

AMENDED IN SENATE APRIL 18, 2001

**SENATE BILL**

**No. 896**

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**Introduced by Senator Poochigian**

February 23, 2001

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An act to *add Section 247.1 to the Public Utilities Code, and to amend Section 41020 of the Revenue and Taxation Code, relating to telecommunications.*

LEGISLATIVE COUNSEL'S DIGEST

SB 896, as amended, Poochigian. Telecommunications services.

The United States Congress enacted the Mobile Telecommunications Sourcing Act for the purpose of establishing uniform nationwide sourcing rules for state and local taxation of mobile telecommunications services. In order to create a single, uniform sourcing rule, the federal act preempts, in part, state and local law.

Existing state law imposes taxes, surcharges, and fees on mobile telecommunications charges, including an emergency telephone surcharge.

~~The~~

*This bill would amend the existing law that imposes the emergency telephone surcharge laws that impose taxes, surcharges, and fees, on mobile telecommunications charges, including emergency telephone surcharges, to reflect the changes made by the federal act.*

*This bill, in accordance with federal law, applies to customer bills issued on or after August 1, 2002.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds that the United States  
2 Congress has enacted the Mobile Telecommunications Sourcing  
3 Act for the purpose of establishing uniform nationwide sourcing  
4 rules for the state and local taxation of mobile ~~communications~~  
5 *telecommunications* services. The federal act creates a uniform  
6 sourcing rule that was intended to be revenue-neutral among the  
7 states. In order to create a single, uniform sourcing rule, the federal  
8 act preempts, in part, state and local law. The Legislature desires  
9 to adopt implementing legislation with respect to certain tax laws  
10 enacted by this state, and to conform those tax laws to the federal  
11 uniform sourcing rule to the extent there is otherwise a conflict. By  
12 enacting this legislation, the Legislature is not, and is not intending  
13 to, enact any new taxes or to increase the tax rate or tax base of any  
14 tax.

15 SEC. 2. *Section 247.1 is added to the Public Utilities Code,*  
16 *to read:*

17 247.1. (a) *The Mobile Telecommunications Sourcing Act*  
18 *(P.L. 106-252) was enacted for the purpose of establishing*  
19 *nationwide uniform sourcing rules for the imposition of state and*  
20 *local taxes, fees, and surcharges on mobile telecommunications*  
21 *services. In order to establish a single, uniform sourcing rule, the*  
22 *federal act partially preempted state and local law imposing taxes,*  
23 *fees, and surcharges on a mobile telecommunications services*  
24 *customer whose place of primary use is outside of the state in*  
25 *which the state and local taxes, fees, or surcharges are imposed.*

26 (b) *In accordance with the Mobile Telecommunications*  
27 *Sourcing Act, which is incorporated herein by reference, and*  
28 *notwithstanding Sections 280, 431, 739.3, 879, and 2881, the*  
29 *surcharges or fees under these sections do not apply to any charges*  
30 *for mobile telecommunications services billed to a customer where*  
31 *those services are provided, or deemed provided, to a customer*  
32 *whose place of primary use is outside this state. Mobile*  
33 *telecommunications services shall be deemed provided by a*  
34 *customer's home service provider to the customer if those services*  
35 *are provided in a taxing jurisdiction to the customer, and the*  
36 *charges for those services are billed by or for the customer's home*  
37 *service provider.*

38 (c) *For purposes of this section:*



1 (1) “Charges for mobile telecommunications services” means  
2 any charge for, or associated with, the provision of commercial  
3 mobile radio service, as defined in Section 20.3 of Title 47 of the  
4 Code of Federal Regulations, as in effect on June 1, 1999, or any  
5 charge for, or associated with, a service provided as an adjunct to  
6 a commercial mobile radio service, that is billed to the customer  
7 by or for the customer’s home service provider; regardless of  
8 whether individual transmissions originate or terminate within the  
9 licensed service area of a home service provider.

10 (2) “Customer” means either (A) the person or entity that  
11 contracts with the home service provider for mobile  
12 telecommunications services, or (B) if the end user of mobile  
13 telecommunications services is not the contracting party, the end  
14 user of the mobile telecommunications service. This paragraph  
15 applies only for the purpose of determining the place of primary  
16 use. The term “customer” does not include either (A) a reseller of  
17 mobile telecommunications service, or (B) a serving carrier under  
18 an arrangement to serve the customer outside the home service  
19 provider’s licensed service area.

20 (3) “Home service provider” means the facilities-based  
21 carrier or reseller with which the customer contracts for the  
22 provision of mobile telecommunications services.

23 (4) “Licensed service area” means the geographic area in  
24 which the home service provider is authorized by law or contract  
25 to provide commercial mobile radio service to the customer.

26 (5) “Mobile telecommunications service” means commercial  
27 mobile radio service, as defined in Section 20.3 of Title 47 of the  
28 Code of Federal Regulations, as in effect on June 1, 1999.

29 (6) “Place of primary use” means the street address  
30 representative of where the customer’s use of the mobile  
31 telecommunications service primarily occurs, that must be:

32 (A) The residential street address or the primary business street  
33 address of the customer.

34 (B) Within the licensed area of the home service provider.

35 (7) (A) “Reseller” means a provider who purchases  
36 telecommunications services from another telecommunications  
37 service provider and then resells the services, or uses the services  
38 as a component part of, or integrates the purchased services into  
39 a mobile telecommunications service.



1 (B) “Reseller” does not include a serving carrier with which  
2 a home service provider arranges for the services to its customers  
3 outside the home service provider’s licensed service area.

4 (8) “Serving carrier” means a facilities-based carrier  
5 providing mobile telecommunications service to a customer  
6 outside a home service provider’s or reseller’s licensed area.

7 (9) “Taxing jurisdiction” means any of the several states, the  
8 District of Columbia, or any territory or possession of the United  
9 States, any municipality, city, county, township, parish,  
10 transportation district, or assessment jurisdiction, or any other  
11 political subdivision within the territorial limits of the United  
12 States with the authority to impose a tax, charge, or fee.

13 SEC. 3. Section 41020 of the Revenue and Taxation Code is  
14 amended to read:

15 41020. (a) A surcharge is hereby imposed on amounts paid  
16 by every person in the state for intrastate telephone  
17 communication service in this state commencing on July 1, 1977.

18 ~~(b) The~~

19 (b) The surcharge imposed shall be at the rate of one-half of 1  
20 percent of the charges made for such services to and including  
21 November 1, 1982, and thereafter at a rate fixed pursuant to  
22 Article 2 (commencing with Section 41030).

23 (c) The surcharge shall be paid by the service user as  
24 hereinafter provided.

25 (d) In accordance with the Mobile Telecommunications  
26 Sourcing Act (P.L. 106-252), which is incorporated herein by  
27 reference, the surcharge imposed under this section does not apply  
28 to any charges for mobile telecommunications services billed to a  
29 customer where those services are provided, or deemed provided,  
30 to a customer whose place of primary use is outside this state.  
31 Mobile telecommunications services shall be deemed provided by  
32 a customer’s home service ~~supplier~~ provider to the customer if  
33 those services are provided in a taxing jurisdiction to the customer,  
34 and the charges for those services are billed by or for the  
35 customer’s home ~~supplier~~ service provider.

36 ~~(e)~~

37 (e) For purposes of this section:

38 (1) “Charges for mobile telecommunications services” means  
39 any charge for, or associated with, the provision of commercial  
40 mobile radio service, as defined in Section 20.3 of Title 47 of the



1 Code of Federal Regulations, as in effect on June 1, 1999, or any  
2 charge for, or associated with, a service provided as an adjunct to  
3 a commercial mobile radio service, that is billed to the customer  
4 by or for the customer’s home service provider, regardless of  
5 whether individual transmissions originate or terminate within the  
6 licensed service area of the home service provider.

7 (2) “Customer” means (A) the person or entity that contracts  
8 with the home service provider for mobile telecommunications  
9 services, or (B) if the end user of mobile telecommunications  
10 services is not the contracting party, the end user of the mobile  
11 telecommunications service. This paragraph applies only for the  
12 purpose of determining the place of primary use. The term  
13 “customer” does not include (A) a reseller of mobile  
14 telecommunications service, or (B) a serving carrier under an  
15 arrangement to serve the customer outside the home service  
16 provider’s licensed service area.

17 (3) “Home service provider” means the facilities-based carrier  
18 or reseller with which the customer contracts for the provision of  
19 mobile telecommunications services.

20 (4) “Licensed service area” means the geographic area in  
21 which the home service provider is authorized by law or contract  
22 to provide commercial mobile radio service to the customer.

23 (5) “Mobile telecommunications service” means commercial  
24 mobile radio service, as defined in Section 20.3 of Title 47 of the  
25 Code of Federal Regulations, as in effect on June 1, 1999.

26 (6) “Place of primary use” means the street address  
27 representative of where the customer’s use of the mobile  
28 telecommunications service primarily occurs, that must be:

29 (A) The residential street address or the primary business street  
30 address of the customer.

31 (B) Within the licensed service area of the home service  
32 provider.

33 (7) (A) “Reseller” means a provider who purchases  
34 telecommunications services from another telecommunications  
35 service provider and then resells the services, or uses the services  
36 as a component part of, or integrates the purchased services into,  
37 a mobile telecommunications service.

38 (B) “Reseller” does not include a serving carrier with which  
39 a home service provider arranges for the services to its customers  
40 outside the home service provider’s licensed service area.



1 (8) "Serving carrier" means a facilities-based carrier  
2 providing mobile telecommunications service to a customer  
3 outside a home service provider's or reseller's licensed area.

4 (9) "Taxing jurisdiction" means any of the several states, the  
5 District of Columbia, or any territory or possession of the United  
6 States, any municipality, city, county, township, parish,  
7 transportation district, or assessment jurisdiction, or any other  
8 political subdivision within the territorial limits of the United  
9 States with the authority to impose a tax, charge, or fee.

10 ~~(d) The surcharge imposed shall be at the rate of one-half of 1~~  
11 ~~percent of the charges made for such services to and including~~  
12 ~~November 1, 1982, and at a rate as shall be fixed pursuant to~~  
13 ~~Article 2 of the chapter thereafter.~~

14 ~~(e) The surcharge shall be paid by the service user as hereinafter~~  
15 ~~provided.~~

16 *SEC. 4. In conformity with the federal Mobile*  
17 *Telecommunications Sourcing Act, this bill applies only to*  
18 *customer bills issued on or after August 1, 2002.*

