

110TH CONGRESS  
1ST SESSION

# S. 166

To restrict any State from imposing a new discriminatory tax on cell phone services.

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IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

Mr. MCCAIN (for himself, Mr. DEMINT, Mr. SMITH, and Mr. SUNUNU) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To restrict any State from imposing a new discriminatory tax on cell phone 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 “Cell Phone Tax Mora-  
5 torium Act of 2007”.

6 **SEC. 2. MORATORIUM.**

7 (a) IN GENERAL.—No State or political subdivision  
8 thereof shall impose a new discriminatory tax on or with  
9 respect to mobile services, mobile services providers, or

1 mobile services property, during the 3-year period begin-  
 2 ning on the date of enactment of this Act.

3 (b) DEFINITIONS.—In this Act:

4 (1) MOBILE SERVICE.—The term “mobile serv-  
 5 ice” means commercial mobile radio service, as such  
 6 term is defined in section 20.3 of title 47, Code of  
 7 Federal Regulations, as in effect on the date of en-  
 8 actment of this Act, or any other service that is pri-  
 9 marily intended for receipt on or use with a mobile  
 10 telephone.

11 (2) MOBILE SERVICE PROVIDER.—The term  
 12 “mobile service provider” means any entity that  
 13 markets, sells, or provides mobile services.

14 (3) MOBILE SERVICE PROPERTY.—The term  
 15 “mobile services property” means any equipment  
 16 used in the transmission, reception, coordination, or  
 17 switching of mobile services.

18 (4) NEW DISCRIMINATORY TAX.—

19 (A) IN GENERAL.—The term “new dis-  
 20 criminatory tax” means any tax imposed by a  
 21 State or political subdivision thereof that—

22 (i) is imposed on or with respect to—  
 23 (I) any mobile service and is not  
 24 generally imposed, or is generally im-  
 25 posed at a lower rate, on or with re-

1                   spect to other services or on or with  
 2                   respect to transactions involving prop-  
 3                   erty or goods;

4                   (II) any mobile service provider  
 5                   and is not generally imposed, or is  
 6                   generally imposed at a lower rate, on  
 7                   other persons that provide services  
 8                   other than mobile services; or

9                   (III) any mobile service property  
 10                  and is not generally imposed, or is  
 11                  generally imposed at a lower rate, on  
 12                  or with respect to other commercial or  
 13                  industrial property that is devoted to  
 14                  a commercial or industrial use and  
 15                  subject to a property tax levy;

16                  (ii) was not generally imposed and ac-  
 17                  tually enforced prior to the date of enact-  
 18                  ment of this Act.

19                  (B) RULE OF CONSTRUCTION.—For pur-  
 20                  poses of subparagraph (A), all exemptions, de-  
 21                  ductions, credits, incentives, exclusions, and  
 22                  other similar factors shall be taken into account  
 23                  in determining whether a tax is a “new dis-  
 24                  criminatory tax”.

25                  (5) TAX.—

1           (A) IN GENERAL.—The term “tax” means  
2 any charge imposed by any governmental entity  
3 for the purpose of generating revenues for gov-  
4 ernmental purposes, and is not a fee imposed  
5 for a specific privilege, service, or benefit con-  
6 ferred.

7           (B) EXCLUSION.—The term “tax” does  
8 not include any fee or charge—

9                   (i) used to preserve and advance Fed-  
10 eral universal service or similar State pro-  
11 grams authorized by section 254 of the  
12 Communications Act of 1934 (47 U.S.C.  
13 254); or

14                   (ii) specifically dedicated by a State or  
15 political subdivision thereof for the support  
16 of E-911 communications systems.

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