

sections 116 through 126 modifies, impairs, supersedes, or authorizes the modification, impairment, or supersession of, any law allowing a taxing jurisdiction to collect a tax, charge, or fee from a customer that has failed to provide its place of primary use.

(b) **ADDITIONAL TAXABLE CHARGES.**—If a taxing jurisdiction does not otherwise subject charges for mobile telecommunications services to taxation and if these charges are aggregated with and not separately stated from charges that are subject to taxation, then the charges for nontaxable mobile telecommunications services may be subject to taxation unless the home service provider can reasonably identify charges not subject to such tax, charge, or fee from its books and records that are kept in the regular course of business.

(c) **NONTAXABLE CHARGES.**—If a taxing jurisdiction does not subject charges for mobile telecommunications services to taxation, a customer may not rely upon the nontaxability of charges for mobile telecommunications services unless the customer's home service provider separately states the charges for nontaxable mobile telecommunications services from taxable charges or the home service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business that reasonably identifies the nontaxable charges.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 630.)

REFERENCES IN TEXT

Act, referred to in subsec. (a), probably means the Mobile Telecommunications Sourcing Act, Pub. L. 106-252, July 28, 2000, 114 Stat. 626, which enacted sections 116 to 126 of this title and provisions set out as notes under sections 1 and 116 of this title. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 1 of this title and Tables.

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 116, 117, 118, 124, 125, 126 of this title.

§ 124. Definitions

In sections 116 through 126 of this title:

(1) **CHARGES FOR MOBILE TELECOMMUNICATIONS SERVICES.**—The term “charges for mobile telecommunications services” means any charge for, or associated with, the provision of commercial mobile radio service, as defined in section 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service, that is billed to the customer by or for the customer's home service provider regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(2) **CUSTOMER.**—

(A) **IN GENERAL.**—The term “customer” means—

(i) the person or entity that contracts with the home service provider for mobile telecommunications services; or

(ii) if the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications service, but this clause applies only for the purpose of determining the place of primary use.

(B) The term “customer” does not include—

(i) a reseller of mobile telecommunications service; or

(ii) a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

(3) **DESIGNATED DATABASE PROVIDER.**—The term “designated database provider” means a corporation, association, or other entity representing all the political subdivisions of a State that is—

(A) responsible for providing an electronic database prescribed in section 119(a) if the State has not provided such electronic database; and

(B) approved by municipal and county associations or leagues of the State whose responsibility it would otherwise be to provide such database prescribed by sections 116 through 126 of this title.

(4) **ENHANCED ZIP CODE.**—The term “enhanced zip code” means a United States postal zip code of 9 or more digits.

(5) **HOME SERVICE PROVIDER.**—The term “home service provider” means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(6) **LICENSED SERVICE AREA.**—The term “licensed service area” means the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

(7) **MOBILE TELECOMMUNICATIONS SERVICE.**—The term “mobile telecommunications service” means commercial mobile radio service, as defined in section 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999.

(8) **PLACE OF PRIMARY USE.**—The term “place of primary use” means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be—

(A) the residential street address or the primary business street address of the customer; and

(B) within the licensed service area of the home service provider.

(9) **PREPAID TELEPHONE CALLING SERVICES.**—The term “prepaid telephone calling service” means the right to purchase exclusively telecommunications services that must be paid for in advance, that enables the origination of calls using an access number, authorization

code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis.

(10) RESELLER.—The term “reseller”—

(A) means a provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service; and

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

(11) SERVING CARRIER.—The term “serving carrier” means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider’s or reseller’s licensed service area.

(12) TAXING JURISDICTION.—The term “taxing jurisdiction” means any of the several States, the District of Columbia, or any territory or possession of the United States, any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other political subdivision within the territorial limits of the United States with the authority to impose a tax, charge, or fee.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 631.)

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 116, 117, 118, 121, 122, 123, 125, 126 of this title.

§ 125. Nonseverability

If a court of competent jurisdiction enters a final judgment on the merits that—

- (1) is based on Federal law;
- (2) is no longer subject to appeal; and
- (3) substantially limits or impairs the essential elements of sections 116 through 126 of this title,

then sections 116 through 126 of this title are invalid and have no legal effect as of the date of entry of such judgment.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 632.)

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 116, 117, 118, 123, 124, 126 of this title.

§ 126. No inference

(a) INTERNET TAX FREEDOM ACT.—Nothing in sections 116 through this section of this title

shall be construed as bearing on Congressional intent in enacting the Internet Tax Freedom Act or to modify or supersede the operation of such Act.

(b) TELECOMMUNICATIONS ACT OF 1996.—Nothing in sections 116 through this section of this title shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 or the amendments made by such Act.

(Added Pub. L. 106-252, §2(a), July 28, 2000, 114 Stat. 632.)

REFERENCES IN TEXT

The Internet Tax Freedom Act, referred to in subsec. (a), is title XI of Pub. L. 105-277, div. C, Oct. 21, 1998, 112 Stat. 2681-719, which is set out as a note under section 151 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

The Telecommunications Act of 1996, referred to in subsec. (b), is Pub. L. 104-104, Feb. 8, 1996, 110 Stat. 56. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 609 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, and Tables.

EFFECTIVE DATE; APPLICATION OF AMENDMENT

Section effective July 28, 2000, and applicable only to customer bills issued after the first day of the first month beginning more than 2 years after July 28, 2000, see section 3 of Pub. L. 106-252, set out as a note under section 116 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 116, 117, 118, 123, 124, 125 of this title.

CHAPTER 5—OFFICIAL TERRITORIAL PAPERS

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| 141. | Collection, preparation and publication. |
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AMENDMENTS

1951—Chapter added by act Oct. 31, 1951, ch. 655, §12, 65 Stat. 713.

SIMILAR PROVISIONS; REPEAL; SAVING CLAUSE; DELEGATION OF FUNCTIONS; TRANSFER OF PROPERTY AND PERSONNEL

Similar provisions were contained in former chapter 5, comprising former sections 141 to 146, which was set out here but which was not a part of this title. Former sections 141 to 146 were derived from: acts Mar. 3, 1925, ch. 419, §§1, 2, 43 Stat. 1104; Mar. 3, 1925, ch. 419, §§3, 4, as added Feb. 28, 1929, ch. 385, 45 Stat. 1412, 1413; Feb. 28, 1929, ch. 385, 45 Stat. 1412 (in addition to the provisions added to said act Mar. 3, 1925); Mar. 22, 1935, ch. 39, §1 (part), 49 Stat. 69; Feb. 14, 1936, ch. 70, 49 Stat. 1139; May 15, 1936, ch. 405, §1 (part), 49 Stat. 1311; June 16, 1937, ch. 359, §1 (part), 50 Stat. 262, 263; June 28, 1937, ch. 386, 50 Stat. 323, 324; Apr. 27, 1938, ch. 180, §1 (part), 52 Stat. 249; June 29, 1939, ch. 248, title I (part), 53 Stat. 886; July 31, 1945, ch. 336, 59 Stat. 510, 511; 1946 Proc. No. 2714, Dec. 31, 1946, 12 F.R. 1; act Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; 1950 Reorg. Plan No. 20, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1272; act July 7, 1950, ch. 452, 64 Stat. 320. All of the foregoing provisions, with the exception of 1946 Proc. No. 2714, act Oct. 28, 1949, §1106(a), and 1950 Reorg. Plan No. 20, §1, were repealed by act Oct. 31, 1951, ch. 655, §56(k)(1)–(11), 65 Stat. 730. Subsec. (l) of section 56 provided that the repeal