

JAN 23 2015

A BILL FOR AN ACT

RELATING TO ENHANCED 911 SURCHARGES.

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 cents shall be imposed on each
6 retail transaction of prepaid wireless telecommunications
7 service. The prepaid wireless E911 surcharge is the liability
8 of 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 with respect to each retail
11 transaction occurring within the State. The amount of the
12 prepaid wireless E911 surcharge shall be separately listed on an
13 invoice, receipt, or other similar document that is provided to
14 the consumer by the seller; or otherwise disclosed to the
15 consumer.

16 (c) A retail transaction that is transacted in person by a
17 consumer at a seller's business location shall be treated as



1 occurring within the State if the business location is within
2 the State or for any retail transaction that is treated as
3 occurring in the State for purposes of the tax imposed pursuant
4 to section 237-13.8; provided that if no tangible personal
5 property is shipped and the billing address of the consumer or
6 the consumer's payment instrument is not known, the transaction
7 shall be sourced to the State if the consumer's mobile telephone
8 is associated with an address within the State.

9 (d) A seller may deduct and retain 3 per cent of prepaid
10 wireless E911 surcharges collected from consumers. The seller
11 shall remit the balance of prepaid wireless E911 surcharges
12 collected from consumers, including all surcharges collected
13 where the amount of the surcharge has not been separately stated
14 on an invoice, receipt, or other similar document provided to
15 the consumer by the seller, to the department. The department
16 may require sellers to remit the balance of the surcharges
17 collected electronically and shall establish registration and
18 payment procedures.

19 (e) The amount of the prepaid wireless E911 surcharge that
20 is collected by a seller from a consumer, if the amount is
21 separately stated on an invoice, receipt, or other similar



1 document provided to the consumer by the seller, shall not be
2 included in the base for measuring any tax, fee, surcharge, or
3 other charge that is imposed by the State, any political
4 subdivision of the State, or any intergovernmental agency.

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

11 (g) The audit and appeal procedures applicable to
12 retailers, pursuant to chapter 237, shall apply to prepaid
13 wireless E911 surcharges.

14 (h) The department shall establish procedures by which a
15 seller of prepaid wireless telecommunications service may
16 document that a sale is not a retail transaction, which
17 procedures shall coincide with the procedures for documenting
18 sale for resale transactions, pursuant to chapter 237.

19 (i) Within thirty days of receipt and for use in
20 accordance with the purposes of chapter 138, the department
21 shall transfer all remitted prepaid wireless E911 surcharges to



1 the enhanced E911 fund pursuant to section 138-3; provided that
2 the department may retain up to 2 per cent of the remitted
3 surcharges to cover the costs of administering the prepaid
4 wireless E911 surcharges.

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

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

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



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

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

"Department" means eHawaii.gov.

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

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

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

"Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other 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 3. 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 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



S.B. NO. 193

1 SECTION 5. This Act shall take effect on July 1, 2015.

2

INTRODUCED BY:

Will Zygo

Randall & Baker

[Signature]



S.B. NO. 193

Report Title:

Prepaid Wireless; Enhanced 911 Surcharge

Description:

Establishes an unspecified prepaid wireless E911 surcharge per retail transaction of prepaid wireless telecommunications service at the point of sale; allows sellers to deduct and retain 3 per cent of the surcharge that is collected; allows eHawaii.gov to retain up to 2 per cent of remitted surcharges to cover administrative costs; and requires the remaining amounts collected by eHawaii.gov to be placed in the enhanced 911 fund.

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

