

114TH CONGRESS
1ST SESSION

S. 1261

To ensure that methods of collecting taxes and fees by private citizens on behalf of State and local governments are fair and effective and do not discriminate against interstate commerce for wireless telecommunications services.

IN THE SENATE OF THE UNITED STATES

MAY 7, 2015

Mr. MANCHIN (for himself and Mr. MORAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To ensure that methods of collecting taxes and fees by private citizens on behalf of State and local governments are fair and effective and do not discriminate against interstate commerce for wireless telecommunications services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wireless Telecommuni-
5 cations Tax and Fee Collection Fairness Act of 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) A State may designate an in-State or out-
2 of-State person as a collection agent for the State
3 and impose upon the person a duty to collect certain
4 taxes and fees for wireless telecommunications serv-
5 ices from residents of the State.

6 (2) States have the sovereign right to tax their
7 citizens, subject to the Constitution of the United
8 States and Federal law. States do not have the right
9 to tax interstate commerce or to impose taxes or
10 other obligations on citizens of other States without
11 limitation.

12 (3) A collection agent for a State may feasibly
13 collect taxes and fees from a customer in connection
14 with a financial transaction to which the agent and
15 customer are parties.

16 (4) Congress can help ensure against unreason-
17 able burdens on interstate commerce by prohibiting
18 each State from imposing a duty on any person to
19 serve as a collection agent for the State unless the
20 collection is in connection with a financial trans-
21 action.

22 **SEC. 3. DEFINITIONS.**

23 In this Act—

24 (1) the term “financial transaction” means a
25 transaction in which the purchaser or user of a wire-

1 less telecommunications service upon whom a tax,
 2 fee, or surcharge is imposed gives cash, credit, or
 3 any other exchange of monetary value or consider-
 4 ation to the person who is required to collect or
 5 remit the tax, fee, or surcharge;

6 (2) the term “local jurisdiction” means a polit-
 7 ical subdivision of a State;

8 (3) the term “State” means any of the several
 9 States, the District of Columbia, and any territory
 10 or possession of the United States;

11 (4) the term “State or local jurisdiction” in-
 12 cludes any governmental entity or person acting on
 13 behalf of a State or local jurisdiction that has the
 14 authority to assess, impose, levy, or collect taxes or
 15 fees; and

16 (5) the term “wireless telecommunications serv-
 17 ice” means a commercial mobile radio service, as de-
 18 fined in section 20.3 of title 47, Code of Federal
 19 Regulations, or any successor thereto.

20 **SEC. 4. FINANCIAL TRANSACTION REQUIREMENT.**

21 (a) IN GENERAL.—A State, or a local jurisdiction of
 22 a State, may not require a person to collect from, or remit
 23 on behalf of, any other person a State or local tax, fee,
 24 or surcharge imposed on a purchaser or user with respect
 25 to the purchase or use of any wireless telecommunications

1 service within the State unless the collection or remittance
 2 is in connection with a financial transaction between—

3 (1) the person that the State or local jurisdic-
 4 tion requires to collect or remit the tax, fee, or sur-
 5 charge; and

6 (2) the purchaser or user of the wireless tele-
 7 communications service.

8 (b) **RULE OF CONSTRUCTION.**—Nothing in this sec-
 9 tion shall be construed to affect the right of a State or
 10 local jurisdiction to require the collection of any tax, fee,
 11 or surcharge in connection with a financial transaction.

12 **SEC. 5. ENFORCEMENT.**

13 (a) **PRIVATE RIGHT OF ACTION.**—Any person ag-
 14 grieved by a violation of section 4 may bring a civil action
 15 in an appropriate district court of the United States for
 16 equitable relief in accordance with subsection (b) of this
 17 section.

18 (b) **JURISDICTION OF DISTRICT COURTS.**—Notwith-
 19 standing section 1341 of title 28, United States Code, or
 20 the constitution or laws of any State, the district courts
 21 of the United States shall have jurisdiction, without re-
 22 gard to the amount in controversy or citizenship of the
 23 parties, to grant such mandatory or prohibitive injunctive
 24 relief, interim equitable relief, and declaratory judgments

- 1 as may be necessary to prevent, restrain, or terminate any
- 2 acts in violation of section 4.

