
A BILL FOR AN ACT

RELATING TO ENHANCED 911 SURCHARGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that an increasing number
2 of telecommunications customers in Hawaii are opting for prepaid
3 wireless telecommunications service plans. This new business
4 model has resulted in the reduction of revenue to support the
5 statewide 911 system, which is essential for public safety.

6 Despite that prepaid wireless telecommunications service
7 plans include access to 911 services, the 911 surcharge is not
8 imposed on these plans. Instead, this service for consumers of
9 prepaid wireless telecommunications service plans is effectively
10 subsidized by consumers of postpaid wireless and land line
11 telecommunications service plans who pay the monthly 911
12 surcharge.

13 Consumers of prepaid wireless telecommunications service
14 plans represent approximately twenty per cent of the consumer
15 market in Hawaii, according to the telecommunications industry.
16 This number is expected to increase as more carriers in a
17 competitive marketplace employ this new business model of
18 prepaid wireless telecommunications service plans.



1 Without the collection of the 911 surcharge from prepaid
2 wireless telecommunications service plans, an important funding
3 mechanism to assist state and local governments in sustaining
4 the statewide 911 system and to provide for the deployment of
5 new and emerging 911 technologies will be severely impacted.

6 The purpose of this Act is to provide fair and equitable
7 funding of the statewide 911 system by establishing an E911
8 surcharge similar to the enhanced 911 surcharge imposed on
9 postpaid wireless communications services to be imposed on each
10 retail transaction of a prepaid wireless telecommunications
11 service.

12 SECTION 2. Chapter 138, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§138- Prepaid wireless E911 surcharge. (a) A prepaid
16 wireless E911 surcharge of cents shall be imposed on each
17 retail transaction of prepaid wireless telecommunications
18 service. The prepaid wireless E911 surcharge is the liability
19 of the consumer and not of the seller or provider.

20 (b) The prepaid wireless E911 surcharge shall be collected
21 by the seller from the consumer with respect to each retail
22 transaction occurring within the State. The amount of the



1 prepaid wireless E911 surcharge shall be separately listed on an
2 invoice, receipt, or other similar document that is provided to
3 the consumer by the seller or shall be otherwise disclosed to
4 the consumer.

5 (c) A retail transaction shall be treated as occurring
6 within the State if it is:

7 (1) Transacted in person by a consumer at a seller's
8 business location within the State; or

9 (2) A retail transaction that is treated as occurring in
10 the State for purposes of the tax imposed pursuant to
11 section 237-13.8; provided that if no tangible
12 personal property is shipped and the billing address
13 of the consumer or the consumer's payment instrument
14 is not known, the transaction shall be treated as
15 occurring within the State if the consumer's mobile
16 telephone is associated with an address within the
17 State.

18 (d) A seller may deduct and retain three per cent of
19 prepaid wireless E911 surcharges collected from consumers. The
20 seller shall remit the balance of prepaid wireless E911
21 surcharges collected from consumers, including all surcharges
22 collected where the amount of the surcharge has not been



1 separately stated on an invoice, receipt, or other similar
2 document provided to the consumer by the seller, to the
3 department. The department may require sellers to remit the
4 balance of the surcharges collected electronically and shall
5 establish registration and payment procedures.

6 (e) The amount of the prepaid wireless E911 surcharge that
7 is collected by a seller from a consumer, if the amount is
8 separately stated on an invoice, receipt, or other similar
9 document provided to the consumer by the seller, shall not be
10 included in the base for measuring any tax, fee, surcharge, or
11 other charge that is imposed by the State, any political
12 subdivision of the State, or any intergovernmental agency.

13 (f) If a minimal amount of prepaid wireless
14 telecommunications service is sold with a prepaid wireless
15 device for a single, non-itemized price, the seller may elect
16 not to apply the surcharge imposed in subsection (a) to the
17 transaction. For purposes of this subsection, a "minimal
18 amount" means service of ten minutes or less or \$5 or less.

19 (g) The audit and appeal procedures applicable to
20 retailers, pursuant to chapter 237, shall apply to prepaid
21 wireless E911 surcharges.



1 (h) The department shall establish procedures by which a
2 seller of prepaid wireless telecommunications service may
3 document that a sale is not a retail transaction, which
4 procedures shall coincide with the procedures for documenting
5 sale for resale transactions, pursuant to chapter 237.

6 (i) Section 138-9 shall apply to providers and sellers.

7 (j) No provider or seller shall be liable for damages to
8 any person resulting from or incurred in connection with the
9 provision of any lawful assistance to any investigative or law
10 enforcement officer of the United States or any political
11 subdivision, in connection with any lawful investigation or
12 other law enforcement activity by such law enforcement officer.

13 (k) The prepaid wireless E911 surcharge imposed by this
14 section shall be the only funding obligation imposed on prepaid
15 wireless telecommunications service in the State for enhanced
16 911 services. No other tax, fee, surcharge, or other charge for
17 enhanced 911 services shall be imposed by the State, any
18 political subdivision of the State, or any intergovernmental
19 agency, upon any provider, seller, or consumer with respect to
20 the sale, purchase, use, or provision of prepaid wireless
21 telecommunications service."



1 SECTION 3. Section 138-1, Hawaii Revised Statutes, is
2 amended by adding nine new definitions to be appropriately
3 inserted and to read as follows:

4 "Board" means the enhanced 911 board.

5 "Consumer" means a person who purchases prepaid wireless
6 telecommunications service in a retail transaction.

7 "Department" means the department of accounting and general
8 services.

9 "Prepaid wireless E911 surcharge" means the surcharge that
10 is required to be collected by a seller from a consumer in the
11 amount established under 138- .

12 "Prepaid wireless telecommunications service" means a
13 wireless telecommunications service sold in predetermined units
14 or dollars that decline with use in a known amount and allows a
15 caller to dial 911 to access the 911 system, a service that
16 shall be paid for in advance.

17 "Provider" means a person that provides prepaid wireless
18 telecommunications service pursuant to a license issued by the
19 Federal Communications Commission.

20 "Retail transaction" means the purchase of prepaid wireless
21 telecommunications service from a seller for any purpose other
22 than resale.



1 "Seller" means a person who sells prepaid wireless
2 telecommunications service to another person.

3 "Wireless telecommunications service" means commercial
4 mobile radio service as defined by title 47 Code of Federal
5 Regulations section 20.3."

6 SECTION 4. Section 138-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§138-3 Enhanced 911 fund. There is established outside
9 the state treasury a special fund, to be known as the enhanced
10 911 fund, to be administered by the board. The fund shall
11 consist of amounts collected under [~~section~~] sections 138-4[~~-~~]
12 and 138-_____. The board shall place the funds in an interest-
13 bearing account at any federally insured financial institution,
14 separate and apart from the general fund of the State. Moneys
15 in the fund shall be expended exclusively by the board for the
16 purposes of ensuring adequate funding to deploy and sustain
17 enhanced 911 service, developing and funding future enhanced 911
18 technologies, and funding expenses of administering the fund."

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

Prepaid Wireless; Enhanced 911 Surcharge

Description:

Establishes an unspecified prepaid wireless E911 surcharge imposed on retail transactions of prepaid wireless telecommunications service at the point of sale. Allows sellers to deduct and retain three per cent of the surcharge that is collected. Effective July 1, 2050. (SB3103 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

