

FIRST REGULAR SESSION

HOUSE BILL NO. 1033

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES EMERY (Sponsor) AND KRAUS (Co-sponsor).

Read 1st time March 1, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2422L.01I

AN ACT

To amend chapter 386, RSMo, by adding thereto one new section relating to Voice over Internet Protocol service.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 386, RSMo, is amended by adding thereto one new section, to be
2 known as section 386.295, to read as follows:

386.295. 1. As used in this section, the following terms mean:

2 **(1) "Facilities-based provider of VoIP service", an entity that provides VoIP service**
3 **over a physical facility which connects to the end user's location and which such entity or**
4 **an affiliate of such entity owns or over which such entity or an affiliate of such entity has**
5 **exclusive use. An entity or an affiliate of such entity shall be considered a facilities-based**
6 **provider of VoIP service only in those geographical areas where such physical facilities are**
7 **located;**

8 **(2) "Political subdivision", a city, town, village, or county;**

9 **(3) "VoIP service", interconnected Voice over Internet Protocol service as defined**
10 **by the Federal Communications Commission in Section 9.3 of Title 47 of the Code of**
11 **Federal Regulations.**

12 **2. The public service commission shall not regulate or otherwise exercise**
13 **jurisdiction over VoIP service regardless of how the service is classified by the Federal**
14 **Communications Commission. Any decision of the public service commission inconsistent**
15 **with this section is hereby preempted and rendered invalid. Such service shall nonetheless**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 be subject to the state's generally applicable business regulations, deceptive trade practices,
17 and consumer protection laws, as enforced by the appropriate state authority or through
18 actions in the judicial system. This subsection shall not limit the availability to any party
19 of any remedy or defense under state or federal antitrust laws.

20 **3. No political subdivision may directly or indirectly regulate the terms and**
21 **conditions, including but not limited to, the operating systems, qualifications, services,**
22 **service quality, service territory, and prices, applicable to or in connection with the**
23 **provision of VoIP service.**

24 **4. (1) A provider of VoIP service and its officers, directors, employees, vendors,**
25 **and agents shall have immunity or other protection from liability of a scope and extent that**
26 **is not less than the scope and extent of immunity or other protection from liability that any**
27 **telecommunications company and its officers, directors, employees, vendors, or agents have**
28 **in this state under federal and state law whether through statute, judicial decision, tariffs**
29 **filed by such local exchange company, or otherwise, including in connection with an act or**
30 **omission involving the release to a public service answering point, emergency medical**
31 **service provider or emergency dispatch provider, public safety, fire service or law**
32 **enforcement official, or hospital emergency or trauma care facility of subscriber**
33 **information related to emergency calls or emergency service.**

34 **(2) No political subdivision of Missouri shall impose any 911-related fees, taxes, or**
35 **surcharges on a provider of VoIP service that are not also imposed by such political**
36 **subdivision on telecommunications companies. Such provider may recover such fees from**
37 **its end users and identify such fee and its amount as a separate line-item on the end of the**
38 **user's bill.**

39 **(3) No 911-related fees, taxes, or surcharges shall be imposed on a provider of VoIP**
40 **service to the extent that such fees, taxes, or surcharges are imposed on telecommunications**
41 **companies or other entities that furnish such provider with connectivity to the public**
42 **switched telephone network or a public safety answering point.**

43 **5. In addition to the duties established under this chapter, an entity that is an**
44 **incumbent local exchange carrier, as defined in 47 U.S.C. Section 251(h), as of January 1,**
45 **2007, and any affiliate of such entity that provides wireline voice service within the service**
46 **territory of such incumbent local exchange carrier regardless of the technology shall owe:**

47 **(1) The duty to establish physical connections with its wireline facilities under the**
48 **Communications Act of 1934, 47 U.S.C. Section 201, as amended and the rules of the**
49 **Federal Communications Commission adopted under that section;**

50 **(2) The duties owed by the incumbent local exchange carrier to providers of**
51 **telecommunications services, telephone exchange service, and telephone toll service with**

52 respect to its wireless facilities as provided in 47 U.S.C. Section 251 and rules of the Federal
53 Communications Commission adopted under that section to any other carrier and to any
54 facilities-based provider of VoIP service. Interconnection with such entity's network may
55 be direct or indirect and shall be at the most efficient point or points within that network
56 and in the most efficient format, as determined by the requesting carrier or provider.

57 6. Requests by such other carrier or provider for interconnection, services, or
58 network elements from an incumbent local exchange carrier shall be subject to the
59 procedures, requirements, and pricing standards of 47 U.S.C. Section 252.

60 7. A telecommunications company may use interconnection, services, or network
61 elements obtained from an incumbent local exchange carrier, including from a rural
62 telephone company or small local exchange telecommunications company under 47 U.S.C.
63 Sections 251 and 252 to provide wholesale telecommunications and telecommunications
64 service to a provider of VoIP service and exchange traffic between such provider and the
65 public switch network.

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