

CS FOR HOUSE BILL NO. 461(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 4/28/04

Referred: State Affairs

Sponsor(s): REPRESENTATIVE HOLM

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to enhanced 911 surcharges and to 911 and emergency services**
2 **dispatch systems."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 09.65.070(d) is amended to read:

5 (d) An action for damages may not be brought against a municipality or any of
6 its agents, officers, or employees if the claim **is based on**

7 (1) [IS BASED ON] a failure of the municipality, or its agents,
8 officers, or employees, when the municipality is neither owner nor lessee of the
9 property involved, **to**

10 (A) [TO] inspect property for a violation of any statute,
11 regulation, or ordinance, or a hazard to health or safety;

12 (B) [TO] discover a violation of any statute, regulation, or
13 ordinance, or a hazard to health or safety if an inspection of property is made;

14 or

1 (C) [TO] abate a violation of any statute, regulation, or
2 ordinance, or a hazard to health or safety discovered on property inspected;

3 (2) [IS BASED UPON] the exercise or performance or the failure to
4 exercise or perform a discretionary function or duty by a municipality or its agents,
5 officers, or employees, whether or not the discretion involved is abused;

6 (3) [IS BASED UPON] the grant, issuance, refusal, suspension, delay,
7 or denial of a license, permit, appeal, approval, exception, variance, or other
8 entitlement, or a rezoning;

9 (4) [IS BASED ON] the exercise or performance during the course of
10 gratuitous extension of municipal services on an extraterritorial basis;

11 (5) [IS BASED UPON] the exercise or performance of a duty or
12 function upon the request of, or by the terms of an agreement or contract with, the
13 state to meet emergency public safety requirements; or

14 (6) [IS BASED ON] the exercise or performance of a duty in
15 connection with **an emergency services dispatch system or** enhanced 911 emergency
16 system and is not based on an intentional act of misconduct or on an act of gross
17 negligence.

18 * **Sec. 2.** AS 29.10.200(37) is amended to read:

19 (37) AS 29.35.131 (**emergency services dispatch system and**
20 enhanced 911 system);

21 * **Sec. 3.** AS 29.35.131(a) is amended to read:

22 (a) A municipality may, by resolution or ordinance, elect to provide **an**
23 **emergency services dispatch system or** an enhanced 911 system at public safety
24 answering points, may purchase or lease the enhanced 911 equipment or service
25 required to establish or maintain an enhanced 911 system at public safety answering
26 points from a local exchange telephone company or other qualified vendor, and may
27 impose an enhanced 911 surcharge, in an amount to be determined by the
28 municipality, on all local exchange access lines that provide telephone service to
29 wireline telephones in the area to be served by the enhanced 911 system. A
30 municipality that provides services under an enhanced 911 system may also by
31 resolution or ordinance impose an enhanced 911 surcharge on each wireless telephone

1 number that is billed to an address within the enhanced 911 service area. **An** [FOR A
 2 MUNICIPALITY WITH A POPULATION OF 100,000 OR MORE, AN] enhanced
 3 911 surcharge may not exceed **\$1 a** [50 CENTS PER] month for each wireless
 4 telephone **billing statement** [NUMBER] or **\$1 a** [50 CENTS PER] month for each
 5 local exchange **billing address** [ACCESS LINE] for wireline telephones. [FOR A
 6 MUNICIPALITY WITH FEWER THAN 100,000 PEOPLE, AN ENHANCED 911
 7 SURCHARGE MAY NOT EXCEED 75 CENTS PER MONTH FOR EACH
 8 WIRELESS TELEPHONE NUMBER OR 75 CENTS PER MONTH FOR EACH
 9 LOCAL EXCHANGE ACCESS LINE FOR WIRELINE TELEPHONES.] An
 10 enhanced service area may be all of a city, all of a unified municipality, or all or part
 11 of the area within a borough and may include the extraterritorial jurisdiction of a
 12 municipality in accordance with AS 29.35.020. The governing body of a municipality
 13 shall review an enhanced 911 surcharge annually to determine whether the current
 14 level of the surcharge is adequate, excessive, or insufficient to meet anticipated
 15 enhanced 911 system needs. The municipality may [ONLY] use the enhanced 911
 16 surcharge for the enhanced 911 system **and for the actual labor and equipment**
 17 **used to provide emergency services dispatch, but not for costs of providing the**
 18 **medical, police, fire, rescue, or other emergency service, or for any other**
 19 **purpose.**

20 * **Sec. 4.** AS 29.35.131(b) is amended to read:

21 (b) A local exchange telephone company providing service in a municipality
 22 that has imposed an enhanced 911 surcharge shall bill each month and collect the
 23 surcharge from customers in the enhanced 911 service area. A wireless telephone
 24 company that provides telephone service to wireless telephone customers with billing
 25 addresses within the enhanced 911 service area shall impose **the** [AN ENHANCED
 26 911] surcharge each month and collect the surcharge from customers in the enhanced
 27 911 service area. A local exchange telephone customer may not be subject to more
 28 than one enhanced 911 surcharge on a local exchange **billing address** [ACCESS
 29 LINE] for a wireline telephone. A wireless telephone customer may not be subject to
 30 more than one enhanced 911 surcharge **for each billing statement** [FOR EACH
 31 WIRELESS TELEPHONE NUMBER. A CUSTOMER THAT HAS MORE THAN

1 100 LOCAL EXCHANGE ACCESS LINES FROM A LOCAL EXCHANGE
 2 TELEPHONE COMPANY IN THE MUNICIPALITY IS LIABLE FOR THE
 3 ENHANCED 911 SURCHARGE ONLY ON 100 LOCAL EXCHANGE ACCESS
 4 LINES].

5 * **Sec. 5.** AS 29.35.131(c) is amended to read:

6 (c) A local exchange telephone company or wireless telephone company shall
 7 include the appropriate enhanced 911 surcharge, stated separately and included in the
 8 total amount owed, in the bills delivered to its customers. The Regulatory
 9 Commission of Alaska may not consider the enhanced 911 surcharge as revenue of the
 10 telephone company [AND HAS NO JURISDICTION OVER AN ENHANCED 911
 11 SYSTEM]. A customer is liable for payment of the enhanced 911 surcharge in the
 12 amounts billed by the telephone company until the amounts have been paid to the
 13 telephone company.

14 * **Sec. 6.** AS 29.35.131 is amended by adding new subsections to read:

15 (i) A municipality may by ordinance elect to impose a point-of-purchase 911
 16 surcharge from prepaid wireless telephone accounts not to exceed one percent of the
 17 purchase value. The surcharge must apply to initial purchases and to subsequent
 18 purchases of air time. The retailer of the wireless account is responsible for remitting
 19 the surcharge to the municipality.

20 (j) To enable each municipality to qualify for grant funding, the governor is
 21 responsible for certifying the collection and use of all 911 surcharges.

22 * **Sec. 7.** AS 29.35.133(a) is amended to read:

23 (a) The establishment, funding, use, operation, or maintenance of enhanced
 24 911 **or emergency services dispatch** systems and all activities associated with those
 25 actions are specifically found to be within the ambit of AS 09.50.250(1) and
 26 AS 09.65.070(d)(6). Except for intentional acts of misconduct or gross negligence, a
 27 service supplier, local exchange telephone company, or wireless telephone company
 28 and their employees and agents are also immune from tort liability that might
 29 otherwise be incurred in the course of installing, training, maintaining, or providing
 30 enhanced 911 systems or transmitting or receiving calls on the system.

31 * **Sec. 8.** AS 42.05 is amended by adding a new section to read:

1 **Sec. 42.05.295. Routing 911 calls.** Notwithstanding AS 42.05.711, to ensure
2 statewide access by all residents to 911 wireline services, traditional or enhanced, for
3 areas where there is no local or regional public safety answering point, the state shall
4 provide a toll-free, statewide default public safety answering point to which each local
5 exchange telephone company must route all 911 calls originating from within its
6 customer service base.