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# A BILL FOR AN ACT

RELATING TO THE TRAUMA SYSTEM SPECIAL FUND.

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

1           SECTION 1. The legislature finds that trauma care in  
2 Hawaii is in a state of crisis and a public health priority.  
3           Injury is the leading cause of death for persons between  
4 the ages of one to forty-four in Hawaii, causing more deaths  
5 than are caused by cancer and heart disease combined. This  
6 underscores the seriousness of traumatic injury as a public  
7 health problem in the State.  
8           Specialized equipment and prompt access to physicians and  
9 other trained health care providers make a significant  
10 difference in a trauma patient's health outcome. A weak trauma  
11 system hampers the State's readiness to respond not only to the  
12 critically injured on a daily basis, but to unforeseen disasters  
13 and emergencies as well.  
14           As the American College of Surgeons noted in its October  
15 2005 report, "Hawaii Trauma System Consultation," extreme  
16 isolation and limited physician re-supply capability renders  
17 Hawaii uniquely vulnerable to natural disasters that may occur



1 in a mid-Pacific environment. A functional trauma system with  
2 the capacity to handle a sudden surge in demand is a fundamental  
3 necessity in responding to both natural and man-made disasters.

4 Typically, the cost of providing care to trauma patients is  
5 far higher than the total payments received from those patients.  
6 Without additional resources, it is unlikely that Hawaii's  
7 trauma system will increase in capacity and is at risk of losing  
8 what specialized trauma care is currently available.

9 A January 2006, report by the legislative reference bureau  
10 entitled, "On-Call Crisis in Trauma Care: Government  
11 Responses," noted that the rationale for public support of  
12 uncompensated trauma services is the same as for critical police  
13 and fire services; a trauma system is a necessary public service  
14 that ought to be publicly supported.

15 In light of these findings, the State enacted Acts 305 and  
16 316, Session Laws of Hawaii 2006, to ensure and encourage the  
17 availability of trauma care by creating a trauma system special  
18 fund and dedicating a portion of the revenues generated from  
19 cigarette and tobacco tax to the special fund. However, under  
20 the terms of the Acts, cigarette and tobacco tax revenues will  
21 not be deposited into the trauma system special fund until  
22 September 30, 2007, at the earliest.



1           The legislature acknowledges that there is a desperate need  
2 to expand the resources available for trauma care in Hawaii. It  
3 is also evident that additional resources are needed immediately  
4 to ensure the health, welfare, and safety of the citizens of our  
5 State. Accordingly, this Act provides a variety of mechanisms  
6 to provide needed resources for Hawaii's trauma system.

7           Among other things, this Act:

- 8           (1) Establishes surcharges for violations of chapters 291  
9           (traffic violations), 291E (use of intoxicants while  
10           operating a vehicle), 706 (disposition of convicted  
11           defendants), and 712, part IV (offenses related to  
12           drugs and intoxicating compounds);
- 13           (2) Establishes surcharges for violations of sections  
14           291C-12 (accidents involving death or serious bodily  
15           injury), 291C-12.5 (accidents involving substantial  
16           bodily injury), 291C-12.6 (accidents involving bodily  
17           injury), and 291C-161 (statewide traffic code  
18           penalties);
- 19           (3) Clarifies that the trauma system special fund consists  
20           of, among other things, trauma system surcharges, and  
21           cigarette tax revenues;



1 (4) Provides that the methodology used in calculating  
2 costs incurred by hospitals providing care to trauma  
3 patients takes into account:

4 (A) Physician on-call coverage that is demonstrated  
5 to be essential for trauma services within the  
6 hospital;

7 (B) Equipment that is demonstrated to be essential  
8 for trauma services within the hospital; and

9 (C) The creation of overflow or surge capacity to  
10 allow a trauma center to respond to mass  
11 casualties resulting from an act of terrorism or  
12 natural disaster;

13 (5) Defines "trauma center"; and

14 (6) Appropriates an unspecified amount for fiscal years  
15 2007-2008 and 2008-2009, for the trauma system special  
16 fund.

17 The purpose of this Act is to establish additional funding  
18 mechanisms to enhance the availability of resources in the  
19 trauma system special fund to ensure the availability of care  
20 for trauma patients in the State.



1 SECTION 2. Chapter 291, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I, to be appropriately  
3 designated and to read as follows:

4 "§291- Trauma system surcharge. (a) In addition to any  
5 other civil penalties ordered by the court, a person who is  
6 convicted of any offense under this part shall be ordered to pay  
7 a trauma system surcharge of \$ ; provided that the  
8 surcharge shall not be ordered when the court determines that  
9 the defendant is unable to pay the fee.

10 (b) The defendant shall pay the surcharge to the clerk of  
11 the court. The surcharge shall be deposited with the state  
12 director of finance who shall transmit the fee to the trauma  
13 system special fund pursuant to section 321-22.5."

14 SECTION 3. Chapter 291E, Hawaii Revised Statutes, is  
15 amended by adding a new section to part IV to be appropriately  
16 designated and to read as follows:

17 "§291E- Trauma system surcharge. (a) In addition to  
18 any other civil penalties ordered by the court, a person who is  
19 convicted of any offense under this part shall be ordered to pay  
20 a trauma system surcharge of \$ ; provided that the  
21 surcharge shall not be ordered when the court determines that  
22 the defendant is unable to pay the fee.



1        (b) The defendant shall pay the surcharge to the clerk of  
2 the court. The surcharge shall be deposited with the state  
3 director of finance who shall transmit the fee to the trauma  
4 system special fund pursuant to section 321-22.5."

5        SECTION 4. Chapter 706, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

8        "§706- Trauma system surcharge. (a) In addition to any  
9 other civil penalties ordered by the court, a person who has  
10 been convicted of either a crime of violence or any offense  
11 listed in part IV of chapter 712 shall be ordered to pay a  
12 trauma system surcharge of \$                    ; provided that the  
13 surcharge shall not be ordered when the court determines that  
14 the defendant is unable to pay the fee.

15        (b) The defendant shall pay the surcharge to the clerk of  
16 the court. The surcharge shall be deposited with the state  
17 director of finance who shall transmit the fee to the trauma  
18 system special fund pursuant to section 321-22.5.

19        (c) For purposes of this section, "crime of violence"  
20 means:

21        (1) Murder in any degree;

22        (2) Manslaughter;



- 1        (3) Assault in the first degree;
- 2        (4) Kidnapping;
- 3        (5) Sexual assault in the first degree;
- 4        (6) Sexual assault in the second degree;
- 5        (7) Continuous sexual assault of a minor under the age of  
6        fourteen years old;
- 7        (8) Robbery in the first degree;
- 8        (9) Robbery in the second degree; and
- 9        (10) Burglary in the first degree."

10        SECTION 5. Section 291C-12, Hawaii Revised Statutes, is  
11 amended by amending subsection (d) to read as follows:

12        "(d) [~~Fee~~] In addition to any other penalties ordered by  
13 the court for any violation under this section[~~, a~~]:

14        (1) A surcharge of \$500 shall be imposed[~~, in addition to~~  
15 any other penalties,] and shall be deposited into the  
16 neurotrauma special fund[~~,~~] pursuant to section  
17 321H-4; and

18        (2) A surcharge of \$ \_\_\_\_\_ shall be imposed and shall  
19 be deposited into the trauma system special fund  
20 pursuant to section 321-22.5;

21 provided that a surcharge shall not be imposed when the court  
22 determines that the defendant is unable to pay the fee."



1 SECTION 6. Section 291C-12.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) [~~For~~] In addition to any other penalties ordered by  
4 the court for any violation under this section[~~7-a~~]:

5 (1) A surcharge of \$250 shall be imposed[~~7-in addition to~~  
6 any other penalties,] and shall be deposited into the  
7 neurotrauma special fund[~~7~~] pursuant to section  
8 321H-4; and

9 (2) A surcharge of \$ \_\_\_\_\_ shall be imposed and shall  
10 be deposited into the trauma system special fund  
11 pursuant to section 321-22.5;

12 provided that a surcharge shall not be imposed when the court  
13 determines that the defendant is unable to pay the fee."

14 SECTION 7. Section 291C-12.6, Hawaii Revised Statutes, is  
15 amended by amending subsection (c) to read as follows:

16 "(c) [~~For~~] In addition to any other penalties ordered by  
17 the court for any violation under this section[~~7-a~~]:

18 (1) A surcharge of \$100 shall be imposed[~~7-in addition to~~  
19 any other penalties,] and shall be deposited into the  
20 neurotrauma special fund[~~7~~] pursuant to section  
21 321H-4; and



1        (2) A surcharge of \$ \_\_\_\_\_ shall be imposed and shall  
 2        be deposited into the trauma system special fund  
 3        pursuant to section 321-22.5;  
 4        provided that a surcharge shall not be ordered when the court  
 5        determines that the defendant is unable to pay the fee."

6        SECTION 8. Section 291C-161, Hawaii Revised Statutes, is  
 7        amended by amending subsection (e) to read as follows:

8        "(e) In addition to any other civil penalties ordered by  
 9        the court, the court shall order every person who has violated  
 10        this chapter to pay a trauma system surcharge of \$ \_\_\_\_\_ ;  
 11        provided that the surcharge shall not be ordered when the court  
 12        determines that the defendant is unable to pay the surcharge;  
 13        and provided further that the defendant shall pay the surcharge  
 14        to the clerk of the court. The trauma system surcharge shall be  
 15        deposited with the state director of finance who shall transmit  
 16        the fee to the trauma system special fund pursuant to section  
 17        321-22.5. The court may assess a sum not to exceed \$50 for the  
 18        cost of issuing a penal summons upon any person who fails to  
 19        appear at the place within the time specified in the citation  
 20        issued to the person for any traffic violation."

21        SECTION 9. Section 321-22.5, Hawaii Revised Statutes, is  
 22        amended to read as follows:



1           "~~+~~§321-22.5~~+~~ Trauma system special fund. (a) There  
2 is established within the state treasury a special fund to be  
3 known as the trauma system special fund to be administered and  
4 expended by the department of health. The fund shall consist  
5 of:

6           (1) Surcharges collected pursuant to sections 291- ,  
7           291C-12, 291C-12.5, 291C-12.6, 291C-161, 291E- , and  
8           706- ;

9           (2) Cigarette tax revenues designated under section  
10           245-15;

11           (3) Federal funds granted by Congress or executive order  
12           for the purpose of this chapter; provided that the  
13           acceptance and use of federal funds shall not commit  
14           state funds for services and shall not place an  
15           obligation upon the legislature to continue the  
16           purpose for which the federal funds are made  
17           available;

18           (4) Funds appropriated by the legislature for this  
19           purpose, including grants-in-aid;

20           (5) Grants, donations, and contributions from private or  
21           public sources for the purposes of the trauma system  
22           special fund; and



1       (6) Interest on and other income from the fund, which  
2       shall be separately accounted for.

3       Moneys in the trauma system special fund shall not lapse at  
4 the end of the fiscal year. Expenditures from the trauma system  
5 special fund shall be exempt from chapters 103D and 103F.

6       (b) The moneys in the trauma system special fund shall be  
7 used by the department to support the continuing development and  
8 operation of a comprehensive state trauma system. The trauma  
9 system special fund shall be used to subsidize the documented  
10 costs for the comprehensive state trauma system, including but  
11 not limited to the following:

12       (1) Costs of under-compensated and uncompensated trauma  
13 care incurred by hospitals providing care to trauma  
14 patients; and

15       (2) Costs incurred by hospitals providing care to trauma  
16 patients to maintain on-call physicians for trauma  
17 care.

18       The money in the trauma system special fund shall not be  
19 used to supplant funding for trauma services authorized prior to  
20 July 1, 2006, and shall not be used for ambulance or medical air  
21 transport services.



1           (c) ~~[Interest and investment earnings attributable to the~~  
2 ~~moneys in the trauma system special fund, federal funding,~~  
3 ~~legislative appropriations, and grants, donations, and~~  
4 ~~contributions from private or public sources for the purposes of~~  
5 ~~the trauma system special fund shall be deposited into the~~  
6 ~~trauma system special fund.~~

7           ~~(d)]~~ Disbursements from the fund shall be made in  
8 accordance with a methodology established by the department of  
9 health to calculate costs incurred by a hospital providing care  
10 to trauma patients that are eligible to receive reimbursement  
11 under subsection (d). The methodology shall take into account:

- 12           (1) Physician on-call coverage that is demonstrated to be  
13 essential for trauma services within the hospital;  
14           (2) Equipment that is demonstrated to be essential for  
15 trauma services within the hospital;  
16           (3) The creation of overflow or surge capacity to allow a  
17 trauma center to respond to mass casualties resulting  
18 from an act of terrorism or natural disaster; and  
19           (4) All other hospital services and resources that are  
20 demonstrated to be essential for trauma services  
21 within the hospital.



1           The department shall adopt rules pursuant to chapter 91 to  
2 effectuate the purposes of this section[~~, including the~~  
3 ~~methodology for disbursements from the trauma system special~~  
4 ~~fund~~].

5           [~~(e)~~] (d) To receive reimbursement, a hospital providing  
6 care to trauma patients shall apply to the trauma system special  
7 fund on a form and in a manner approved by the department;  
8 provided that recipients of reimbursements from the trauma  
9 system special fund shall be subject to the following  
10 conditions:

11           (1) The recipient of a reimbursement shall:

12                   (A) Comply with applicable federal, state, and county  
13 laws;

14                   (B) Comply with any other requirements the director  
15 may prescribe;

16                   (C) Allow the director, the legislative bodies, and  
17 the state auditor access to records, reports,  
18 files, and other related documents, to the extent  
19 permissible under applicable state and federal  
20 law, so that the program, management, and fiscal  
21 practices of the recipient may be monitored and



1           evaluated to ensure the proper and effective  
2           expenditure of public funds;

3           (D) Provide care to all injured patients regardless  
4           of their ability to pay; and

5           (E) Participate in data collection and peer review  
6           activities for the purpose of system evaluation  
7           and improvement of patient care; and

8           (2) Every reimbursement shall be monitored according to  
9           rules established by the director under chapter 91 to  
10          ensure compliance with this section.

11          (e) To remain eligible for reimbursement under this  
12 section, all level I or level II trauma centers shall have at  
13 least annual on-site verification visits by the department and  
14 an on-site verification visit by the American College of  
15 Surgeons at least every three years.

16          (f) Necessary administrative expenses to carry out this  
17 section shall not exceed five per cent of the total amount  
18 collected in any given year.

19          (g) The department shall submit an annual report to the  
20 legislature no later than twenty days prior to the convening of  
21 each regular session that outlines the receipts of and  
22 expenditures from the trauma system special fund.



1 (h) For the purposes of this section:

2 "Comprehensive state trauma system" means a coordinated  
3 integrated system providing a spectrum of medical care  
4 throughout the State designed to reduce death and disability by  
5 appropriate and timely diagnosis and specialized treatment of  
6 injuries, which includes hospitals with successive levels of  
7 advanced capabilities for trauma care in accordance with  
8 nationally accepted standards established by the American  
9 College of Surgeons Committee on Trauma.

10 "Hospital providing care to trauma patients" means a  
11 hospital with emergency services that receives and treats  
12 injured patients.

13 "Trauma care" means specialized medical care intended to  
14 reduce death and disability from injuries.

15 "Trauma center" means a facility verified by the American  
16 College of Surgeons or designated by the department applying  
17 American College of Surgeons recommendations as guidelines as  
18 being a level I, level II, level III, or level IV trauma center.  
19 Level I represents the highest level attainable by a verified  
20 trauma center, and level IV represents the lowest level  
21 attainable by a verified trauma center."



1 SECTION 10. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ , or so  
3 much thereof as may be necessary for fiscal year 2007-2008, and  
4 the same sum or so much thereof as may be necessary for fiscal  
5 year 2008-2009, to be deposited into the trauma system special  
6 fund in accordance with section 321-22.5, Hawaii Revised  
7 Statutes.

8 SECTION 11. There is appropriated out of the trauma system  
9 special fund established in section 321-22.5, the sum of  
10 \$ , or so much thereof as may be necessary for fiscal  
11 year 2007-2008, and the same sum, or so much thereof as may be  
12 necessary for fiscal year 2008-2009, to subsidize the documented  
13 costs for the comprehensive state trauma system, including the  
14 costs of under-compensated and uncompensated trauma care  
15 incurred by hospitals providing care to trauma patients and the  
16 costs incurred by hospitals providing care to trauma patients to  
17 maintain on-call physicians for trauma care.

18 The sums appropriated shall be expended by the department  
19 of health for the purposes of this Act.

20 SECTION 12. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1 SECTION 13. This Act shall take effect upon its approval;  
2 provided that sections 2, 3, 4, 5, 6, 7, and 8 shall take effect  
3 on January 1, 2008; and provided that sections 10 and 11 shall  
4 take effect on July 1, 2007.



**Report Title:**

Trauma System Special Fund; Surcharge

**Description:**

Establishes additional funding mechanisms for the trauma system special fund. Makes appropriations. (SD2)

