

**STRICKEN AS OF 2/3/2011**  
**AMENDED COPY AS OF 1/10/2011**

Intro. Res. No. 1782-2010  
Introduced by Legislator Browning

Laid on Table 8/3/2010

**RESOLUTION NO.       -2011, ADOPTING LOCAL LAW NO.**  
**-2011, A LOCAL LAW TO REGISTER PREPAID**  
**CELL PHONES PURCHASED IN SUFFOLK COUNTY**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a meeting held on August 3, 2010, a proposed local law entitled, "**A LOCAL LAW TO REGISTER PREPAID CELL PHONES PURCHASED IN SUFFOLK COUNTY**"; now, therefore be it

**RESOLVED**, that said local law be enacted in form as follows:

**LOCAL LAW NO.       -2011, SUFFOLK COUNTY, NEW YORK**

**A LOCAL LAW TO REGISTER PREPAID CELL PHONES**  
**PURCHASED IN SUFFOLK COUNTY**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature hereby finds and determines that crime and terrorism are constant threats to the nation and Suffolk County.

This Legislature determines that customers must provide identifying information in order to purchase a cellular phone with a service contract.

This Legislature also finds and determines that prepaid cellular phones allow people to obtain a mobile phone with a set number of minutes at a low cost with no contract; these same features make prepaid cellular phones attractive to terrorists and criminals.

This Legislature finds that a person can purchase a prepaid cellular phone without providing personal information or identification.

This Legislature determines that in the absence of identifying information from the purchaser, there is no way to trace a prepaid cellular phone to any individual.

This Legislature also finds that requiring retailers to collect identifying information at the time a prepaid cellular phone is sold will provide law enforcement with essential information to combat crime and terrorism.

Therefore, the purpose of this law is to require all retailers of prepaid cellular phones in Suffolk County to collect and retain identifying information from the customer each time a prepaid cellular phone is sold.

## **Section 2. Definitions.**

As used in this law, the following terms shall have the meanings indicated:

“LAW ENFORCEMENT OFFICER” shall mean the Commissioner of the Suffolk County Police Department, his or her designee, the Chief of any Town or Village Police Department within the County of Suffolk, his or her designee, any sworn officer of such police departments, the Suffolk County District Attorney, his or her designee, or investigators of the Suffolk County District Attorney’s Office.

“PERSON” shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business of any kind.

“PREPAID CELLULAR PHONE” shall mean any cellular phone that is purchased with a pre-set number of minutes and does not require a long term contract with any cellular phone service provider.

“PREPAID CELLULAR PHONE RETAILER” shall mean any retail store, company or corporation located in Suffolk County which sells prepaid cellular phones.

“SERVICE SUPPLIER” shall mean the company providing wireless telephone services to a prepaid cellular phone.

“SIM CARD” shall mean a subscriber identity module card used in a cellular phone.

## **Section 3. Requirements.**

- A. All prepaid cellular phone retailers shall notify the Suffolk County Police Department, in writing, within thirty days of opening for business or the effective date of this law, whichever is later, that prepaid cellular phones or SIM cards for prepaid cellular phones are available for purchase at their establishment.
- B. A prepaid cellular phone retailer must obtain two forms of identification from any person purchasing a prepaid cellular phone or a SIM card for a prepaid cellular phone. One form of identification must be a government issued photographic identification. The second form of identification must contain the person’s name and home address. Acceptable secondary forms of identification include, but are not limited to: motor vehicle registration or insurance cards, utility bills, pay stubs, and voter registration cards.
- C. A prepaid cellular phone retailer shall create a record of each sale made. The record may be either on paper or in electronic form. The following information must be contained in each record:
  - (1) The date of sale;
  - (2) A copy of the forms of identification provided by the person;

- (3) The make, model, and the electronic serial number or SIM card number of the prepaid cellular phone;
- (4) The phone number assigned to the prepaid cellular phone, if activated at the time of sale by the prepaid cellular phone retailer; and
- (5) The service supplier of the prepaid cellular phone purchased.

D. All records shall be stored in receipt number order in good and legible condition for no less than three years from the date of sale.

#### **Section 4. Inspection of Records.**

- A. All records described herein shall be open for inspection by a law enforcement officer at any time.
- B. A law enforcement officer may request, and a prepaid cellular phone retailer shall satisfy such request within 72 hours, copies of all purchase receipts and/or comparable documents detailing all prepaid cellular phone and SIM cards for prepaid cellular phone purchases made by one specific person for a time frame of no more than 90 days.
- C. Should a law enforcement officer request information for all purchases made by one specific person for a time frame greater than 90 days, then the prepaid cellular phone retailer shall have an additional 72 hours to comply with the request.

#### **Section 5. Penalties.**

Violation of any section of this law shall constitute an unclassified misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000.00) and/or up to one (1) year in jail. Each sale in violation of this law shall constitute a separate and distinct violation.

#### **Section 6. Applicability.**

This law shall apply to all sales of prepaid cellular phones and SIM cards for prepaid cellular phones occurring on or after the effective date of this law.

#### **Section 7. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

#### **Section 8. Reverse Preemption.**

This law shall be null and void on the same day that statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in

this Article, or in the event that a pertinent state administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine, via mere resolution, whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

**Section 9. SEQRA Determination.**

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

**Section 10. Effective Date.**

This law shall take effect on the one hundred eightieth (180<sup>th</sup>) day following its filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

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County Executive of Suffolk County

Date: