assess and report on the impact and effectiveness of the comprehensive crisis system in meeting its goals. The assessment shall include the number of calls to the crisis call center, number of mobile crisis responses, number of crisis responses that involved law-enforcement backup, and overall function of the comprehensive crisis system. A portion of the report, focused on the function of the Marcus alert system and local protocols for law-enforcement participation in the Marcus alert system, shall be written in collaboration with the Department of Criminal Justice Services and shall include the number and description of approved local programs and how the programs interface comprehensive crisis system and mobile crisis response; the number of crisis incidents and injuries to any parties involved; a description of successes and problems encountered; and an analysis of the overall operation of any local protocols or programs, including any disparities in response and outcomes by race and ethnicity of individuals experiencing a behavioral health crisis and recommendations for improvement of the programs. The report shall also include a specific plan to phase in a Marcus alert system and mobile crisis response in each remaining geographical area served by a community services board or behavioral health authority as required in subdivision C 3. The Department, in collaboration with the Department of Criminal Justice Services, shall (i) submit a report by November 15, 2021, to the Joint Commission on Health Care outlining progress toward the assessment of these factors and any assessment items that are available for the reporting period and (ii) submit a comprehensive annual report to the Joint Commission on Health Care by November 15 of each subsequent year.

§ 37.2-311.2. Powers and duties of crisis call center.

A. The crisis call center established by the Department pursuant to § 37.2-311.1 shall provide crisis intervention services and crisis care coordination to individuals accessing the NSPL from any jurisdiction in the Commonwealth 24 hours a day, seven days a week.

B. In administering the crisis call center, the Department shall:

1. Apply for participation in and enter into an agreement with the NSPL Administrator for participation within the NSPL;
2. Meet NSPL requirements and best practices guidelines for operational and clinical standards;
3. Report, provide data, and participate in evaluations and related quality improvement activities as required by the NSPL Administrator;
4. Use technology, including chat and text, that is interoperable across crisis and emergency response systems used throughout the Commonwealth and that is consistent with any standards promulgated by the NSPL Administrator;
5. Deploy crisis and outgoing services, including mobile crisis teams and community care teams;
6. Coordinate access to the comprehensive crisis system or other local resources as appropriate and according to guidelines and best practices established by the NSPL Administrator;
7. Actively collaborate with local community service boards to coordinate linkages for persons contacting the NSPL with ongoing care needs;
8. Establish formal agreements with local community services boards as it deems appropriate;
9. Coordinate access to the comprehensive crisis system for individuals accessing the NSPL through appropriate information sharing regarding availability of services;
10. Work with the NSPL Administrator and VCL networks to establish consistency of public messaging about services provided by the NSPL;
11. Meet any requirements set forth by the NSPL Administrator for serving high-risk and specialized populations as identified by SAMHSA, including any policies and training requirements for providing linguistically and cultural competent care and, if appropriate, transferring such callers to an appropriate specialized center or subnetwork within or external to the NSPL network;
12. Provide follow-up services to individuals who access the NSPL consistent with guidance and policies established by the NSPL;
13. Report any information required by the U.S. Federal Communications Commission, including information regarding the collection and expenditure by the Commonwealth of state and federal funds for the purposes of administering the call center, and regarding the use of the NSPL through the crisis call center;
14. Establish any work group or task force as necessary to administer the provisions of this section and §§ 37.2-311.1 and 37.2-311.3; and
15. Comply with any applicable requirements, including associated deadlines, of the National Suicide Hotline Designation Act of 2020, P.L. 116-172.

§ 37.2-311.3. Standards for community care teams and mobile crisis teams.

The Department shall ensure that mobile crisis teams and community care teams:

1. Are designed in partnership with community members, including people with lived experience utilizing crisis services;
2. Are staffed by personnel who reflect the demographics of the community served;
3. To the extent permitted by law, collect customer service data from individuals served, including demographic information and any information recommended by SAMHSA; and
4. Collaborate with local law-enforcement agencies in use of the crisis call center.

§ 37.2-311.4. Crisis Call Center Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Crisis Call Center Fund. The Fund shall be established on the books of the Comptroller. All revenues accruing to the Fund pursuant to § 37.2-311.5, all funds appropriated to the Fund, and any gifts, donations, grants, bequests, and other funds received on the Fund's behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of establishing and administering the crisis call center pursuant to the provisions of §§ 37.2-311.1, 37.2-311.2, and 37.2-311.3. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 37.2-311.5. Collection of 988 charges.

A. 1. Each dealer, as defined in § 56-484.17:1, shall collect a prepaid wireless 988 charge of \$0.08 from the end user, as defined in § 56-484.17:1, with respect to each retail transaction, as defined in § 56-484.17:1, occurring in the Commonwealth. A dealer may combine the tax imposed by this subdivision and the prepaid wireless E-911 charge imposed by subsection B of § 56-484.17:1 into a combined charge collected on a retail transaction and remitted to the Department of Taxation. If the dealer elects to combine the charges, the combined charge shall be identified as "911/988 Charge" on the invoice, receipt, or other similar document that is provided to the end user by the dealer or

otherwise disclosed by the dealer to the end user. If a dealer collects a combined charge, the dealer shall report to the Department of Taxation, pursuant to forms and procedures prescribed by the Tax Commissioner, the respective amounts that are attributable to the prepaid wireless 988 charge imposed under this subdivision and the prepaid wireless E-911 charge imposed by subsection B of § 56-484.17:1.

2. Each CMRS provider, as defined in § 56-484.12, and each reseller of CMRS, as defined in § 56-484.12, shall collect a monthly postpaid wireless 988 charge of \$0.12 from each of its customers whose place of primary use, as defined in § 56-484.12, is within the Commonwealth. The charge shall be billed with respect to customers of postpaid CMRS, as defined in § 56-484.12, by each CMRS provider and reseller of CMRS on each CMRS device capable of two-way interactive voice communication. A CMRS provider or reseller of CMRS may combine the tax imposed by this subdivision and the monthly wireless E-911 surcharge imposed by subsection B of § 56-484.17 into a combined charge to be collected from the customer. If a CMRS provider or reseller of CMRS elects to combine the charges, the combined charge shall be identified to the customer as the "911/988 Charge" through regular periodic billing. If a CMRS provider or reseller of CMRS collects a combined charge, such CMRS provider or reseller of CMRS shall report to the Department of Taxation, pursuant to forms and procedures prescribed by the Tax Commissioner, the respective amounts that are attributable to the monthly postpaid wireless 988 charge imposed under this subdivision and the monthly wireless E-911 surcharge imposed by subsection B of § 56-484.17.

B. The charges imposed under this section shall be collected by the Department of Taxation and shall be subject to the provisions of Article 7 (§ 56-484.12 et seq.) of Chapter 15 of Title 56, *mutatis mutandis*, except that all revenues from the prepaid wireless 988 charge imposed under subdivision A 1 and from the monthly postpaid wireless 988 charge imposed under subdivision A 2 shall accrue to the Fund and shall be used for the purposes identified in § 37.2-311.4.

§ 37.2-311.6. Liability for emergency calls to the National Suicide Prevention Lifeline.

A. Any originating service provider, as defined in § 56-484.12, and its employees and agents shall not be liable to any person for damages incurred as a result of any act or omission by it, except gross negligence or intentional, willful, or wanton misconduct, in connection with an emergency call, as defined in § 56-484.19, to the NSPL or the crisis call center.

B. Any originating service provider, as defined in § 56-484.12 and its employees and agents shall not be liable to any person for damages incurred as a result of any release of information not in the public record to the NSPL, to the crisis call center, to any employee or agent of the NSPL or the crisis call center, or to emergency responders, as defined in § 56-484.19, if such release of information occurred in connection with an emergency call, as defined in § 56-484.19 to the NSPL or the crisis call center.

§ 56-484.12. Definitions.

As used in this article, unless the context requires a different meaning:

"Automatic location identification" or "ALI" means a telecommunications network capability that enables the automatic display of information defining the geographical location of the telephone used to place a wireless enhanced 9-1-1 call.

"Automatic number identification" or "ANI" means a telecommunications network capability that enables the automatic display of the telephone number used to place a wireless Enhanced 9-1-1 call.

"Board" means the 9-1-1 Services Board created pursuant to this article.

"Chief Information Officer" or "CIO" means the Chief Information Officer appointed pursuant to § 2.2-2005.

"Coordinator" means the Virginia Public Safety Communications Systems Coordinator employed by the Division.

"CMRS" means mobile telecommunications service as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

"CMRS provider" means an entity authorized by the Federal Communications Commission to provide CMRS within the Commonwealth.

"Division" means the Division of Public Safety Communications created in § 44-146.18:5.

"Emergency services IP network" or "ESInet" means a shared public safety agency-managed Internet protocol (IP) network that (i) is used for emergency services communications, (ii) provides an IP transport infrastructure that is capable of carrying voice and data and that supports next generation 9-1-1 service core functions such as routing and location validation of emergency service requests, and (iii) is engineered, managed, and intended to support emergency public safety communications and 9-1-1 service.

"Enhanced 9-1-1 service" or "E-911" means a service consisting of telephone network features and PSAPs provided for users of telephone systems enabling such users to reach a PSAP by dialing the digits "9-1-1." Such service automatically directs 9-1-1 emergency telephone calls to the appropriate PSAPs by selective routing based on the geographical location from which the emergency call originated and provides the capability for ANI and ALI features.

"ESInet point of interconnection" means the demarcation point at which the NG9-1-1 Service Provider receives and assumes responsibility for 9-1-1 call traffic from originating service providers.

"Local exchange carrier" means any public service company granted a certificate to furnish public

utility service for the provision of local exchange telephone service pursuant to Chapter 10.1 (§ 56-265.1 et seq.) of Title 56.

"Next generation 9-1-1 service" or "NG9-1-1" means a service that (i) consists of coordinated intrastate 9-1-1 IP networks serving residents of the Commonwealth with the routing of emergency service requests, by voice or data, across public safety ESInets; (ii) automatically directs 9-1-1 emergency telephone calls and other emergency service requests in data formats to the appropriate PSAPs by routing using geographical information system data; (iii) provides for ANI and ALI features; and (iv) interconnects with enhanced 9-1-1 service.

"9-1-1 service" includes E-911 and NG9-1-1.

"Originating service provider" means the local exchange carrier, VoIP provider, or CMRS provider that serves the end user over which a 9-1-1 call, 9-8-8 call, call to the crisis call center, as defined in § 37.2-311.1, or call to the NSPL, as defined in § 37.2-311.1, is made.

"Place of primary use" has the meaning as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

"Postpaid CMRS" means CMRS that is not prepaid CMRS, as defined in § 56-484.17:1.

"Public safety answering point" or "PSAP" means a facility (i) equipped and staffed on a 24-hour basis to receive and process 9-1-1 calls or (ii) that intends to receive and process 9-1-1 calls and has notified CMRS providers in its jurisdiction of its intention to receive and process such calls.

"VoIP service" means interconnected voice over Internet protocol service as defined in the Code of Federal Regulations, Title 47, Part 9, section 9.3, as amended.

"Wireless E-911 Fund" means a dedicated fund consisting of all moneys collected pursuant to the wireless E-911 surcharge, all prepaid wireless E-911 charges collected pursuant to § 56-484.17:1, and any additional funds otherwise allocated or donated to the Wireless E-911 Fund the fund created pursuant to § 56-484.17.

"Wireless E-911 surcharge" means a monthly fee of \$0.75 billed with respect to postpaid CMRS customers by each CMRS provider and CMRS reseller on each CMRS device capable of two-way interactive voice communication.

§ 56-484.17. Wireless E-911 Fund; uses of Fund; enforcement; audit required.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Wireless E-911 Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Except as provided in § 44-146.18:5, moneys in the Fund shall be used for the purposes stated in subsections C and D. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Tax Commissioner or the State Coordinator of Emergency Management.

B. Each CMRS provider and each CMRS reseller shall collect a *monthly* wireless E-911 surcharge of \$0.82 from each of its customers whose place of primary use is within the Commonwealth. However, no surcharge shall be imposed on federal, state and local government agencies. A payment equal to all wireless E-911 surcharges shall be remitted within 30 days to the Department of Taxation. The Department of Taxation, after subtracting its direct costs of administration, shall deposit all remitted wireless E-911 surcharges into the state treasury. The Comptroller shall as soon as practicable deposit such moneys into the Fund. Each CMRS provider and CMRS reseller may retain an amount equal to three percent of the wireless E-911 surcharges collected to defray the costs of collecting the surcharges. State and local taxes shall not apply to any wireless E-911 surcharge collected from customers. Surcharges collected from customers shall be subject to the provisions of the federal Mobile Telecommunications Sourcing Act (4 U.S.C. § 116 et seq., as amended).

The CMRS provider and CMRS reseller shall collect the surcharge through regular periodic billing.

C. Sixty percent of the Wireless E-911 Fund shall be distributed on a monthly basis to the PSAPs according to each PSAP's average pro rata distribution from the Wireless E-911 Fund for fiscal years 2007-2012, taking into account any funding adjustments made pursuant to subsection E. On or before July 1, 2018, and every five years thereafter, the Department of Taxation shall recalculate the distribution percentage for each PSAP based on the population and call load data of the PSAP for the previous five fiscal years, which data shall continue to be received by the Board and then reported to the Department of Taxation. The distribution from the Wireless E-911 Fund shall be made on a monthly basis to the PSAPs according to such distribution percentage beginning July 1 of such fiscal year.

D. The remaining 40 percent of the Fund shall be distributed to PSAPs or on behalf of PSAPs based on grant requests received by the Board each fiscal year. The Board shall establish criteria for receiving and making grants from the Fund, including procedures for determining the amount of a grant and payment schedule; ~~however, priority shall be given.~~ *The Board shall give the highest priority to grants that support the regional or multijurisdictional deployment and sustainment of NG9-1-1, and it shall give secondary priority to grants that support the deployment and sustainment of (i) NG9-1-1 in a single jurisdiction and (ii) in-building repeaters that improve public safety radio coverage within buildings with impaired radio coverage.* If requested by an originating service provider, the Board shall execute a

contract to reimburse that originating service provider for its costs incurred to deliver 9-1-1 calls to the ESInet points of interconnection. The Board shall ensure that cost is minimized while still achieving necessary 9-1-1 service and ESInet objectives. The Board may retain some or all of this uncommitted funding for an identified 9-1-1 funding need or for a reserve balance pursuant to a reserve balance policy adopted by the Board.

E. After the end of each fiscal year, on a schedule adopted by the Board, the Board shall audit the grant funding received by all recipients to ensure it was utilized in accordance with the grant requirements. Each funding recipient shall provide such verification of such costs as may be requested by the Board. Any overpayment shall be refunded to the Board or credited to payments during the then-current fiscal year, on such schedule as the Board shall determine. If payments are less than the actual costs reported, the Board may include the additional funding in the then-current fiscal year.

F. The Auditor of Public Accounts, or his legally authorized representatives, shall audit the Wireless E-911 Fund as determined necessary by the Auditor of Public Accounts. The cost of such audit shall be borne by the Board and be payable from the Wireless E-911 Fund, as appropriate. The Board shall furnish copies of the audits to the Governor, the Public Safety Subcommittees of the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission.

G. The special tax authorized by § 58.1-1730 shall not be imposed on consumers of CMRS.

§ 56-484.17:1. Collection of prepaid wireless E-911 charge at point of sale; rate established.

A. As used in this section, unless the context requires a different meaning:

"Dealer" means a person who sells prepaid CMRS to an end user.

"Department" means the Department of Taxation.

"End user" means a person who purchases prepaid CMRS in a retail transaction.

"Prepaid CMRS" means CMRS that allows a caller to dial 911 to access the 911 system, which CMRS service is required to be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.

"Prepaid wireless E-911 charge" means the charge that is required to be collected by a dealer from an end user in the amount established under subsection B.

"Retail transaction" means the purchase of prepaid CMRS from a dealer for any purpose other than resale. If more than one item or article of prepaid CMRS is purchased by an end user, then each item or article purchased shall be deemed to be a separate retail transaction.

B. The prepaid wireless E-911 charge:

1. Shall be ~~\$0.50~~ \$0.55 per retail transaction.

2. Shall be collected by the dealer from the end user with respect to each retail transaction occurring in the Commonwealth. The amount of the prepaid wireless E-911 charge shall be either separately stated on an invoice, receipt, or other similar document that is provided to the end user by the dealer or otherwise disclosed by the dealer to the end user. For purposes of this subdivision, a retail transaction that is effected in person by an end user at a business location of the dealer shall be treated as occurring in the Commonwealth if that business location is in the Commonwealth, and any other retail transaction shall be treated as occurring in the Commonwealth if treated as occurring in the Commonwealth for purposes of the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.).

3. Is the liability of the end user and not of the dealer or of any CMRS provider, except that the dealer shall be liable to remit to the Department all prepaid wireless E-911 charges that the dealer collects from end users as provided in subsection E, including all prepaid wireless E-911 charges that the dealer is deemed to have collected in cases in which the charge has not been separately stated on an invoice, receipt, or other similar document provided to the end user by the dealer.

C. The amount of the prepaid wireless E-911 charge that is collected by a dealer from an end user shall not be included in the base for measuring any fee, tax, surcharge, or other charge that is imposed by the Commonwealth, any political subdivision of the Commonwealth, or any intergovernmental agency.

D. Except as otherwise expressly provided herein, the charge imposed pursuant to this section shall be collected by the Tax Commissioner and shall be implemented, enforced, and collected in the same manner as retail sales and use taxes are implemented, enforced, and collected under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). However, as provided in subdivision B 3, the prepaid wireless E-911 charge shall be the liability of the end user and not of the dealer or of any CMRS provider, except that the dealer shall be liable to remit to the Department all prepaid wireless E-911 charges that the dealer collects from end users. A dealer shall be permitted to deduct and retain five percent of prepaid wireless E-911 charges that are collected by the dealer from end users if such charges were not delinquent at the time of remittance to the Department. Nothing herein shall be construed or interpreted as limiting or restricting the discount provided under § 58.1-622 with regard to prepaid CMRS that is taxable under the Virginia Retail Sales and Use Tax Act.

The Department, after subtracting its direct costs of administration, shall deposit all remitted prepaid wireless E-911 charges into the state treasury. The Comptroller shall as soon as practicable deposit such moneys into the Wireless E-911 Fund for use by the Board in accordance with the purposes permitted by this article.

E. The Department shall develop and publish guidelines implementing the provisions of this section and shall update the guidelines as deemed necessary by the Tax Commissioner. The Tax Commissioner shall notify every dealer holding a certificate of registration under § 58.1-613 when the guidelines and any updates are published. The development and publication of the guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

Among other items, the guidelines shall include provisions exempting small dealers, as defined solely by the Department, from the otherwise mandatory requirement under this section to disclose the prepaid wireless E-911 charge to the end user. The guidelines shall define a "small dealer" based, in part or in whole, upon the extent to which the dealer sells prepaid CMRS.

F. The provisions of this section shall apply to retail transactions occurring on or after January 1, 2011.