

Enrolled
Senate Bill 145

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CHAPTER

AN ACT

Relating to telecommunications; amending sections 7, 9 and 11, chapter 290, Oregon Laws 1987.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 7, chapter 290, Oregon Laws 1987, as amended by section 2, chapter 622, Oregon Laws 1991, section 8, chapter 872, Oregon Laws 1991, section 1, chapter 231, Oregon Laws 1993, section 387, chapter 79, Oregon Laws 1995, section 1, chapter 451, Oregon Laws 1995, and section 2, chapter 408, Oregon Laws 2001, is amended to read:

Sec. 7. (1) In order to fund the programs provided in sections 2 to 6 and 9 to 14, chapter 290, Oregon Laws 1987, the Public Utility Commission shall develop and implement a system for assessing a surcharge in an amount not to exceed 35 cents per month against each paying retail subscriber who has telecommunications service with access to the telecommunications relay service. The surcharge shall be applied on a telecommunications circuit designated for a particular subscriber. One subscriber line shall be counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity of customer premises equipment connected to each circuit. For providers of central office based services, the surcharge shall be applied to each line that has unrestricted connection to the telecommunications relay service. These central office based service lines that have restricted access to the telecommunications relay service shall be charged based on software design. For cellular, wireless or other radio common carriers, the surcharge shall be applied on a per instrument basis, but applies only to subscribers whose place of primary use, as defined and determined under 4 U.S.C. 116 to 126, is within this state.

(2) The surcharge imposed by subsection (1) of this section does not apply to:

(a) Services upon which the state is prohibited from imposing the surcharge by the Constitution or laws of the United States or the Constitution or laws of the State of Oregon.

(b) Interconnection between telecommunications utilities, telecommunications cooperatives, competitive telecommunications services providers certified pursuant to ORS 759.020, radio common carriers and interexchange carriers.

(3) The commission annually shall review the surcharge and the balance in the Residential Service Protection Fund and may make adjustments to the amount of the surcharge to ensure that the fund has adequate resources but that the fund balance does not exceed six months of projected expenses.

(4) Moneys collected pursuant to the surcharge shall not be considered in any proceeding to establish rates for telecommunication service.

(5) The commission shall direct telecommunications public utilities to identify separately in bills to customers for service the surcharge imposed pursuant to this section.

(6) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue may disclose information received under ORS 403.200 to 403.230 to the Public Utility Commission to carry out the provisions of chapter 290, Oregon Laws 1987.

(7) The Public Utility Commission may disclose information obtained pursuant to chapter 290, Oregon Laws 1987, to the Department of Revenue to administer the tax imposed under ORS 403.200 to 403.230.

SECTION 2. Section 9, chapter 290, Oregon Laws 1987, as amended by section 2, chapter 872, Oregon Laws 1991, section 32, chapter 280, Oregon Laws 1995, section 2, chapter 451, Oregon Laws 1995, section 1, chapter 384, Oregon Laws 1999, section 1, chapter 28, Oregon Laws 2007, and section 353, chapter 70, Oregon Laws 2007, is amended to read:

Sec. 9. As used in sections 9 to 14, chapter 290, Oregon Laws 1987, unless the context requires otherwise:

(1) "Adaptive equipment" means equipment that permits a person with a disability, other than a person who is hard of hearing or speech impaired, to communicate effectively on the telephone.

(2) "Applicant" means a person who applies for an assistive telecommunication device, adaptive equipment or a signal device.

(3) "Assistive telecommunication device" means a device that utilizes a keyboard, acoustic coupler, display screen, Braille display, speakerphone or amplifier to enable people who are deaf, deaf-blind, severely hard of hearing or severely speech impaired to communicate effectively on the telephone.

(4) "Audiologist" means a person who has a master's or doctoral degree in audiology and a Certificate of Clinical Competence in audiology from the American Speech-Language-Hearing Association.

(5) "Deaf" means a profound hearing loss, as determined by an audiologist or a vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.

(6) "Deaf-blind" means a hearing loss and a visual impairment, as determined by a licensed physician and by an audiologist or a vocational rehabilitation counselor of the Department of Human Services, that require use of an assistive telecommunication device to communicate effectively on the telephone.

(7) "Disability" means a physical condition, as determined by a licensed physician or vocational rehabilitation counselor of the Department of Human Services, other than hearing or speech impairment that requires use of adaptive equipment to utilize the telephone.

(8) "Hearing aid specialist" means a person licensed to deal in hearing aids under ORS chapter 694.

(9) "Physician" means an applicant's primary care physician or a medical specialist who is able to determine an applicant's disability and to whom the applicant was referred by the primary care physician.

(10) "Recipient" means a person who receives adaptive equipment, an assistive telecommunication device or a signal device.

(11) "Severely hard of hearing" means a hearing loss, as determined by an audiologist or vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.

(12) "Severely speech impaired" means a speech disability, as determined by a speech-language pathologist or vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.

(13) "Signal device" means a mechanical device that alerts a person who is deaf, deaf-blind or severely hard of hearing of an incoming telephone call.

(14) "Speech-language pathologist" means a person who has a master's degree or equivalency in speech-language pathology and a Certificate of Clinical Competence issued by the American Speech-Language-Hearing Association.

(15) "Telecommunications relay center" means a facility authorized by the Public Utility Commission to provide telecommunications relay service.

(16) "Telecommunications relay service" means *[the provision of voice and teletype communication between users of some assistive telecommunication devices and other parties.] a telephone transmission service that provides the ability for an individual who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. "Telecommunications relay service" includes, but is not limited to:*

(a) **Services that enable two-way communication between an individual using a text telephone or other nonvoice terminal device and an individual not using such a device;**

(b) **Speech-to-speech services; and**

(c) **Non-English relay services.**

SECTION 3. Section 11, chapter 290, Oregon Laws 1987, as amended by section 4, chapter 872, Oregon Laws 1991, section 3, chapter 384, Oregon Laws 1999, and section 355, chapter 70, Oregon Laws 2007, is amended to read:

Sec. 11. (1) With the advice of the Telecommunication Devices Access Program Advisory Committee, the Public Utility Commission shall establish and administer a statewide program to purchase and distribute assistive telecommunication devices to persons who are deaf, severely hard of hearing, severely speech impaired or deaf-blind and establish a **telecommunications relay service** *[dual party relay system making telephone service generally available to persons who are deaf, severely hard of hearing, severely speech impaired or deaf-blind].*

(2) With the advice of the Telecommunication Devices Access Program Advisory Committee, the Public Utility Commission shall establish and administer a statewide program to purchase and distribute adaptive equipment to make telephone service generally available to persons with physical disabilities.

Passed by Senate February 24, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 11, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

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Kate Brown, Secretary of State