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# A BILL FOR AN ACT

RELATING TO ENHANCED 911 SERVICES.

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

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

4           "§138-       Prepaid wireless E911 surcharge. (a) A prepaid  
5 wireless E911 surcharge of 1.5 per cent shall be imposed on  
6 every prepaid wireless telecommunications service purchased.  
7 The prepaid wireless E911 surcharge shall be the liability of  
8 the consumer and not of the seller or provider.

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

15           (c) A retail transaction that is transacted in person by a  
16 consumer at a seller's business location shall be treated as  
17 occurring within the State if the place of business is located



1 within the State. A retail transaction shall also be treated as  
2 occurring within the State if it includes tangible personal  
3 property that is shipped to a consumer's shipping address within  
4 the State. If no tangible personal property is shipped, the  
5 retail transaction shall be treated as occurring within the  
6 State if:

7 (1) The consumer's billing address is within the State; or

8 (2) The consumer's billing address is unknown and the  
9 consumer's prepaid wireless device is associated with  
10 an address within the State.

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

15 (e) A seller shall remit semiannually on a calendar year  
16 basis to the fund, no later than the twentieth day after the end  
17 of the filing period, an amount that represents the surcharges  
18 collected less amounts retained for administrative expenses  
19 pursuant to subsection (d).



1       (f) The board may require sellers to remit electronically  
2 the balance of the surcharge amounts collected and shall  
3 establish registration and payment procedures.

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

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

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

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

20       (k) The prepaid wireless E911 surcharge imposed by this  
21 section shall be the only funding obligation imposed on prepaid



1 wireless telecommunications service in the State for enhanced  
2 911 services. No other tax, fee, surcharge, or other charge for  
3 enhanced 911 services shall be imposed by the State, any of its  
4 political subdivisions, or any governmental agency upon any  
5 provider, seller, or consumer with respect to the sale,  
6 purchase, use, or provision of prepaid wireless  
7 telecommunications service."

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

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

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

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

18 "Prepaid wireless telecommunications service" means a  
19 wireless telecommunications service that is sold in  
20 predetermined minutes of usage, period of time units, or dollars  
21 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  
2 use.

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

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

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

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

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

17 [~~"Prepaid connection" means the sale of a communications~~  
18 ~~service that is paid for in advance or sold in predetermined~~  
19 ~~units of which the number of units declines with use of the~~  
20 ~~services-"]~~



1 SECTION 3. Section 138-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§138-3 Enhanced 911 fund. There is established outside  
4 the state treasury a special fund, to be known as the enhanced  
5 911 fund, to be administered by the board. The fund shall  
6 consist of amounts collected under [~~section~~] sections 138-4[-]  
7 and 138-\_\_\_\_\_. The board shall place the funds in an interest-  
8 bearing account at any federally insured financial institution,  
9 separate and apart from the general fund of the State. Moneys  
10 in the fund shall be expended exclusively by the board for the  
11 purposes of ensuring adequate funding to deploy and sustain  
12 enhanced 911 service, developing and funding future enhanced 911  
13 technologies, and funding expenses of administering the fund."

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

16 "(b) The rate of the surcharge shall be set at [~~66~~] 65  
17 cents per month for each communications service connection. The  
18 surcharge shall have uniform application and shall be imposed on  
19 each communications service connection operating within the  
20 State except:



1 (1) Connections billed to federal, state, and county  
2 governmental entities;  
3 [~~(2) Prepaid connections;~~] and  
4 [~~(3)~~] (2) Connections provided by the public utility  
5 providing telecommunications services and land line  
6 enhanced 911 services through section 269-16.95."

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

9 SECTION 6. This Act shall take effect on July 1,  
10 2050; provided that section 4 shall take effect on July 1, 2021.



**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. Beginning 7/1/2021, amends the enhanced 911 surcharge rate. Effective 7/1/2050. (HD2)

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