

By Senator Wise

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1 A bill to be entitled
2 An act relating to the telecommunications access
3 system; amending s. 427.702, F.S.; revising
4 legislative findings, purpose, and intent relating to
5 the telecommunications access system; recognizing that
6 the 21st Century Communications and Video
7 Accessibility Act mandates additional safeguards
8 ensuring that persons who have a hearing loss are able
9 to access Internet-based and digital communications;
10 amending s. 427.703, F.S.; revising definitions to
11 conform to changes made by the act; amending s.
12 427.704, F.S.; revising the powers and duties of the
13 Public Service Commission; requiring that the
14 commission establish a recovery mechanism that
15 requires commercial mobile radio service providers to
16 impose a monthly surcharge on its subscribers;
17 amending s. 427.705, F.S.; revising provisions
18 relating to the administration of the
19 telecommunications access system; providing for the
20 distribution of wireless mobile devices to qualified
21 persons; amending s. 427.706, F.S.; revising the
22 membership of the advisory committee that assists the
23 commission with the administration and operation of
24 the telecommunications access system; amending s.
25 427.708, F.S.; requiring that the commission annually
26 ensure that public safety and health care providers
27 are complying with the requirement to purchase and
28 operate telecommunications devices for the deaf or any
29 other appropriate telecommunications devices and

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30 submit a report of its findings to the advisory
31 committee; providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Section 427.702, Florida Statutes, is amended to
36 read:

37 427.702 Findings, purpose, and legislative intent.—

38 (1) The Legislature finds and declares that:

39 (a) Telecommunications services provide a rapid and
40 essential communications link among the general public and with
41 essential offices and organizations such as police, fire, and
42 medical facilities.

43 (b) All persons should have basic telecommunications
44 services available to them at reasonable and affordable costs.

45 (c) A significant portion of Florida's deaf, hard-of-
46 hearing, hearing-impaired and speech-impaired ~~speech-impaired~~
47 populations has profound disabilities, including dual sensory
48 impairments, which render normal telephone or mobile wireless
49 equipment useless without additional specialized
50 telecommunications devices, many of which cost several hundred
51 dollars.

52 (d) The telecommunications system is intended to provide
53 access to a basic communications network between all persons,
54 and that many persons who have a hearing loss ~~impairment~~ or
55 speech impairment do not currently have ~~no~~ access to the basic
56 telecommunications system.

57 (e) Persons who do not have a hearing loss ~~impairment~~ or
58 speech impairment are generally excluded from access to the

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59 basic telecommunications system to communicate with persons who
60 have a hearing loss ~~impairment~~ or speech impairment without the
61 use of specialized telecommunications devices.

62 (f) There exists a need for a telecommunications relay
63 system whereby the cost for access to basic telecommunications
64 services for persons who have a hearing loss ~~impairment~~ or
65 speech impairment is no greater than the amount paid by other
66 telecommunications customers.

67 (g) The Federal Government, in order to carry out the
68 purposes established by Title II of the Communications Act of
69 1934, as amended, by the enactment of the Americans with
70 Disabilities Act, endeavored to ensure that interstate and
71 intrastate telecommunications relay services are available, to
72 the extent possible and in the most efficient manner, to deaf,
73 hard-of-hearing, ~~hearing-impaired~~ and speech-impaired ~~speech~~
74 ~~impaired~~ persons in the United States.

75 (h) Title IV of the Americans with Disabilities Act
76 mandates that the telecommunications companies providing
77 telephone services within the state shall provide
78 telecommunications relay services on or before July 25, 1993, to
79 persons who are deaf, hard of hearing, ~~impaired~~ or speech
80 impaired within their certificated territories in a manner that
81 meets or exceeds the requirements of regulations to be
82 prescribed by the Federal Communications Commission.

83 (i) The 21st Century Communications and Video Accessibility
84 Act of 2010 mandates additional safeguards ensuring that persons
85 who have a hearing loss are able to access Internet-based and
86 digital communications.

87 (2) It is the declared purpose of this part to establish a

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88 system whereby the residents ~~citizens~~ of Florida who are deaf,
89 hard of hearing ~~impaired~~, speech impaired, or dual sensory
90 impaired have access to basic telecommunications services at a
91 cost no greater than that paid by other telecommunications
92 services customers, and whereby the cost of specialized
93 telecommunications equipment necessary to ensure that residents
94 ~~citizens~~ who are deaf, hard of hearing ~~impaired~~, speech
95 impaired, or dual sensory impaired have access to basic
96 telecommunications services and the provision of
97 telecommunications relay service is borne by all the
98 telecommunications customers of the state.

99 (3) It is the intent of the Legislature:

100 (a) That a telecommunications access system be established
101 to provide equitable basic access to the telecommunications
102 network for persons who are deaf, hard of hearing ~~impaired~~,
103 speech impaired, or dual sensory impaired.

104 (b) That the telecommunications access system includes a
105 telecommunications relay service system that meets or exceeds
106 the certification requirements of the Federal Communications
107 Commission.

108 (c) That the telecommunications access system includes the
109 distribution of telecommunications devices for the deaf which
110 ~~that~~ are compatible with the telecommunications relay service
111 system and has the capability of incorporating new technologies
112 as they develop.

113 (d) That the telecommunications access system includes the
114 distribution of specialized telecommunications devices necessary
115 for deaf, hard-of-hearing ~~hearing-impaired~~, speech-impaired
116 ~~speech-impaired~~, or dual sensory-impaired ~~sensory-impaired~~

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117 persons to access basic telecommunications services.

118 (e) That the telecommunications access system ensures that
119 users of the telecommunications relay service system pay rates
120 no greater than the rates paid for functionally equivalent voice
121 communications services.

122 (f) That the telecommunications access system be as cost
123 efficient as possible without diminishing the effectiveness or
124 the quality of the system.

125 (g) That the telecommunications access system uses state-
126 of-the-art technology for specialized telecommunications devices
127 and the telecommunications relay service and encourages the
128 incorporation of new developments in technology, to the extent
129 that it has demonstrated benefits consistent with the intent of
130 this act and is in the best interest of the residents ~~citizens~~
131 of this state.

132 (h) That the value of the involvement of persons who are
133 deaf, hard of ~~have~~ hearing, or speech impaired ~~impairments~~, and
134 organizations representing or serving those persons, be
135 recognized and such persons and organizations be involved
136 throughout the development, establishment, and implementation of
137 the telecommunications access system through participation on
138 the advisory committee as provided in s. 427.706.

139 (i) That the total cost of providing telecommunications
140 relay services and distributing specialized telecommunications
141 devices be spread equitably among and collected from customers
142 of all local exchange telecommunications companies and
143 commercial mobile radio service providers.

144 Section 2. Subsections (3), (5), (6), (11), (12), (13), and
145 (16) of section 427.703, Florida Statutes, are amended to read:

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146 427.703 Definitions.—As used in this part:

147 (3) "Deaf" means having a severe ~~permanent~~ hearing loss
148 that makes it difficult to understand speech through listening
149 with or without an auditory device. Some deaf individuals may
150 depend on visual or tactile methods, or both, to communicate
151 ~~impairment and being unable to discriminate speech sounds in~~
152 ~~verbal communication, with or without the assistance of~~
153 ~~amplification devices.~~

154 (5) "Hard of hearing" means having a severe ~~permanent~~
155 hearing loss that interferes with the ability to process
156 linguistic information through audition with or without an
157 auditory device. A hard-of-hearing individual may depend on
158 hearing and assistive devices or visual methods, or both, to
159 communicate ~~impairment which is severe enough to necessitate the~~
160 ~~use of amplification devices to discriminate speech sounds in~~
161 ~~verbal communication.~~

162 (6) "Hearing loss impaired" or "having a hearing loss
163 ~~impairment~~" means deaf or hard of hearing and, for purposes of
164 this part, includes being dual sensory impaired.

165 (11) "Specialized telecommunications device" means a
166 telecommunications device for the deaf (TDD) ~~TDD~~, an amplified
167 telephone, a captioned telephone ~~a volume control handset~~, a
168 ring signaling device, a mobile wireless device such as a
169 cellular telephone designed for deaf or hard-of-hearing persons,
170 or any other customer premises telecommunications equipment
171 specifically designed or used to provide basic access to
172 telecommunications services for a deaf, hard-of-hearing ~~hearing~~
173 ~~impaired, speech-impaired~~ speech-impaired, or dual sensory-
174 impaired ~~sensory impaired~~ person.

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175 (12) "Surcharge" means an additional charge that ~~which~~ is
176 ~~to be~~ paid by the subscribers of a local exchange
177 telecommunications company or a commercial mobile radio service
178 provider subscribers pursuant to the cost-recovery ~~cost recovery~~
179 mechanism established under s. 427.704(4) in order to implement
180 the system described in this part ~~herein~~.

181 (13) "Telecommunications company" includes every
182 corporation, partnership, and person and their lessees,
183 trustees, or receivers appointed by any court whatsoever, and
184 every political subdivision of the state, offering two-way
185 telecommunications service to the public for hire within this
186 state by the use of a telecommunications facility. The term
187 ~~"telecommunications company"~~ does not include an entity that
188 ~~which~~ provides a telecommunications facility exclusively to a
189 certificated telecommunications company, but may include ~~or~~ a
190 specialized mobile radio service operator, a private radio
191 carrier, a radio common carrier, a cellular radio
192 telecommunications carrier, or a cable television company
193 providing cable service as defined in 47 U.S.C. s. 522.

194 (16) "Telecommunications relay service" means any
195 telecommunications transmission service that allows a person who
196 is deaf, hard of hearing, ~~impaired~~ or speech impaired to
197 communicate by wire, wireless, or radio in a manner that is
198 functionally equivalent to the ability of a person who is not
199 deaf, hard of hearing, ~~impaired~~ or speech impaired. The ~~Such~~
200 term includes any service that enables two-way communication
201 between a person who uses a telecommunications device or other
202 nonaudio nonvoice terminal device and a person who does not use
203 such a device.

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204 Section 3. Subsection (1), paragraph (a) of subsection (3),
205 and subsections (4) and (5) of section 427.704, Florida
206 Statutes, are amended to read:

207 427.704 Powers and duties of the commission.—

208 (1) The commission shall establish, implement, promote, and
209 oversee the administration of a statewide telecommunications
210 access system to provide access to telecommunications relay
211 services by persons who are deaf, hard of hearing, ~~impaired~~ or
212 speech impaired, or others who communicate with them. The
213 telecommunications access system shall provide for the purchase
214 and distribution of specialized telecommunications devices and
215 the establishment of statewide single provider
216 telecommunications relay service system that ~~which~~ operates
217 continuously. To provide telecommunications relay services and
218 distribute specialized telecommunication devices to persons who
219 are deaf, hard of hearing, ~~impaired~~ or speech impaired, at a
220 reasonable cost the commission shall:

221 (a) Investigate, conduct public hearings, and solicit the
222 advice and counsel of the advisory committee established
223 pursuant to s. 427.706 to determine the most cost-effective
224 method for providing telecommunications relay service and
225 distributing specialized telecommunications devices.

226 (b) Ensure that users of the telecommunications relay
227 service system pay rates no greater than the rates paid for
228 functionally equivalent voice communication services with
229 respect to such factors as duration of the call, time of day,
230 and distance from the point of origination to the point of
231 termination.

232 (c) Ensure that the telecommunications access system

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233 protects the privacy of persons to whom services are provided
234 and that all operators maintain the confidentiality of all relay
235 service messages.

236 (d) Ensure that the telecommunications relay service system
237 complies with regulations adopted by the Federal Communications
238 Commission to implement Title IV of the Americans with
239 Disabilities Act.

240 (3) (a) The commission shall select the provider of the
241 telecommunications relay service pursuant to procedures
242 established by the commission. In selecting the service
243 provider, the commission shall take into consideration the cost
244 of providing the relay service and the interests of the deaf,
245 hard-of-hearing, ~~hearing-impaired~~ and speech-impaired ~~speech~~
246 ~~impaired~~ community in having access to a high-quality and
247 technologically advanced telecommunications system. The
248 commission shall award the contract to the bidder whose proposal
249 is the most advantageous to the state, taking into consideration
250 the following:

251 1. The appropriateness and accessibility of the proposed
252 telecommunications relay service for the residents ~~citizens~~ of
253 the state, including persons who are deaf, hard of hearing,
254 ~~impaired~~ or speech impaired.

255 2. The overall quality of the proposed telecommunications
256 relay service.

257 3. The charges for the proposed telecommunications relay
258 service system.

259 4. The ability and qualifications of the bidder to provide
260 the proposed telecommunications relay service as outlined in the
261 request for proposals.

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262 5. Any proposed service enhancements and technological
263 enhancements that ~~which~~ improve service without significantly
264 increasing cost.

265 6. Any proposed inclusion of provision of assistance to
266 deaf persons with special needs to access the basic
267 telecommunications system.

268 7. The ability to meet the proposed commencement date for
269 the telecommunications relay service.

270 8. All other factors listed in the request for proposals.

271 (4) (a) The commission shall establish a mechanism to
272 recover the costs of implementing and maintaining the services
273 required pursuant to this part, which shall be applied to each
274 basic telecommunications access line. In establishing the
275 recovery mechanism, the commission shall:

276 1. Require all local exchange telecommunications companies
277 and commercial mobile radio service providers to impose a
278 monthly surcharge on their ~~all local exchange telecommunications~~
279 ~~company~~ subscribers on an individual access line basis, except
280 that such surcharge may ~~shall~~ not be imposed upon more than 25
281 basic telecommunications access lines per account bill rendered.

282 2. Require all local exchange telecommunications companies
283 and commercial mobile radio service providers to include the
284 surcharge as a part of the local service charge that appears on
285 the customer's bill, except that the local exchange
286 telecommunications company or commercial mobile radio service
287 provider shall specify the surcharge on the initial bill to the
288 subscriber and itemize it at least once annually.

289 3. Allow the local exchange telecommunications company or
290 commercial mobile radio service provider to deduct and retain 1

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291 percent of the total surcharge amount collected each month to
292 recover the billing, collecting, remitting, and administrative
293 costs attributed to the surcharge.

294 (b) The commission shall determine the amount of the
295 surcharge based upon the amount of funding necessary to
296 accomplish the purposes of this act and provide the services on
297 an ongoing basis; however, in no case shall the amount exceed 25
298 cents per line per month.

299 (c) All moneys received by the local exchange
300 telecommunications company or commercial mobile radio service
301 provider, less the amount retained as authorized by subparagraph
302 (4) (a) 3., shall be remitted to the administrator for deposit in
303 appropriate financial institutions regulated under state or
304 federal law and used exclusively to fund the telecommunications
305 access system provided for in this part ~~herein~~.

306 (d) The surcharge collected by the local exchange
307 telecommunications companies and commercial mobile radio service
308 providers is not subject to any sales, use, franchise, income,
309 municipal utility, gross receipts, or any other tax, fee, or
310 assessment, nor shall it be considered revenue of the local
311 exchange telecommunications companies or commercial mobile radio
312 service providers for any purpose.

313 (e) From the date of implementing the surcharge, the
314 commission shall review the amount of the surcharge at least
315 annually and shall order changes in the amount of the surcharge
316 as necessary to ensure ~~assure~~ available funds for the provision
317 of the telecommunications access system established in this part
318 ~~herein~~. If ~~Where~~ the review of the surcharge determines that
319 excess funds are available, the commission may order the

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320 suspension of the surcharge for a period that ~~which~~ the
321 commission deems appropriate.

322 (5) The commission shall require each local exchange
323 telecommunications company and commercial mobile radio service
324 provider to begin assessing and collecting the surcharge in the
325 amount of 5 cents per access line per month on bills rendered on
326 or after July 1, 2012 ~~1991~~, for remission to the administrator
327 for deposit in the operational fund. Each local exchange
328 telecommunications company and commercial mobile radio service
329 provider shall remit moneys collected to the administrator. On
330 August 15, 2012 ~~1991~~, each local exchange telecommunications
331 company and commercial mobile radio service provider shall begin
332 remitting the moneys collected to the administrator on a monthly
333 basis and in a manner as prescribed by the commission. The
334 administrator shall use such moneys to cover costs incurred
335 during the development of the telecommunications relay services
336 and to establish and administer the specialized
337 telecommunications devices system.

338 Section 4. Paragraph (d) of subsection (1), subsections (3)
339 and (4), paragraph (a) of subsection (5), and subsections (6)
340 and (7) of section 427.705, Florida Statutes, are amended to
341 read:

342 427.705 Administration of the telecommunications access
343 system.—

344 (1) Consistent with the provisions of this act and rules
345 and regulations established by the commission, the administrator
346 shall:

347 (d) Establish and maintain an operational fund with
348 appropriate financial institutions regulated under state or

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349 federal law, and receive moneys from the local exchange
350 telecommunications companies and commercial mobile radio service
351 providers and deposit such moneys in the operational fund.

352 (3) The administrator may apply to the commission for an
353 adjustment in the amount of the monthly surcharge that a local
354 exchange telecommunications company or commercial mobile radio
355 service provider must impose on its customers. Prior to applying
356 to the commission for such an adjustment, the commission may
357 require the administrator to employ an independent accounting
358 firm to perform an audit of the accounts of the administrator
359 and the service providers relevant to the surcharge and file a
360 report with the commission.

361 (4) In contracting for the provision of distribution of
362 specialized telecommunications devices, outreach services, and
363 training of recipients, the administrator shall consider
364 contracting with organizations that provide services to persons
365 who are deaf, hard of hearing, ~~impaired~~ or speech impaired.

366 (5) The administrator shall provide for the distribution of
367 specialized telecommunications devices to persons qualified to
368 receive such equipment in accordance with the provisions of this
369 act. The administrator shall establish procedures for the
370 distribution of specialized telecommunications devices and shall
371 solicit the advice and counsel and consider the recommendations
372 of the advisory committee in establishing such procedures. The
373 procedures shall:

374 (a) Provide for certification of persons as deaf, hard of
375 hearing ~~impaired~~, speech impaired, or dual sensory impaired.
376 Such certification process shall include a statement attesting
377 to such impairment by a licensed physician, audiologist, speech-

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378 language pathologist, hearing aid specialist, or deaf and hard-
379 of-hearing service center director; by a state-certified teacher
380 of the deaf and hard of hearing ~~impaired~~; by a state-certified
381 teacher of the visually impaired; or by an appropriate state or
382 federal agency. The licensed physician, audiologist, speech-
383 language pathologist, hearing aid specialist, state-certified
384 teacher of the deaf and hard of hearing ~~impaired~~, or state-
385 certified teacher of the visually impaired providing statements
386 that ~~which~~ attest to such impairments shall work within their
387 individual scopes of practice according to their education and
388 training. The deaf and hard-of-hearing service center directors
389 and appropriate state and federal agencies shall attest to such
390 impairments as provided for in the procedures developed by the
391 administrator.

392 (6) All names, addresses, and telephone numbers provided to
393 the Florida Public Service Commission or administrator by
394 applicants for specialized telecommunications devices are
395 confidential and exempt from the provisions of s. 119.07(1). The
396 information shall be released to contractors only to the extent
397 necessary for assignment and shipment of equipment, for
398 provision of training in the use of equipment, and for inventory
399 reconciliation purposes. ~~Neither~~ The administrator or any
400 contractor may not ~~shall~~ release this information or ~~nor~~ use it
401 for any other purpose.

402 (7) The administrator shall assume responsibility for
403 distribution of specialized telecommunications devices,
404 including wireless mobile devices.

405 Section 5. Subsections (1) and (2) of section 427.706,
406 Florida Statutes, are amended to read:

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407 427.706 Advisory committee.—

408 (1) The commission shall appoint an advisory committee to
409 assist the commission with the administration ~~implementation~~ of
410 ~~the provisions of~~ this part. The committee shall be composed of
411 no more than 11 ~~10~~ persons and shall include, to the extent
412 practicable, the following:

413 (a) Two deaf persons recommended by the Florida Association
414 of the Deaf.

415 (b) Two hard-of-hearing persons ~~One hearing-impaired person~~
416 recommended by the Hearing Loss Association of Florida ~~Self-Help~~
417 ~~for the Hard of Hearing.~~

418 (c) One deaf and blind person recommended by the Florida
419 Deaf-Blind Association ~~Coalition for Persons with Dual Sensory~~
420 ~~Disabilities.~~

421 (d) One speech impaired person recommended by the Florida
422 Language Speech and Hearing Association.

423 (e) Three ~~Two~~ representatives of telecommunications
424 companies, one representing a local exchange telecommunications
425 company, ~~and~~ one representing an interexchange
426 telecommunications company, recommended by the Florida Telephone
427 Association, and one representing a commercial mobile radio
428 service provider.

429 (f) One person who has ~~with~~ experience in providing relay
430 services recommended by the Deaf Service Center Association.

431 (g) One person recommended by Disability Rights Florida ~~the~~
432 ~~Advocacy Center for Persons with Disabilities, Inc.~~

433 ~~(h) One person recommended by the Florida League of~~
434 ~~Seniors.~~

435 (2) The advisory committee shall provide the expertise,

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436 experience, and perspective of persons who are deaf, hard of
437 hearing, ~~impaired~~ or speech impaired to the commission and to
438 the administrator during all phases of the development and
439 operation of the telecommunications access system. The advisory
440 committee shall advise the commission and the administrator on
441 the quality and cost-effectiveness of the telecommunications
442 relay service and the specialized telecommunications devices
443 distribution system. The advisory committee may submit material
444 for inclusion in the annual report prepared pursuant to s.
445 427.704.

446 Section 6. Section 427.708, Florida Statutes, is amended to
447 read:

448 427.708 Certain public safety and health care providers
449 required to purchase and operate TDD's or any other appropriate
450 telecommunications devices.-

451 (1) The central communications office of each county
452 sheriff's department shall purchase and continually operate at
453 least one TDD or any other appropriate telecommunications
454 device.

455 (2) (a) The central communications office of each police
456 department and each firefighting agency in a municipality with a
457 population of 25,000 to 250,000 shall purchase and continually
458 operate at least one TDD or any other appropriate
459 telecommunications device.

460 (b) The central communications office of each police
461 department and each firefighting agency in a municipality with a
462 population exceeding 250,000 persons shall purchase and
463 continually operate at least two TDD's or any other appropriate
464 telecommunications devices.

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465 (3) Each hospital as defined in s. 395.002 shall purchase
466 and continually operate at least one TDD or any other
467 appropriate telecommunications device.

468 (4) Each emergency telephone number "911" system, as
469 provided in s. 365.171, and each agency receiving automatically
470 routed calls through such a system shall purchase and
471 continually operate at least one TDD or any other appropriate
472 telecommunications device.

473 (5) Each public safety office, health care provider, and
474 emergency telephone number "911" system required to obtain a TDD
475 or any other appropriate telecommunications device pursuant to
476 this section shall continuously operate and staff such equipment
477 on a 24-hour basis.

478 (6) Each office or organization required to purchase TDD's
479 or any other appropriate telecommunications devices pursuant to
480 this section shall buy ~~such~~ equipment that ~~which~~ meets the same
481 specifications as those selected by the commission.

482 (7) Each office or organization required to operate TDD's
483 or any other appropriate telecommunications devices pursuant to
484 this section shall utilize equipment in accordance with
485 standards established by the commission.

486 (8) The Public Service Commission shall ensure on an annual
487 basis that public safety and health care providers are in
488 compliance with this section and shall submit a report that
489 includes its findings to the advisory committee established
490 under s. 427.706.

491 Section 7. This act shall take effect July 1, 2012.