

## Senate Commerce Committee Approves VOIP 911 Bill

November 2, 2005. The [Senate Commerce Committee](#) (SCC) amended and approved [S 1063](#), the "IP-Enabled Voice Communications and Public Safety Act of 2005".

The SCC approved an amendment in the nature of a substitute by unanimous consent. The SCC approved three amendments. It then approved the bill as amended by unanimous consent. See, [bill as reported](#).

This bill builds on the [Federal Communications Commission's](#) (FCC) May 2005 order that extends 911/E911 regulation to interconnected voice over internet protocol (VOIP) service providers. The bill would provide statutory authority for this regulation. The FCC's order asserted Title I authority. The bill would also require the FCC to conduct another rulemaking proceeding to modify its rules.

The FCC adopted its 911 VOIP order on May 19, 2005, and released it on June 3, 2005. See [story](#) titled "FCC Releases VOIP E911 Order" in [TLJ Daily E-Mail Alert No. 1,148](#), June 6, 2005. See also, stories titled "FCC Adopts Order Expanding E911 Regulation to Include Some VOIP Service Providers", "Summary of the FCC's 911 VOIP Order", "Opponents of FCC 911 VOIP Order State that the FCC Exceeded Its Statutory Authority", and "More Reaction to the FCC's 911 VOIP Order", in [TLJ Daily E-Mail Alert No. 1,139](#), May 20, 2005.

This order is FCC 05-116 in the FCC's proceedings titled "In the Matter of IP-Enabled Services" and numbered WC Docket No. 04-36, and titled "E911 Requirements for IP-Enabled Service Providers" and numbered WC Docket No. 05-196.

The rules contained in the FCC order provide that "Interconnected VoIP service providers must, as a condition of providing service to a consumer, provide that consumer with E911 service ..." These rules also require that "Interconnected VoIP service providers must transmit all 911 calls, as well as ANI and the caller's Registered Location for each call, to the PSAP, designated statewide default answering point, or appropriate local emergency authority that serves the caller's Registered Location and that has been designated for telecommunications carriers pursuant to section 64.3001 of this chapter, provided that "all 911 calls" is defined as "any voice communication initiated by an interconnected VoIP user dialing 911." (ANI is Automatic Number Identification. PSAP is Public Safety Answering Point.)

The FCC's order addresses interconnected VOIP providers. S 1063 addresses "IP-enabled voice service". The bill defines this term as "the provision of real-time 2-way voice communications offered to the public, or such classes of users as to be effectively available to the public, transmitted through customer premises equipment using TCP/IP protocol, or a successor protocol, for a fee (whether part of a bundle of services or separately) with 2-way interconnection capability such that the service can originate traffic to, and terminate traffic from, the public switched telephone network." This

excludes free services, private services, and services that have only one way interconnection with the PSTN.

The FCC's order did not provide that interconnected VOIP service providers shall have access to 911 components. The bill, as reported, does. It states that "Within 90 days after the date of enactment of this Act, the Commission shall issue regulations regarding access by IP-enabled voice service providers to 911 components that permit any IP-enabled voice service provider to elect to be treated as a commercial mobile service provider for the purpose of access to any 911 component, except that the regulations issued under this subsection may take into account any technical or network security issues that are specific to IP-enabled voice services."

The bill, as reported, temporarily limits the ability of the FCC to order service providers to shut off service to customers.

It provides that "(1) ... A provider of IP-enabled voice service may continue to provide service to each subscriber who subscribed to that service as of December 31, 2005, to whom notice has been given in accordance with the requirements of the Commission's Report and Order in WC Docket Nos. 04-36 and 05-196 if (A) the provider has received an acknowledgement in writing or by electronic means by the subscriber of receipt of the notice; or (B) the provider continues to give clear and conspicuous notice of the unavailability of 911 or E-911 service, or either service, in billing statements or their equivalent sent to the subscriber."

It then provides that the FCC "may not require a provider of IP-enabled voice service to terminate service to a subscriber described in paragraph (1) as long as the provider is in compliance with the requirements of that paragraph and the regulations prescribed under this subsection."

But, for customers who sign up after December 31, 2005, the FCC may order the shut off of service pursuant to its existing order and extensions.

The bill, as reported, gives the FCC authority to delegate regulatory authority to states.

It also provides that "Nothing in this Act, the Communications Act of 1934, or any Commission regulation or order shall prevent" state and local government from taxing VOIP service providers, when tax revenues are "obligated or expended in support of 911 and E-911 services, or enhancements of such services, or other emergency communications services".

The bill, as reported, provides for FCC waivers of 911 and E-911 requirements where the "the provider demonstrates that it is not technically or operationally feasible for its IP-enabled voice service to comply with those 911 and E-911 requirements", and where the subscribers have been given notice, and acknowledged that notice.

The FCC's rules did not extend any kind of immunity to interconnected VOIP providers. The bill, as reported, extends certain immunities to VOIP providers, PSAPs, and others.

For example, Section 4 of the Wireless Communications and Public Safety Act of 1999 enumerates several grants of protection from liability for various entities, including communications carriers. Section 4 is codified at [47 U.S.C. § 615a](#). The 1999 Act is [Public Law No. 106-81](#). Various provisions of the Act are now codified in various sections of the U.S. Code, including [47 U.S.C. § 222](#), [47 U.S.C. §251\(e\)](#), [47 U.S.C. § 615](#), and [47 U.S.C. § 615a](#). This Act was S 800, sponsored by [Sen. Conrad Burns](#) (R-MT).

The bill, as reported, provides that "A provider or user of IP-enabled voice services, a PSAP, and the officers, directors, employees, vendors, agents, and authorizing government entity (if any) of such provider, user, or PSAP, shall have the same scope and extent of immunity and other protection from liability under Federal and State law with respect to---

- (1) the release of subscriber information related to emergency calls or emergency services,
- (2) the use or provision of 911 and E-911 services, and
- (3) other matters related to 911 and E-911 services, as section 4 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a) provides to wireless carriers, PSAPs, and users of wireless 9-1-1 service (as defined in paragraphs (4), (3), and (6), respectively, of section 6 of that Act (47 U.S.C. 615b)) with respect to such release, use, and other matters."

Finally, the bill, as reported, contains a technology neutrality requirement. It provides that "Nothing in this section shall be construed to permit the Commission to issue regulations that require or impose a specific technology or technological standard." This language was in an amendment offered by [Sen. John Sununu](#) (R-NH) (at right) which was approved on a roll call vote of 13-9.

[Sen. Bill Nelson](#) (D-FL) introduced S 1063 on May 18, 2005. There is a related bill in the House, [HR 2418](#), which bears the same title. [Rep. Bart Gordon](#) (D-TN) introduced this bill on June 3, 2005. It has 32 cosponsors, most of whom are Democrats.

See also, [opening statement](#) by [Sen. Ted Stevens](#) (R-AK), the Chairman of the SCC, and SCC [release](#).