
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1305 Session of
2023

INTRODUCED BY KINSEY, MADDEN, SCHLOSSBERG, DELLOSO, SOLOMON,
HILL-EVANS, HOHENSTEIN, O'MARA, BURGOS, T. DAVIS AND
INNAMORATO, JUNE 2, 2023

REFERRED TO COMMITTEE ON HUMAN SERVICES, JUNE 2, 2023

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," providing for behavioral
4 health crisis intervention; and establishing the 988 Fund.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
8 as the Human Services Code, is amended by adding an article to
9 read:

10 ARTICLE XI-A

11 BEHAVIORAL HEALTH CRISIS INTERVENTION

12 Section 1101-A. Definitions.

13 "Commercial mobile service." As defined under 47 U.S.C. §
14 332(d) (relating to mobile services).

15 "Consumer." A person who purchases a prepaid wireless
16 telecommunications service or a prepaid wireless device in a
17 retail transaction.

18 "Fund." The 988 Fund established under section 1103-A.

1 "Provider." A person who provides a communication service to
2 the public for a fee that includes a local exchange carrier, a
3 wireless provider, a prepaid wireless provider or a VoIP
4 provider as that term is defined in 35 Pa.C.S. § 5302 (relating
5 to definitions).

6 "Retail transaction." As defined in 35 Pa.C.S. § 5302.

7 "Seller." A person who sells prepaid wireless
8 telecommunications service or a prepaid wireless device bundled
9 with prepaid wireless telecommunications service to another
10 person.

11 "Subscriber." The following:

12 (1) A person who contracts with and is billed by a
13 provider in this Commonwealth for a communications service.

14 (2) In the case of wireless service, a person who
15 contracts with a provider if the person's place of primary
16 use is in this Commonwealth.

17 Section 1102-A. 988 surcharge.

18 (a) Imposition.--A surcharge shall be assessed Statewide on
19 each consumer and subscriber for every commercial mobile service
20 or IP-enabled voice service for which the subscriber or consumer
21 is billed by a provider or seller. The amount of the surcharge
22 shall be as follows:

23 (1) Beginning January 1, 2024, a surcharge of 6¢.

24 (2) Beginning January 1, 2025, and each year thereafter,
25 the surcharge shall be increased by a percentage equal to the
26 percentage change in the Consumer Price Index for All Urban
27 Consumers (CPI-U) statistics published by the United States
28 Department of Labor, Bureau of Labor Statistics. Any increase
29 shall be rounded up to the nearest 1¢. The percentage change
30 shall be determined by a comparison of the figure for the

1 most recent June for which numbers are available, with that
2 of the previous June figure. If the Consumer Price Index
3 declines for a given period, the surcharge amount shall be
4 unchanged for that year. The department shall, within 10 days
5 following the determination, transmit a notice of the
6 determination to the Legislative Reference Bureau for
7 publication in the next available issue of the Pennsylvania
8 Bulletin.

9 (b) Collection and remittance of surcharge by sellers.--

10 (1) The surcharge shall be collected by the seller from
11 the consumer for each retail transaction occurring in this
12 Commonwealth.

13 (2) The surcharge shall be applied to the cost of each
14 retail transaction regardless of whether the retail
15 transaction occurred in person, by telephone, through the
16 Internet or by any other method. A retail transaction that is
17 conducted in person by a consumer at a business location of
18 the seller shall be treated as occurring in this Commonwealth
19 if that business location is in this Commonwealth. Any other
20 retail transaction shall be treated as occurring in this
21 Commonwealth if the retail transaction is treated as
22 occurring in this Commonwealth under section 202(e.1) of the
23 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform
24 Code of 1971.

25 (3) The surcharge shall be either separately stated on
26 an invoice, receipt or other similar document that is
27 provided to the consumer by the seller or otherwise
28 conspicuously disclosed to the consumer by the seller.

29 (4) The surcharge is a liability of the consumer and not
30 of the seller or any provider, except that the seller shall

1 be liable to remit any surcharge collected from a consumer as
2 provided under paragraph (6), including the charges that the
3 seller is deemed to collect if the amount of the surcharge
4 has not been separately stated on an invoice, receipt or
5 other similar document provided to the consumer by the
6 seller.

7 (5) The amount of the surcharge that is collected by a
8 seller from a consumer, whether or not the amount is
9 separately stated on an invoice, receipt or similar document
10 provided to the consumer by the seller, may not be included
11 in the base for measuring a tax, fee, surcharge or other
12 charge that is imposed by the Commonwealth, a political
13 subdivision or an intergovernmental agency.

14 (6) The surcharges collected by a seller, less 1.5% that
15 may be retained by the seller to cover administrative costs,
16 shall be remitted quarterly to the State Treasurer for
17 deposit into the fund.

18 (7) The surcharge shall not be considered revenue of any
19 seller.

20 (8) Each seller that remits the surcharge shall certify
21 the accuracy of the remittance annually using procedures and
22 forms as determined by the department.

23 (c) Collection and remittance of surcharge by providers.--

24 (1) A provider shall assess and collect the surcharge
25 monthly from each subscriber and forward the collection
26 monthly to the State Treasurer for deposit into the fund.

27 (2) The surcharge shall be stated separately in the
28 subscriber billing.

29 (3) Each provider that remits the surcharge shall
30 certify the accuracy of the remittance annually using

1 procedures and forms as determined by the department.

2 (4) Each provider collecting the surcharge may retain an
3 amount not to exceed 1% of the gross receipts of surcharges
4 collected as reimbursement for actual administrative costs.

5 (5) A provider shall have no obligation to take legal
6 action to enforce the collection of the surcharge and shall
7 not be liable for unpaid amounts.

8 (6) If the provider receives a partial payment for a
9 monthly bill from a subscriber, the provider shall apply the
10 payment against the amount the subscriber owes the provider
11 first and shall remit to the State Treasurer the lesser
12 amount, if any, resulting from the application.

13 (7) The surcharge may not be any of the following:

14 (i) Subject to taxes or charges levied by the
15 Commonwealth or a political subdivision of the
16 Commonwealth or an intergovernmental agency on a provider
17 or subscriber with respect to the sale, purchase, use or
18 provision of a communication service.

19 (ii) Considered revenue of the provider.

20 (iii) Applicable to local exchange carriers.

21 Section 1103-A. 988 Fund.

22 (a) Establishment.--The 988 Fund is established as a
23 separate fund in the State Treasury. The money in the fund is
24 appropriated on a continuing basis to the department for the
25 purposes under subsection (c)(1).

26 (b) Composition of fund.--The following money shall be
27 deposited into the fund:

28 (1) The surcharge remitted under section 1102-A.

29 (2) Any money appropriated by the General Assembly.

30 (3) Money from any other public or private source.

1 (4) Interest accrued by the fund.

2 (c) Use.--The money in the fund:

3 (1) shall only be used for suicide prevention and
4 behavioral health services under 47 U.S.C. § 251a (relating
5 to state authority over fees) and its implementing
6 regulations or successor acts; and

7 (2) may not be transferred to any other fund or account
8 for any other purpose.

9 Section 2. This act shall take effect in 90 days.