

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend Senate Bill No. 180, Page 1, Section TITLE, Lines 2-3,

2 by striking "a public safety sales tax" and inserting in  
3 lieu thereof the following: "local public safety taxes"; and

4 Further amend said bill, page 7, Section 94.902, line  
5 191, by inserting after all of said line the following:

6 "190.460. 1. As used in this section, the following  
7 terms mean:

8 (1) "Board", the Missouri 911 service board  
9 established under section 650.325;

10 (2) "Consumer", a person who purchases prepaid  
11 wireless telecommunications service in a retail transaction;

12 (3) "Department", the department of revenue;

13 (4) "Prepaid wireless service provider", a provider  
14 that provides prepaid wireless service to an end user;

15 (5) "Prepaid wireless telecommunications service", a  
16 wireless telecommunications service that allows a caller to  
17 dial 911 to access the 911 system and which service shall be  
18 paid for in advance and is sold in predetermined units or  
19 dollars of which the number declines with use in a known  
20 amount;

21 (6) "Retail transaction", the purchase of prepaid  
22 wireless telecommunications service from a seller for any  
23 purpose other than resale. The purchase of more than one  
24 item that provides prepaid wireless telecommunication  
25 service, when such items are sold separately, constitutes  
26 more than one retail transaction;

27 (7) "Seller", a person who sells prepaid wireless  
28 telecommunications service to another person;

29 (8) "Wireless telecommunications service", commercial  
30 mobile radio service as defined by 47 CFR 20.3, as amended.

31 2. (1) Beginning January 1, 2019, there is hereby  
32 imposed a prepaid wireless emergency telephone service  
33 charge on each retail transaction. The amount of such  
34 charge shall be equal to three percent of the amount of each  
35 retail transaction. The first fifteen dollars of each  
36 retail transaction shall not be subject to the service  
37 charge.

38 (2) When prepaid wireless telecommunications service  
39 is sold with one or more products or services for a single,  
40 nonitemized price, the prepaid wireless emergency telephone  
41 service charge set forth in subdivision (1) of this  
42 subsection shall apply to the entire nonitemized price  
43 unless the seller elects to apply such service charge in the  
44 following way:

45 (a) If the amount of the prepaid wireless  
46 telecommunications service is disclosed to the consumer as a  
47 dollar amount, three percent of such dollar amount; or

48 (b) If the seller can identify the portion of the  
49 price that is attributable to the prepaid wireless  
50 telecommunications service by reasonable and verifiable  
51 standards from the seller's books and records that are kept  
52 in the regular course of business for other purposes  
53 including, but not limited to, nontax purposes, three  
54 percent of such portion;

55 The first fifteen dollars of each transaction under this  
56 subdivision shall not be subject to the service charge.

57 (3) The prepaid wireless emergency telephone service  
58 charge shall be collected by the seller from the consumer  
59 with respect to each retail transaction occurring in this

60 state. The amount of the prepaid wireless emergency  
61 telephone service charge shall be either separately stated  
62 on an invoice, receipt, or other similar document that is  
63 provided to the consumer by the seller or otherwise  
64 disclosed to the consumer.

65 (4) For purposes of this subsection, a retail  
66 transaction that is effected in person by a consumer at a  
67 business location of the seller shall be treated as  
68 occurring in this state if that business location is in this  
69 state, and any other retail transaction shall be treated as  
70 occurring in this state if the retail transaction is treated  
71 as occurring under chapter 144.

72 (5) The prepaid wireless emergency telephone service  
73 charge is the liability of the consumer and not of the  
74 seller or of any provider; except that, the seller shall be  
75 liable to remit all charges that the seller collects or is  
76 deemed to collect.

77 (6) The amount of the prepaid wireless emergency  
78 telephone service charge that is collected by a seller from  
79 a consumer, if such amount is separately stated on an  
80 invoice, receipt, or other similar document provided to the  
81 consumer by the seller, shall not be included in the base  
82 for measuring any tax, fee, surcharge, or other charge that  
83 is imposed by this state, any political subdivision of this  
84 state, or any intergovernmental agency.

85 3. (1) Prepaid wireless emergency telephone service  
86 charges collected by sellers shall be remitted to the  
87 department at the times and in the manner provided by state  
88 law with respect to sales and use taxes. The department  
89 shall establish registration and payment procedures that  
90 substantially coincide with the registration and payment  
91 procedures that apply under state law. On or after the  
92 effective date of the service charge imposed under the

93 provisions of this section, the director of the department  
94 of revenue shall perform all functions incident to the  
95 administration, collection, enforcement, and operation of  
96 the service charge, and the director shall collect, in  
97 addition to the sales tax for the state of Missouri, all  
98 additional service charges imposed in this section. All  
99 service charges imposed under this section together with all  
100 taxes imposed under the sales tax law of the state of  
101 Missouri shall be collected together and reported upon such  
102 forms and under such administrative rules and regulations as  
103 may be prescribed by the director. All applicable  
104 provisions contained in sections 144.010 to 144.525  
105 governing the state sales tax and section 32.057 shall apply  
106 to the collection of any service charges imposed under this  
107 section except as modified.

108 (2) Beginning on January 1, 2019, and ending on  
109 January 31, 2019, when a consumer purchases prepaid wireless  
110 telecommunications service in a retail transaction from a  
111 seller under this section, the seller shall be allowed to  
112 retain one hundred percent of the prepaid wireless emergency  
113 telephone service charges that are collected by the seller  
114 from the consumer. Beginning on February 1, 2019, a seller  
115 shall be permitted to deduct and retain three percent of  
116 prepaid wireless emergency telephone service charges that  
117 are collected by the seller from consumers.

118 (3) The department shall establish procedures by which  
119 a seller of prepaid wireless telecommunications service may  
120 document that a sale is not a retail transaction, which  
121 procedures shall substantially coincide with the procedures  
122 for documenting sale for resale transactions for sales and  
123 use purposes under state law.

124 (4) The department shall deposit all remitted prepaid  
125 wireless emergency telephone service charges into the

126 general revenue fund for the department's use until eight  
127 hundred thousand one hundred fifty dollars is collected to  
128 reimburse its direct costs of administering the collection  
129 and remittance of prepaid wireless emergency telephone  
130 service charges. From then onward, the department shall  
131 deposit all remitted prepaid wireless emergency telephone  
132 service charges into the Missouri 911 service trust fund  
133 created under section 190.420 within thirty days of receipt  
134 for use by the board. After the initial eight hundred  
135 thousand one hundred fifty dollars is collected, the  
136 department may deduct an amount not to exceed one percent of  
137 collected charges to be retained by the department to  
138 reimburse its direct costs of administering the collection  
139 and remittance of prepaid wireless emergency telephone  
140 service charges.

141 (5) The board shall set a rate between twenty-five and  
142 one hundred percent of the prepaid wireless emergency  
143 telephone service charges deposited in the Missouri 911  
144 service trust fund collected in counties without a charter  
145 form of government, less the deductions authorized in  
146 subdivision (4) of this subsection, that shall be remitted  
147 to such counties in direct proportion to the amount of  
148 charges collected in each county. The board shall set a  
149 rate between sixty-five and one hundred percent of the  
150 prepaid wireless emergency telephone service charges  
151 deposited in the Missouri 911 service trust fund collected  
152 in counties with a charter form of government and any city  
153 not within a county, less the deductions authorized in  
154 subdivision (4) of this subsection, that shall be remitted  
155 to each such county or city not within a county in direct  
156 proportion to the amount of charges collected in each such  
157 county or city not within a county. If a county has an  
158 elected emergency services board, the Missouri 911 service

159 board shall remit the funds to the elected emergency  
160 services board, except for an emergency services board  
161 originally organized under section 190.325 operating within  
162 a county with a charter form of government and with more  
163 than two hundred thousand but fewer than three hundred fifty  
164 thousand inhabitants, in which case the funds shall be  
165 remitted to the county's general fund for the purpose of  
166 public safety infrastructure. The initial percentage rate  
167 set by the board for counties with and without a charter  
168 form of government and any city not within a county shall be  
169 set by June thirtieth of each applicable year and may be  
170 adjusted annually for the first three years, and thereafter  
171 the rate may be adjusted every three years; however, at no  
172 point shall the board set rates that fall below twenty-five  
173 percent for counties without a charter form of government  
174 and sixty-five percent for counties with a charter form of  
175 government and any city not within a county.

176 (6) Any amounts received by a county or city under  
177 subdivision (5) of this subsection shall be used only for  
178 purposes authorized in sections 190.305, 190.325, and  
179 190.335. Any amounts received by any county with a charter  
180 form of government and with more than six hundred thousand  
181 but fewer than seven hundred thousand inhabitants under this  
182 section may be used for emergency service notification  
183 systems.

184 4. (1) A seller that is not a provider shall be  
185 entitled to the immunity and liability protections under  
186 section 190.455, notwithstanding any requirement in state  
187 law regarding compliance with Federal Communications  
188 Commission Order 05-116.

189 (2) A provider shall be entitled to the immunity and  
190 liability protections under section 190.455.

191           (3) In addition to the protection from liability  
192 provided in subdivisions (1) and (2) of this subsection,  
193 each provider and seller and its officers, employees,  
194 assigns, agents, vendors, or anyone acting on behalf of such  
195 persons shall be entitled to the further protection from  
196 liability, if any, that is provided to providers and sellers  
197 of wireless telecommunications service that is not prepaid  
198 wireless telecommunications service under section 190.455.

199           5. The prepaid wireless emergency telephone service  
200 charge imposed by this section shall be in addition to any  
201 other tax, fee, surcharge, or other charge imposed by this  
202 state, any political subdivision of this state, or any  
203 intergovernmental agency for 911 funding purposes.

204           6. The provisions of this section shall become  
205 effective unless the governing body of a county or city  
206 adopts an ordinance, order, rule, resolution, or regulation  
207 by at least a two-thirds vote prohibiting the charge  
208 established under this section from becoming effective in  
209 the county or city at least forty-five days prior to the  
210 effective date of this section. If the governing body does  
211 adopt such ordinance, order, rule, resolution, or regulation  
212 by at least a two-thirds vote, the charge shall not be  
213 collected and the county or city shall not be allowed to  
214 obtain funds from the Missouri 911 service trust fund that  
215 are remitted to the fund under the charge established under  
216 this section. The Missouri 911 service board shall, by  
217 September 1, 2018, notify all counties and cities of the  
218 implementation of the charge established under this section,  
219 and the procedures set forth under this subsection for  
220 prohibiting the charge from becoming effective.

221           7. Any county or city which prohibited the prepaid  
222 wireless emergency telephone service charge pursuant to the  
223 provisions of subsection 6 of this section may take a vote

224 of the governing body, and notify the department of revenue  
225 of the result of such vote[, by November 15, 2019,] to  
226 impose such charge [effective January 1, 2020]. A vote of  
227 at least two-thirds of the governing body is required in  
228 order to impose such charge. The department shall notify  
229 the board of notices received by [December 1, 2019] within  
230 sixty days of receiving such notice."; and

231 Further amend the title and enacting clause accordingly.