



## TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2015

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### ON THE FOLLOWING MEASURE:

S.B. NO. 193, RELATING TO ENHANCED 911 SURCHARGES.

### BEFORE THE:

SENATE COMMITTEES ON PUBLIC SAFETY, INTERGOVERNMENTAL AND  
MILITARY AFFAIRS AND ON COMMERCE AND CONSUMER PROTECTION

**DATE:** Friday, February 6, 2015

**TIME:** 10:15 a.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Russell A. Suzuki, Attorney General, or  
Stella M.L. Kam, Deputy Attorney General

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Chair Espero, Chair Baker and Members of the Committees:

The Department of the Attorney General provides the following comments.

This bill adds a new section to chapter 138, Hawaii Revised Statutes (HRS), to provide for the collection of the 911 surcharge from prepaid wireless consumers at the retail point of sale. However, the "department" responsible for collecting the prepaid wireless service surcharge is defined in section 2 of this bill as "eHawaii.gov," which is the State of Hawaii's official website, but is not a government agency. The "department" must be an entity that can establish procedures for the registration and payment of the surcharge as well as collect and deposit the surcharge amounts into the Enhanced 911 Fund. We recommend changing the definition of the term "department" in section 2 of this bill to "the Enhanced 911 Board." Alternatively, all references to "department" in this bill can be deleted and replaced with "the Enhanced 911 Board."

In addition, we note that subsections (g) and (h) in the proposed new section reference chapter 237, Hawaii Revised Statutes, which is the General Excise Tax Law administered by the Department of Taxation. The Enhanced 911 Board ("Board") does not have the enforcement powers or the resources of the Department of Taxation sufficient to develop and administer the type of procedures set forth in chapter 237, HRS. Therefore, we recommend deleting subsection (g) in its entirety. We also recommend deleting the phrase "... which procedures shall coincide with the procedures for documenting sale for resale transactions, pursuant to chapter 237" in subsection (h).

Finally, if the "department" responsible for collecting and depositing the prepaid wireless service surcharges into the Enhanced 911 Fund is defined as the "Enhanced 911 Board," we also recommend that the last phrase of subsection (i) ("... provided that the department may retain up to 2 per cent of the remitted surcharges to cover the costs of administering the prepaid wireless E911 surcharges.") be deleted.

We respectfully ask the Committees to pass this bill with the recommended amendments.