

CHAPTER 936

H.B. No. 1544

AN ACT

relating to providing 9-1-1 emergency service to certain residential facilities.

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

SECTION 1. Section 771.001, Health and Safety Code, is amended to read as follows:

Sec. 771.001. DEFINITIONS. In this chapter:

(1) "Advisory commission" means the Advisory Commission on State Emergency Communications.

(2) "*Business service user*" means a business service that provides telecommunications service, including 9-1-1 service, to residential end users through a private telephone switch.

(3) "Emergency communication district" means:

(A) a public agency or group of public agencies acting jointly that provided 9-1-1 service before September 1, 1987, or that had voted or contracted before that date to provide that service; or

(B) a district created under Subchapter B, C, or D, Chapter 772.

(4) [(3)] "Intrastate long distance service provider" means a telecommunications carrier providing intrastate long distance service, as defined by the advisory commission.

(5) [(4)] "Local exchange service provider" means a telecommunications carrier providing telecommunications service in a local exchange service area under a certificate of public convenience and necessity issued by the Public Utility Commission of Texas.

(6) [(5)] "9-1-1 service" means a telecommunications service that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 9-1-1.

(7) [(6)] "Public agency" means the state, a municipality, a county, an emergency communication district, a regional planning commission, or any other political subdivision or district that provides or has authority to provide fire-fighting, law enforcement, ambulance, medical, 9-1-1, or other emergency services.

(8) [(7)] "Public safety agency" means the division of a public agency that provides fire-fighting, police, medical, or other emergency services, or a private entity that provides emergency medical or ambulance services.

(9) [(8)] "Public safety answering point" means a continuously operated communications facility that is assigned the responsibility to receive 9-1-1 calls and, as appropriate, to

dispatch public safety services or to extend, transfer, or relay 9-1-1 calls to appropriate public safety agencies.

(10) [(9)] "Regional planning commission" means a commission established under Chapter 391, Local Government Code.

SECTION 2. Section 771.053(a), Health and Safety Code, is amended to read as follows:

(a) A service provider of telecommunications service involved in providing 9-1-1 service, a manufacturer of equipment used in providing 9-1-1 service, or an officer or employee of a service provider [~~of telecommunications service~~] involved in providing 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

SECTION 3. Subchapter C, Chapter 771, Health and Safety Code, is amended by adding Section 771.060 to read as follows:

Sec. 771.060. BUSINESS PROVIDING RESIDENTIAL TELEPHONE SWITCHES. A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall provide to those residential end users the same level of 9-1-1 service that a service supplier is providing to other residential end users in the area participating in the regional plan under Section 771.051(2).

SECTION 4. Section 771.071(a), Health and Safety Code, is amended to read as follows:

(a) Except as otherwise provided by this subchapter, the advisory commission may impose a 9-1-1 emergency service fee on each local exchange access line or equivalent local exchange access line, including lines of customers in an area served by an emergency communication district participating in the applicable regional plan. *If a business service user provides residential facilities, each line that terminates at a residential unit, and that is a communication link equivalent to a residential local exchange access line, shall be charged the 9-1-1 emergency service fee.* The fee may not be imposed on a line to coin-operated public telephone equipment or to public telephone equipment operated by coin or by card reader. For purposes of this section, the advisory commission shall determine what constitutes an equivalent local exchange access line.

SECTION 5. Sections 771.073(b), (c), and (d), Health and Safety Code, are amended to read as follows:

(b) *A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall collect the 9-1-1 emergency service fee and transmit the fees monthly to the regional planning commission or other entity designated by the commission to collect the fee. A business service user that does not collect and remit the 9-1-1 emergency service fee as required is subject to a civil cause of action. A court may award court costs, attorney's fees, and interest on the amount delinquent at an annual rate of 12 percent, to be paid by the nonpaying business service user. A sworn affidavit by the entity that administers the 9-1-1 service specifying the unremitted fees is prima facie evidence that the fees were not remitted and of the amount of the unremitted fees.*

(c) The regional planning commission or a public agency designated by the regional planning commission may establish collection procedures and recover the cost of collection from the customer liable for the fee or surcharge. The regional planning commission or designated public agency may institute legal proceedings to collect a fee or surcharge and in those proceedings is entitled to recover from the customer court costs, attorney's fees, and an interest on the amount delinquent. The interest is computed at an annual rate of 12 percent beginning on the date the fee or surcharge becomes due.

(d) [(e)] A service provider may not disconnect services for nonpayment of a fee or surcharge imposed under this subchapter.

(e) [(d)] A service provider collecting fees or surcharges under this subchapter may retain as an administrative fee an amount equal to two percent of the total amount collected.

SECTION 6. Section 771.075, Health and Safety Code, is amended to read as follows:

Sec. 771.075. USE OF REVENUE. Except as provided by Section 771.072(e) or 771.073(e) [771.073(d)], fees and surcharges collected under this subchapter may be used only for planning, development, and provision of 9-1-1 service as approved by the advisory commission.

SECTION 7. Section 772.001, Health and Safety Code, is amended by amending Subdivision (17) and adding Subdivision (20) to read as follows:

(17) "Service user" means a person that is provided local exchange access lines, or their equivalent, in an emergency communication district.

(20) "Business service user" means a business service that provides telecommunications service, including 9-1-1 service, to residential end users through a private telephone switch.

SECTION 8. Section 772.114(b), Health and Safety Code, is amended to read as follows:

(b) The fee may be imposed only on the base rate charge or its equivalent, excluding charges for coin-operated telephone equipment. The fee may not be imposed on more than 100 local exchange access lines or their equivalent for a single business entity at a single location, unless the lines are used by residents of the location. If a business service user provides residential facilities, each line that terminates at a residential unit and that is a communication link equivalent to a residential local exchange access line, shall be charged the 9-1-1 emergency service fee. The fee must have uniform application and must be imposed in each participating jurisdiction.

SECTION 9. Section 772.115, Health and Safety Code, is amended to read as follows:

Sec. 772.115. COLLECTION OF FEE. (a) Each billed service user is liable for the fee imposed under Section 772.114 until the fee is paid to the service supplier. The fee must be added to and stated separately in the service user's bill from the service supplier. The service supplier shall collect the fee at the same time as the service charge to the service user in accordance with the regular billing practice of the service supplier. A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall collect the 9-1-1 emergency service fee and transmit the fees monthly to the district.

(b) The amount collected by a service supplier from the fee is due quarterly. The service supplier shall remit the amount collected in a calendar quarter to the district not later than the 60th day after the last day of the calendar quarter. With each payment the service supplier shall file a return in a form prescribed by the board.

(c) Both a [A] service supplier and a business service user under Subsection (a) shall maintain records of the amount of fees it collects for at least two years after the date of collection. The board may require at the board's expense an annual audit of a service supplier's books and records or the books and records of a business service user described by Subsection (a) with respect to the collection and remittance of the fees.

(d) A business service user that does not collect and remit the 9-1-1 emergency service fee as required is subject to a civil cause of action under Subsection (g). A sworn affidavit by the district specifying the unremitted fees is prima facie evidence that the fees were not remitted and of the amount of the unremitted fees.

(e) A service supplier is entitled to retain an administrative fee from the amount of fees it collects. The amount of the administrative fee is two percent of the amount of fees it collects under this section.

(f) [(e)] A service supplier is not required to take any legal action to enforce the collection of the 9-1-1 emergency service fee. However, the service supplier shall provide the district with an annual certificate of delinquency that includes the amount of all delinquent fees and the name and address of each nonpaying service user. The certificate of delinquency is prima facie evidence that a fee included in the certificate is delinquent. A service user account is considered delinquent if the fee is not paid to the service supplier before the 31st day after the payment due date stated on the user's bill from the service supplier.

(g) [(f)] The district may institute legal proceedings to collect fees not paid and may establish internal collection procedures and recover the cost of collection from the nonpaying service user. If legal proceedings are established, the court may award the district court

costs, attorney's fees, and interest to be paid by the nonpaying service user. A delinquent fee accrues interest at an annual rate of 12 percent beginning on the date the payment becomes due.

SECTION 10. Section 772.118, Health and Safety Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) *A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall provide to those residential end users the same level of 9-1-1 service that a service supplier is required to provide under Subsection (a) to other residential end users in the district.*

(c) Information furnished under this section is confidential and is not available for public inspection.

(d) ~~[(e)]~~ A service supplier or a business service user under Subsection (b) ~~[provider]~~ is not liable to a ~~[any]~~ person who uses a 9-1-1 system created under this subchapter for the release to the district of the information specified in Subsections ~~[Subsection]~~ (a) and (b).

SECTION 11. Section 772.214(b), Health and Safety Code, is amended to read as follows:

(b) The fee may be imposed only on the base rate charge or its equivalent, excluding charges for coin-operated telephone equipment. The fee may not be imposed on more than 100 local exchange access lines or their equivalent for a single business entity at a single location, *unless the lines are used by residents of the location. If a business service user provides residential facilities, each line that terminates at a residential unit and that is a communication link equivalent to a residential local exchange access line shall be charged the 9-1-1 emergency service fee.* The fee must have uniform application and must be imposed in each participating jurisdiction.

SECTION 12. Section 772.215, Health and Safety Code, is amended to read as follows:

Sec. 772.215. COLLECTION OF FEE. (a) Each billed service user is liable for the fee imposed under Section 772.214 until the fee is paid to the service supplier. The fee must be added to and stated separately in the service user's bill from the service supplier. The service supplier shall collect the fee at the same time as the service charge to the service user in accordance with the regular billing practice of the service supplier. *A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall collect the 9-1-1 emergency service fee and transmit the fees monthly to the district.*

(b) The amount collected by a service supplier from the fee is due monthly. The service supplier shall remit the amount collected in a calendar month to the district not later than the 60th day after the last day of the calendar month. With each payment the service supplier shall file a return in a form prescribed by the board.

(c) *Both a [A] service supplier and a business service user under Subsection (a) shall maintain records of the amount of fees it collects for at least two years after the date of collection. The board may require at the board's expense an annual audit of a service supplier's books and records or the books and records of a business service user described by Subsection (a) with respect to the collection and remittance of the fees.*

(d) *A business service user that does not collect and remit the 9-1-1 emergency service fee as required is subject to a civil cause of action under Subsection (g). A sworn affidavit by the district specifying the unremitted fees is prima facie evidence that the fees were not remitted and of the amount of the unremitted fees.*

(e) A service supplier is entitled to retain an administrative fee from the amount of fees it collects. The amount of the administrative fee is two percent of the amount of fees it collects under this section.

(f) ~~[(e)]~~ A service supplier is not required to take any legal action to enforce the collection of the 9-1-1 emergency service fee. However, the service supplier shall provide the district with an annual certificate of delinquency that includes the amount of all delinquent fees and the name and address of each nonpaying service user. The certificate of delinquency is prima facie evidence that a fee included in the certificate is delinquent. A service user account is considered delinquent if the fee is not paid to the service supplier before the 31st day after the payment due date stated on the user's bill from the service supplier.

(g) [(f)] The district may institute legal proceedings to collect fees not paid and may establish internal collection procedures and recover the cost of collection from the nonpaying service user. If the district prevails in legal proceedings instituted to collect a fee, the court may award the district court costs, attorney's fees, and interest in addition to other amounts recovered. A delinquent fee accrues interest at an annual rate of 12 percent beginning on the date the payment becomes due.

SECTION 13. Section 772.218, Health and Safety Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) *A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall provide to those residential end users the same level of 9-1-1 service that a service supplier is required to provide under Subsection (a) to other residential end users in the district.*

(c) Information furnished under this section is confidential and is not available for public inspection.

(d) [(e)] A service supplier or business service user under Subsection (b) [provider] is not liable to a [any] person who uses a 9-1-1 system created under this subchapter for the release to the district of the information specified in Subsections [Subsection] (a) and (b).

SECTION 14. Section 772.314(b), Health and Safety Code, is amended to read as follows:

(b) The fee may be imposed only on the base rate charge or its equivalent, excluding charges for coin-operated telephone equipment. The fee may not be imposed on more than 100 local exchange access lines or their equivalent for a single business entity at a single location, unless the lines are used by residents of the location. *If a business service user provides residential facilities, each line that terminates at a residential unit and that is a communication link equivalent to a residential local exchange access line shall be charged the 9-1-1 emergency service fee.* The fee must have uniform application and must be imposed in each participating jurisdiction.

SECTION 15. Section 772.315, Health and Safety Code, is amended to read as follows:

Sec. 772.315. COLLECTION OF FEE. (a) Each billed service user is liable for the fee imposed under Section 772.314 until the fee is paid to the service supplier. The fee must be added to and stated separately in the service user's bill from the service supplier. The service supplier shall collect the fee at the same time as the service charge to the service user in accordance with the regular billing practice of the service supplier. *A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall collect the 9-1-1 emergency service fee and transmit the fees monthly to the district.*

(b) The amount collected by a service supplier from the fee is due monthly. The service supplier shall remit the amount collected in a calendar month to the district not later than the 60th day after the last day of the calendar month. With each payment the service supplier shall file a return in a form prescribed by the board.

(c) *Both a [A] service supplier and a business service user under Subsection (a) shall maintain records of the amount of fees it collects for at least two years after the date of collection. The board may require at the board's expense an annual audit of a service supplier's books and records or the books and records of a business service user described by Subsection (a) with respect to the collection and remittance of the fees.*

(d) *A business service user that does not collect and remit the 9-1-1 emergency service fee as required is subject to a civil cause of action under Subsection (g). A sworn affidavit by the district specifying the unremitted fees is prima facie evidence that the fees were not remitted and of the amount of the unremitted fees.*

(e) A service supplier is entitled to retain an administrative fee from the amount of fees it collects. The amount of the administrative fee is two percent of the amount of fees it collects under this section.

(f) [(e)] A service supplier is not required to take any legal action to enforce the collection of the 9-1-1 emergency service fee. However, the service supplier shall provide the district with an annual certificate of delinquency that includes the amount of all delinquent fees and the name and address of each nonpaying service user. The certificate of delinquency is prima

facie evidence that a fee included in the certificate is delinquent. A service user account is considered delinquent if the fee is not paid to the service supplier before the 31st day after the payment due date stated on the user's bill from the service supplier.

(g) [(f)] The district may institute legal proceedings to collect fees not paid and may establish internal collection procedures and recover the cost of collection from the nonpaying service user. If the district prevails in legal proceedings instituted to collect a fee, the court may award the district court costs, attorney's fees, and interest in addition to other amounts recovered. A delinquent fee accrues interest at an annual rate of 12 percent beginning on the date the payment becomes due.

SECTION 16. Section 772.318, Health and Safety Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) *A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall provide to those residential end users the same level of 9-1-1 service that a service supplier is required to provide under Subsection (a) to other residential end users in the district.*

(c) Information furnished under this section is confidential and is not available for public inspection.

(d) [(e)] A service supplier or business service user under Subsection (b) [provider] is not liable to a [any] person who uses a 9-1-1 system created under this subchapter for the release to the district of the information specified in Subsections [Subsection] (a) and (b).

SECTION 17. Section 772.403(a), Health and Safety Code, is amended to read as follows:

(a) A county to which this subchapter applies may implement a system for providing 9-1-1 service in the unincorporated areas of the county and may impose a service fee on local exchange telephone service customers in the area served. *If a business service user provides residential facilities, each line that terminates at a residential unit and that is a communication link equivalent to a residential local exchange access line shall be charged the 9-1-1 emergency service fee.*

SECTION 18. Section 772.404, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) *A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall collect the 9-1-1 emergency service fee and transmit the fees monthly to the county.*

(d) A local exchange service provider collecting fees under this subchapter may retain as an administrative fee an amount equal to two percent of the total amount of the fees it collects.

SECTION 19. Subchapter E, Chapter 772, Health and Safety Code, is amended by adding Section 772.406 to read as follows:

Sec. 772.406. NUMBER AND LOCATION IDENTIFICATION. A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall provide to those residential end users the same level of 9-1-1 service relating to number and location identification that a service supplier provides to other residential end users in the county.

SECTION 20. (a) Not later than September 1, 1994, the Texas Higher Education Coordinating Board, with the cooperation of the Advisory Commission on State Emergency Communications, shall inventory residential PBX facilities that are owned or operated by a public or private institution of higher education as defined by Section 61.003 or Section 61.302, Education Code. The inventory shall identify each institution's telecommunications equipment, estimate the cost, and specify the technical requirements that would be necessary to provide the level of 9-1-1 services required by this Act and may recommend alternative plans that will provide substantially equivalent efficient and effective emergency response services.

(b) Each institution shall evaluate the technical and financial feasibility of and establish a schedule for providing access to an effective 9-1-1 emergency response service.

(c) A public, private, or independent institution of higher education that provides residential services on telecommunications equipment that cannot be technically modified to provide

the required level of 9-1-1 service is exempt from the requirements of this Act until the PBX system is replaced, and at that time a new PBX system shall be installed with equipment that provides the required level of 9-1-1 service.

(d) A public, private, or independent institution of higher education providing residential PBX facilities that can provide the required level of 9-1-1 service shall do so on or before September 1, 1995, unless the institution has received a waiver(s) from the Advisory Commission on State Emergency Communications. A waiver may be granted for technical or financial reasons.

SECTION 21. A business service user shall provide the level of 9-1-1 service required by this Act not later than September 1, 1994.

SECTION 22. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 8, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 1544 on May 26, 1993, by a non-record vote; passed by the Senate, with amendments, on May 24, 1993: Yeas 31, Nays 0.

Approved June 19, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.