A BILL FOR AN ACT

RELATING TO ENHANCED 911 SERVICES.

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

SECTION 1. Chapter 138, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§138- Prepaid wireless E911 surcharge. (a) A prepaid wireless E911 surcharge of 1.5 per cent shall be imposed on every prepaid wireless telecommunications service purchased. The prepaid wireless E911 surcharge shall be the liability of the consumer and not of the seller or provider.

(b) The prepaid wireless E911 surcharge shall be collected by the seller from the consumer at every retail transaction occurring within the State. The amount of the prepaid wireless E911 surcharge shall be separately listed on any invoice, receipt, or other similar document that is provided to the consumer by the seller.

(c) A retail transaction that is transacted in person by a consumer at a seller's business location shall be treated as occurring within the State if the place of business is located..."
within the State. A retail transaction shall also be treated as occurring within the State if it includes tangible personal property that is shipped to a consumer's shipping address within the State. If no tangible personal property is shipped, the retail transaction shall be treated as occurring within the State if:

(1) The consumer's billing address is within the State; or
(2) The consumer's billing address is unknown and the consumer's prepaid wireless device is associated with an address within the State.

(d) A seller may deduct and retain three per cent of all prepaid wireless E911 surcharges collected from consumers to offset administrative expenses associated with collecting the surcharge.

(e) A seller shall remit semiannually on a calendar year basis to the fund, no later than the twentieth day after the end of the filing period, an amount that represents the surcharges collected less amounts retained for administrative expenses pursuant to subsection (d).
(f) The board may require sellers to remit electronically the balance of the surcharge amounts collected and shall establish registration and payment procedures.

(g) The amount of the prepaid wireless E911 surcharge that is collected by a seller from a consumer shall not be included in the seller's base income for purposes of calculating any tax, fee, surcharge, or other charge that is imposed by the State, any political subdivision of the State, or any governmental agency.

(h) The board shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction.

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

(j) No provider or seller shall be liable for damages to any person resulting from or incurred in connection with any lawful assistance provided to an investigative or law enforcement officer of the United States or any of its political subdivisions in the course of any lawful investigation or law enforcement activity.

(k) The prepaid wireless E911 surcharge imposed by this section shall be the only funding obligation imposed on prepaid
wireless telecommunications service in the State for enhanced 911 services. No other tax, fee, surcharge, or other charge for enhanced 911 services shall be imposed by the State, any of its political subdivisions, or any governmental agency upon any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service."

SECTION 2. Section 138-1, Hawaii Revised Statutes, is amended as follows:

1. By adding seven new definitions to be appropriately inserted and to read:

"Consumer" means a person or entity who purchases commercial mobile radio service or prepaid wireless telecommunications service in a retail transaction.

"Prepaid wireless E911 surcharge" means the surcharge that a seller is required to collect from a consumer in the amount established under section 138-__.

"Prepaid wireless telecommunications service" means a wireless telecommunications service that is sold in predetermined minutes of usage, period of time units, or dollars that decline with use in a known amount, that allows a caller to
1. dial 911 to access the 911 system and is paid for in advance of use.

"Provider" means a person or entity that provides commercial mobile radio service or prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission.

"Retail transaction" means the purchase of commercial mobile radio service or prepaid wireless telecommunications service from a seller for any purpose other than resale.

"Seller" means a person or entity that sells commercial mobile radio service or prepaid wireless telecommunications service to another person.

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

2. By deleting the definition of "prepaid connection".

[""Prepaid connection" means the sale of a communications service that is paid for in advance or sold in predetermined units of which the number of units declines with use of the services."]
SECTION 3. Section 138-3, Hawaii Revised Statutes, is amended to read as follows:

"Section 138-3. Enhanced 911 fund. There is established outside the state treasury a special fund, to be known as the enhanced 911 fund, to be administered by the board. The fund shall consist of amounts collected under sections 138-4 and 138-__. The board shall place the funds in an interest-bearing account at any federally insured financial institution, separate and apart from the general fund of the State. Moneys in the fund shall be expended exclusively by the board for the purposes of ensuring adequate funding to deploy and sustain enhanced 911 service, developing and funding future enhanced 911 technologies, and funding expenses of administering the fund."

SECTION 4. Section 138-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The rate of the surcharge shall be set at 60 cents per month for each communications service connection. The surcharge shall have uniform application and shall be imposed on each communications service connection operating within the State except:
(1) Connections billed to federal, state, and county governmental entities;

[(2)] Prepaid connections, and

[(3)] Connections provided by the public utility providing telecommunications services and land line enhanced 911 services through section 269-16.95."

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

SECTION 6. This Act shall take effect on July 1, 2050.
Report Title:
Prepaid Wireless E911 Surcharge; Enhanced 911 Services; Prepaid Wireless Telecommunications Service; Enhanced 911 Surcharge

Description:
Establishes a prepaid wireless E911 surcharge to be imposed on prepaid wireless telecommunications services purchased at a retail transaction. Allows sellers to deduct and retain three per cent of the surcharge for administrative expenses. Requires deposit of the surcharge balance into the enhanced 911 fund. Amends the enhanced 911 surcharge rate. Effective 7/1/2050. (HD1)

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