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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) Except as  
5 provided in subsection (h), a prepaid wireless E911 surcharge of  
6 1.5 per cent shall be imposed on every prepaid wireless  
7 telecommunications service purchased. The prepaid wireless E911  
8 surcharge shall be the liability of the consumer and not of the  
9 seller or provider.

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

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. A retail transaction shall also be treated as  
3 occurring within the State if it includes tangible personal  
4 property that is shipped and the consumer's shipping address is  
5 within the State. If no tangible personal property is shipped,  
6 the retail transaction shall be treated as occurring within the  
7 State if the consumer's billing address is within the State or,  
8 if the consumer's billing address is unknown, the consumer's  
9 mobile telephone is associated with an address within the State.

10 (d) A seller may deduct and retain three per cent of all  
11 prepaid wireless E911 surcharges collected from consumers for  
12 administrative purposes.

13 (e) A seller shall remit monthly, quarterly, or  
14 semiannually on a calendar year basis to the board the balance  
15 of prepaid wireless E911 surcharges collected from consumers not  
16 later than the twentieth day after the end of the filing period.  
17 The frequency of filing depends on the amount of prepaid  
18 wireless E911 surcharge fees collected during the year as  
19 follows:



1       (1) If the seller collects more than \$4,000 in prepaid  
2       wireless E911 surcharge fees per year, the seller  
3       shall file monthly;

4       (2) If the seller collects \$4,000 or less per year, the  
5       seller shall file quarterly; and

6       (3) If the seller collects \$2,000 or less per year, the  
7       seller shall file semi-annually.

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

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

17       (h) The prepaid wireless E911 surcharge shall not apply to  
18       sales of a minimal amount of prepaid wireless telecommunications  
19       service sold with a prepaid wireless device for a single, non-  
20       itemized price. For purposes of this subsection, a "minimal



1 amount" means service of ten minutes or less or valued at five  
2 dollars or less.

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

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

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

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



1 purchase, use, or provision of prepaid wireless  
2 telecommunications service."

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

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

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

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

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



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

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

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

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

12       "**§138-3 Enhanced 911 fund.** There is established outside  
13 the state treasury a special fund, to be known as the enhanced  
14 911 fund, to be administered by the board. The fund shall  
15 consist of amounts collected under [~~section~~] sections 138-4 [-]  
16 and 138- . The board shall place the funds in an interest-  
17 bearing account at any federally insured financial institution,  
18 separate and apart from the general fund of the State. Moneys  
19 in the fund shall be expended exclusively by the board for the  
20 purposes of ensuring adequate funding to deploy and sustain



1 enhanced 911 service, developing and funding future enhanced 911  
2 technologies, and funding expenses of administering the fund."

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

5 "(b) The rate of the surcharge shall be set at 66 cents  
6 per month for each communications service connection. The  
7 surcharge shall have uniform application and shall be imposed on  
8 each communications service connection operating within the  
9 State except:

- 10 (1) Connections billed to federal, state, and county  
11 governmental entities;
- 12 (2) Prepaid connections[+] which shall be subject to the  
13 surcharge as set forth in section 138-\_\_\_\_\_; and
- 14 (3) Connections provided by the public utility providing  
15 telecommunications services and land line enhanced 911  
16 services through section 269-16.95."

17 SECTION 4. The enhanced 911 board shall submit a report to  
18 the legislature on the prepaid wireless E911 surcharge twenty  
19 days prior to the convening of the regular session of 2019. The  
20 report shall include:



- 1 (1) The total aggregate surcharge collected in the last
- 2 fiscal year;
- 3 (2) The impact the surcharge is having on the purchase of
- 4 prepaid wireless telecommunications service,
- 5 particularly in rural areas of the State;
- 6 (3) The impact the surcharge is having on businesses
- 7 selling prepaid wireless telecommunications service,
- 8 including the number of businesses discontinuing the
- 9 sale of prepaid wireless telecommunications service as
- 10 a direct result of the imposition of the surcharge;
- 11 and
- 12 (4) Any other information deemed relevant by the board.

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

15 SECTION 6. This Act shall take effect on July 1, 2112, and  
 16 shall be repealed on June 30, 2022, and sections 138-3 and 138-  
 17 4, Hawaii Revised Statutes, shall be reenacted in the form in  
 18 which they read on the day prior to the approval of this Act.



**Report Title:**

Prepaid Wireless; Enhanced 911 Services

**Description:**

Establishes a prepaid wireless E911 surcharge at the point of sale. Allows sellers to deduct and retain for administrative purposes 1.5% of the surcharge that is collected. Requires deposit of surcharge balance in the enhanced 911 fund. Requires a report. Sunsets on June 30, 2022. (HB206 HD2)

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

