

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 495
95TH GENERAL ASSEMBLY

1386L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 190.308 and 392.460, RSMo, and to enact in lieu thereof two new sections relating to telecommunications, with a penalty provision.

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

Section A. Sections 190.308 and 392.460, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 190.308 and 392.460, to read as follows:

190.308. 1. In any county that has established an emergency telephone service pursuant
2 to sections 190.300 to 190.320, it shall be unlawful for any person to misuse the emergency
3 telephone service. For the purposes of this section, "emergency" means any incident involving
4 danger to life or property that calls for an emergency response dispatch of police, fire, EMS or
5 other public safety organization, "misuse the emergency telephone service", includes, but is not
6 limited to, repeatedly calling the "911" for nonemergency situations causing operators or
7 equipment to be in use when emergency situations may need such operators or equipment and
8 "repeatedly" means three or more times within a one-month period.

9 2. Any violation of this section is a class B misdemeanor.

10 **3. No political subdivision shall impose any fine or penalty on the owner of a pay**
11 **telephone or on the owner of any property upon which a pay telephone is located for calls**
12 **by another party to the emergency telephone service made from the pay telephone. Any**
13 **such fine or penalty is hereby void.**

392.460. 1. As used in this section, the following words shall mean:

2 **(1) "Alternative service provider", any person or entity providing local voice**
3 **services, or any person or entity allowing another person or entity to use its equipment or**
4 **facilities to provide local voice services, or any person or entity securing rights to select an**
5 **alternative service provider for a property owner or developer. Alternative service**

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.

6 provider shall not include a local exchange carrier providing service within its commission-
7 approved local exchange service area;

8 (2) "Greenfield area", real property that requires entirely new construction of local
9 loops or local connectivity in addition to the deployment of any necessary switching and
10 other network equipment to serve new real property developments;

11 (3) "Local voice service" or "local voice services", any two-way voice service
12 offered through any form of technology that is capable of placing calls to or receiving calls
13 from a provider of basic local telecommunications services;

14 (4) "Owner or developer", an entity that owns or develops a business or residential
15 property, any condominium association or homeowner's association thereof, any person
16 or entity having ownership in or control over the property, or any person acting on behalf
17 of such owner or developer;

18 (5) "Real property", any single tenant or multitenant business or residential
19 property, subdivisions, condominiums, apartments, office building, or office parks.

20 2. No telecommunications company authorized by the commission to provide or offer
21 basic local or basic interexchange telecommunications service within the state of Missouri on
22 January 1, 1984, shall abandon such service until and unless it shall demonstrate, and the
23 commission finds, after notice and hearing, that such abandonment will not deprive any
24 customers of basic local or basic interexchange telecommunications service or **local voice**
25 **service** or access thereto and is not otherwise contrary to the public interest.

26 3. Notwithstanding other provisions in this chapter or chapter 386, RSMo, a local
27 exchange carrier obligated under this section to serve as the carrier of last resort in
28 greenfield areas shall automatically be relieved of such obligation and shall not be
29 obligated to provide basic local voice service or any telecommunications service to any
30 occupants of real property if the owner or developer of the real property, or a person
31 acting on behalf of the owner or developer of real property, engages in any of the following
32 acts:

33 (1) Permits an alternative service provider to install its facilities or equipment used
34 to provide local voice services based on a condition of exclusion of the local exchange
35 carrier during the construction phase of the real property;

36 (2) Accepts or agrees to accept incentives or rewards from an alternative service
37 provider that are contingent upon the provision of any or all local voice services by one or
38 more alternative service providers to the exclusion of the local exchange carrier; or

39 (3) Collects from the occupants or residents of the real property mandatory charges
40 for the provision of any local voice service provided by an alternative service provider to

41 the occupants or residents in any manner, including, but not limited to, collection through
42 rent, fees, or dues.

43 **4. The local exchange carrier relieved of its carrier of last resort obligation to**
44 **provide basic local telecommunications service to the occupants of real property under**
45 **subsection 3 of this section shall notify the commission in writing of that fact within one**
46 **hundred twenty days after receiving knowledge of the existence of such fact.**

47 **5. A local exchange carrier that is not automatically relieved of its carrier of last**
48 **resort obligation under subsections 2 and 3 of this section may seek a waiver of its carrier**
49 **of last resort obligation from the commission for good cause shown based on the facts and**
50 **circumstances of the provision of local voice service or Internet access services or video**
51 **services to a particular real property. Upon petition for such relief, notice shall be given**
52 **by the local exchange carrier at the same time to the relevant owner or developer. The**
53 **commission shall make a determination concerning the petition on or before ninety days**
54 **after such petition is filed.**

55 **6. If a local exchange carrier is relieved of its carrier of last resort obligation under**
56 **subsection 3 or 5 of this section, the owner or developer shall notify all occupants and any**
57 **subsequent owner of the specific real property of the following:**

58 **(1) That the incumbent local exchange carrier does not have facilities installed to**
59 **serve the specific real property, and that such carrier has been relieved of its carrier of last**
60 **resort obligations; and**

61 **(2) The name of the person that will be providing local telecommunications service**
62 **to the real property, and the type of technology that will be used to provide such service.**

63 **7. If all conditions described in subsections 3 and 5 of this section cease to exist at**
64 **the property, no company is providing local voice service there, and the owner or developer**
65 **requests in writing that the local exchange carrier make local voice service available to**
66 **occupants of the real property and confirms in writing that all conditions described in**
67 **subsection 3 and 5 of this section have ceased to exist at the property, the carrier of last**
68 **resort obligation under this section shall again apply to the local exchange carrier at the**
69 **real property. The local exchange carrier shall provide notice to the commission that it is**
70 **assuming the carrier of last resort obligation. The local exchange carrier may require that**
71 **the owner or developer pay the local exchange carrier in advance a reasonable fee to**
72 **recover costs that exceed the costs that would have been incurred to construct or acquire**
73 **facilities to serve customers at the real property initially. The commission may verify that**
74 **the fee enables the local exchange carrier to recover its costs that exceed the costs that**
75 **would have been incurred to construct or acquire facilities to serve customers at the real**
76 **property initially, including, but not limited to, amounts necessary to install or retrofit any**

77 facilities or equipment, to cut or trench sidewalks and streets, and to restore roads,
78 sidewalks, block walls, or landscapes to original conditions. The local exchange carrier
79 shall have a reasonable period of time following the request from the owner or developer
80 to make arrangements for local voice service availability.

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82 If any conditions described in subsection 3 or 5 of this section again exist at the real
83 property, the relief in subsection 3 or 4 of this section shall again apply.

84 8. When real property is located in a greenfield area, a carrier of last resort shall
85 not automatically be excused from its obligations under subsection 3 of this section unless
86 the alternative service provider possess or will possess at the time of commencement of
87 service the capability to provide local voice service or the functional equivalent of such
88 service through any form of technology.

89 9. If an owner or developer of real property permits an alternative service provider
90 to install its facilities or equipment used to provide local voice service to such property
91 based on a condition of exclusion of the local exchange carrier, the owner or developer
92 shall provide written notice to the purchaser of any such real property that there is an
93 exclusion of that local exchange carrier and that the alternative service provider is the
94 exclusive provider of service to such property.

95 10. An incumbent local exchange carrier shall have the right to require a payment
96 from an owner or developer in cases where the costs of extending facilities to serve a
97 multitenant business or residential property, including, but not limited to, apartments,
98 condominiums, subdivisions, office buildings, or office parks are not economically
99 reasonable. The terms and conditions applicable to such payments shall be specified in the
100 incumbent local exchange carrier's tariffs. An incumbent local exchange carrier shall not
101 be obligated to provide local voice service or any other telecommunications service without
102 payment specified in the incumbent local exchange carrier's tariff.

103 11. Notwithstanding other provisions in this chapter or chapter 392, RSMo, an
104 incumbent local exchange carrier may meet its carrier of last resort obligations by
105 providing local voice service using any technology.

106 12. Any local exchange carrier relieved of its carrier of last resort obligation in a
107 particular area under subsection 3 or 5 of this section shall not be deemed to have lost its
108 general designation as carrier of last resort for essential local telecommunications service
109 outside that area for purposes of subsection 5 of section 392.248.

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