

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  
 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  
 36 | to 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.

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57 (e) Persons who do not have a hearing loss ~~impairment~~ or  
58 speech impairment are generally excluded from access to the  
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  
84 Accessibility Act of 2010 mandates additional safeguards

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85 ensuring that persons who have a hearing loss are able to access  
86 Internet-based and digital communications.

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

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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~~  
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

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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),  
145 and (16) of section 427.703, Florida Statutes, are amended to  
146 read:

147 427.703 Definitions.—As used in this part:

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

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

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

166 (11) "Specialized telecommunications device" means a  
167 telecommunications device for the deaf (TDD) ~~TDD~~, an amplified  
168 telephone, a captioned telephone ~~a volume control handset, a~~

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169 ring signaling device, a mobile wireless device such as a  
170 cellular telephone designed for deaf or hard-of-hearing persons,  
171 or any other customer premises telecommunications equipment  
172 specifically designed or used to provide basic access to  
173 telecommunications services for a deaf, hard-of-hearing ~~hearing~~  
174 ~~impaired, speech-impaired~~ speech-impaired, or dual sensory-  
175 impaired ~~sensory impaired~~ person.

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

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

195 (16) "Telecommunications relay service" means any  
196 telecommunications transmission service that allows a person who

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

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

208 | 427.704 Powers and duties of the commission.—

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

222 | (a) Investigate, conduct public hearings, and solicit the  
 223 | advice and counsel of the advisory committee established  
 224 | pursuant to s. 427.706 to determine the most cost-effective

225 method for providing telecommunications relay service and  
 226 distributing specialized telecommunications devices.

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

233 (c) Ensure that the telecommunications access system  
 234 protects the privacy of persons to whom services are provided  
 235 and that all operators maintain the confidentiality of all relay  
 236 service messages.

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

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

- 252 1. The appropriateness and accessibility of the proposed

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253 telecommunications relay service for the residents ~~citizens~~ of  
254 the state, including persons who are deaf, hard of hearing,  
255 ~~impaired~~ or speech impaired.

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

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

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

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

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

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

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

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

277 1. Require all local exchange telecommunications companies  
278 and commercial mobile radio service providers to impose a  
279 monthly surcharge on their ~~all local exchange telecommunications~~  
280 ~~company~~ subscribers on an individual access line basis, except

281 that such surcharge may ~~shall~~ not be imposed upon more than 25  
 282 basic telecommunications access lines per account bill rendered.

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

290 3. Allow the local exchange telecommunications company or  
 291 commercial mobile radio service provider to deduct and retain 1  
 292 percent of the total surcharge amount collected each month to  
 293 recover the billing, collecting, remitting, and administrative  
 294 costs attributed to the surcharge.

295 (b) The commission shall determine the amount of the  
 296 surcharge based upon the amount of funding necessary to  
 297 accomplish the purposes of this act and provide the services on  
 298 an ongoing basis; however, ~~in no case shall~~ the amount may not  
 299 exceed 25 cents per line per month.

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

307 (d) The surcharge collected by the local exchange  
 308 telecommunications companies and commercial mobile radio service

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309 providers is not subject to any sales, use, franchise, income,  
310 municipal utility, gross receipts, or any other tax, fee, or  
311 assessment, ~~and nor shall it~~ is not ~~be~~ considered revenue of the  
312 local exchange telecommunications companies or commercial mobile  
313 radio service providers for any purpose.

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

323 (5) The commission shall require each local exchange  
324 telecommunications company and commercial mobile radio service  
325 provider to begin assessing and collecting the surcharge in the  
326 amount of 5 cents per access line per month on bills rendered on  
327 or after July 1, 2013 ~~1991~~, for remission to the administrator  
328 for deposit in the operational fund. Each local exchange  
329 telecommunications company and commercial mobile radio service  
330 provider shall remit moneys collected to the administrator. On  
331 August 15, 2013 ~~1991~~, each local exchange telecommunications  
332 company and commercial mobile radio service provider shall begin  
333 remitting the moneys collected to the administrator on a monthly  
334 basis and in a manner as prescribed by the commission. The  
335 administrator shall use such moneys to cover costs incurred  
336 during the development of the telecommunications relay services

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337 and to establish and administer the specialized  
338 telecommunications devices system.

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

343 427.705 Administration of the telecommunications access  
344 system.—

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

348 (d) Establish and maintain an operational fund with  
349 appropriate financial institutions regulated under state or  
350 federal law, and receive moneys from the local exchange  
351 telecommunications companies and commercial mobile radio service  
352 providers and deposit such moneys in the operational fund.

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

362 (4) In contracting for the provision of distribution of  
363 specialized telecommunications devices, outreach services, and  
364 training of recipients, the administrator shall consider

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365 contracting with organizations that provide services to persons  
366 who are deaf, hard of hearing, ~~impaired~~ or speech impaired.

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

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

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

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

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

408 427.706 Advisory committee.—

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

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

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

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

421 ~~Disabilities.~~

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

424 (e) Three ~~Two~~ representatives of telecommunications  
425 companies.

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

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

430 ~~(h) One person recommended by the Florida League of~~  
431 ~~Seniors.~~

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

443 Section 6. Section 427.708, Florida Statutes, is amended  
444 to read:

445 427.708 Certain public safety and health care providers  
446 required to purchase and operate TDD's or other appropriate  
447 telecommunications devices.-

448 (1) The central communications office of each county

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449 sheriff's department shall purchase and continually operate at  
450 least one TDD or other appropriate telecommunications device.

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

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

461 (3) Each hospital as defined in s. 395.002 shall purchase  
462 and continually operate at least one TDD or other appropriate  
463 telecommunications device.

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

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

474 (6) Each office or organization required to purchase TDD's  
475 or other appropriate telecommunications devices pursuant to this  
476 section shall buy ~~such~~ equipment that ~~which~~ meets the same

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477 specifications as those selected by the commission.

478 (7) Each office or organization required to operate TDD's  
479 or other appropriate telecommunications devices pursuant to this  
480 section shall utilize equipment in accordance with standards  
481 established by the commission.

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

487 Section 7. This act shall take effect July 1, 2013.