
A BILL FOR AN ACT

RELATING TO TRAUMA CARE.

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 recognizes that trauma care
3 is a public health priority.

4 The legislature further finds that trauma centers are
5 vitally important. A trauma center is different from other
6 hospitals since it guarantees immediate availability of
7 specialized surgeons, anesthesiologists, other physician
8 specialists, nurses, and resuscitation life support equipment
9 twenty-four hours a day. The emergency departments of hospitals
10 may be staffed by an emergency physician day and night, but only
11 trauma centers are able to handle the most severe, life
12 threatening situations, where highly skilled, quick, and
13 intensive intervention within the early period of trauma may
14 mean the difference between life and death.

15 Injury is the leading cause of death for persons between
16 the ages of one to forty-four in the State of Hawaii. This is
17 more than the deaths caused by cancer and heart disease
18 combined. This underscores the seriousness of traumatic injury



1 as a public health problem in the state. When injuries are
2 serious, the specialized equipment and prompt access to
3 physicians available in trauma centers can make a significant
4 difference in the patient's health outcome. Trauma centers have
5 been shown to reduce preventable deaths by more than twenty per
6 cent as compared to other hospital care.

7 Typically, the cost of running a trauma center is far
8 higher than the total payments received from patients who are
9 treated. Trauma centers incur high additional costs from having
10 to pay physician specialists to provide emergency call coverage.
11 Between 2000 and 2004, thirty trauma centers closed across the
12 nation as hospitals faced volume increases, higher costs,
13 liability concerns, and low or no payment for trauma services.
14 According to a 2003 survey conducted by the American College of
15 Emergency Physicians, about half of all emergency services in
16 the country are uncompensated and about forty-two per cent are
17 significantly underpaid or paid only after considerable delay.
18 This lack of compensation severely weakens a trauma center's
19 ability to respond to serious injuries.

20 A weakened trauma center decreases the state's readiness to
21 respond not only to a normal flow of critically injured
22 patients, but to unforeseen disasters and emergencies as well.



1 The tragic events of September 11th and Hurricane Katrina
2 illustrate that trauma readiness and availability is every bit
3 as important, and as much an issue of public safety, as police
4 and fire services. Skilled trauma services with the capacity to
5 handle a surge in demand are a fundamental necessity in
6 responding to natural and man-made disasters.

7 As the American College of Surgeons noted in its October
8 2005 "Trauma System Consultation" report, extreme isolation and
9 limited physician re-supply capability renders Hawaii uniquely
10 vulnerable to natural disasters that may occur in a mid-Pacific
11 environment.

12 Therefore, the purpose of this Act is to establish a trauma
13 care fund to ensure and encourage the availability of trauma
14 care in the state and to establish dedicated sources of revenue
15 to finance the fund.

16 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§321-A Trauma care fund. (a) There is established the
20 trauma care fund to be administered by the department. The fund
21 is a special, nonlapsing fund that is not subject to chapter
22 103D. The fund shall consist of:



- 1 (1) Moneys raised pursuant to the surcharges levied under
2 sections 291-11.5, 291-11.6, 291C-12, 291C-12.5, 291C-
3 12.6, 291C-102, 291E-61, and 291E-61.5;
- 4 (2) Moneys transferred from the environmental response
5 revolving fund under section 128D-2;
- 6 (3) Federal funds granted by Congress or executive order
7 for the purpose of this chapter; provided that the
8 acceptance and use of federal funds shall not commit
9 state funds for services and shall not place an
10 obligation upon the legislature to continue the
11 purpose for which the federal funds are made
12 available;
- 13 (4) Funds appropriated by the legislature for this
14 purpose; and
- 15 (5) Interest on and other income from the fund, which
16 shall be separately accounted for.
- 17 (b) The fund shall be used to subsidize the documented
18 costs of uncompensated care incurred by a trauma center:
- 19 (1) In providing trauma care; and
20 (2) To maintain physicians on-call for trauma care.
- 21 (c) Disbursements from the fund shall be made in
22 accordance with a methodology established by the department to



1 calculate costs incurred by trauma centers that are eligible to
2 receive reimbursement under subsection (b). The methodology
3 shall take into account:

4 (1) The amount of uncompensated trauma care provided by
5 the trauma center;

6 (2) The amount of undercompensated care attributable to
7 the treatment of medicaid enrollees in the trauma
8 center;

9 (3) The cost of maintaining physicians on-call for trauma
10 care;

11 (4) The number of patients served by the trauma center;

12 (5) The trauma center level attained by the trauma center
13 as certified by the American College of Surgeons, with
14 higher levels receiving a greater disbursement of the
15 fund than lower levels;

16 (6) The number of Hawaii residents served by the trauma
17 center; and

18 (7) The extent to which trauma-related costs are otherwise
19 subsidized by the hospital, the federal government,
20 and other sources.

21 (d) To receive reimbursement, a trauma center shall apply
22 to the fund on a form and in a manner approved by the



1 department. The department shall adopt rules pursuant to
2 chapter 91 to effectuate the purposes of this section.

3 (e) In administering the fund, the director shall maintain
4 records of all expenditures and disbursements made from the
5 fund.

6 (f) Necessary administrative expenses to carry out this
7 section shall not exceed two per cent of the total amount
8 collected.

9 (g) The director shall submit to the legislature an annual
10 report concerning the fund no later than twenty days prior to
11 the convening of each regular session. The report shall
12 include:

13 (1) The amount of moneys in the fund on the last day of
14 the previous fiscal year;

15 (2) The total amount of moneys applied for by trauma
16 centers during the previous fiscal year;

17 (3) The total amount of moneys distributed to trauma
18 centers during the previous fiscal year;

19 (4) Any recommendations for altering the manner in which
20 trauma centers are reimbursed from the fund;

21 (5) The costs incurred in administering the fund during
22 the previous fiscal year; and



1 (6) The amount that each trauma center contributes toward
2 the subsidization of trauma-related costs for its
3 trauma center.

4 (h) For the purposes of this section:

5 "Department" means the department of health.

6 "Director" means the director of health.

7 "Fund" means the trauma care fund.

8 "Physician" means a surgeon, orthopedic surgeon,
9 neurosurgeon, intensive care unit physician, anesthesiologist,
10 or an emergency physician who provides care in a trauma center
11 to trauma patients.

12 "Trauma center" means a facility certified by the American
13 College of Surgeons as being a level I, level II, level III, or
14 level IV trauma center. Level I represents the highest level
15 attainable by a certified trauma center, and level IV represents
16 the lowest level attainable by a certified trauma center.

17 "Uncompensated care" means care provided by a trauma center
18 to a trauma patient who:

19 (1) Has no health insurance;

20 (2) Is not eligible for medical assistance coverage; and



1 (3) Has not paid the trauma center for care provided by
2 the trauma center, after documented attempts by the
3 trauma center to collect payment."

4 SECTION 3. Section 36-27, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§36-27 Transfers from special funds for central service**
7 **expenses.** Except as provided in this section, and
8 notwithstanding any other law to the contrary, from time to
9 time, the director of finance, for the purpose of defraying the
10 prorated estimate of central service expenses of government in
11 relation to all special funds, except the:

- 12 (1) Special out-of-school time instructional program fund
13 under section 302A-1310;
- 14 (2) School cafeteria special funds of the department of
15 education;
- 16 (3) Special funds of the University of Hawaii;
- 17 (4) State educational facilities improvement special fund;
- 18 (5) Convention center enterprise special fund under
19 section 201B-8;
- 20 (6) Special funds established by section 206E-6;
- 21 (7) Housing loan program revenue bond special fund;
- 22 (8) Housing project bond special fund;



- 1 (9) Aloha Tower fund created by section 206J-17;
- 2 (10) Funds of the employees' retirement system created by
- 3 section 88-109;
- 4 (11) Unemployment compensation fund established under
- 5 section 383-121;
- 6 (12) Hawaii hurricane relief fund established under chapter
- 7 431P;
- 8 (13) Hawaii health systems corporation special funds;
- 9 (14) Tourism special fund established under section 201B-
- 10 11;
- 11 (15) Universal service fund established under chapter 269;
- 12 (16) Integrated tax information management systems special
- 13 fund under section 231-3.2;
- 14 (17) Emergency and budget reserve fund under section 328L-
- 15 3;
- 16 (18) Public schools special fees and charges fund under
- 17 section 302A-1130(f);
- 18 (19) Sport fish special fund under section 187A-9.5;
- 19 (20) Neurotrauma special fund under section 321H-4;
- 20 (21) Deposit beverage container deposit special fund under
- 21 section 342G-104;



- 1 (22) Glass advance disposal fee special fund established by
2 section 342G-82;
- 3 (23) Center for nursing special fund under section 304D-5;
- 4 (24) Passenger facility charge special fund established by
5 section 261-5.5;
- 6 (25) Solicitation of funds for charitable purposes special
7 fund established by section 467B-15;
- 8 (26) Land conservation fund established by section 173A-5;
9 ~~[+and]~~
- 10 [+](27)[+]Court interpreting services revolving fund [+]
11 section 607-1.5~~[+]~~; and
- 12 (28) Trauma care fund under section 321-A,
13 shall deduct five per cent of all receipts of all other special
14 funds, which deduction shall be transferred to the general fund
15 of the State and become general realizations of the State. All
16 officers of the State and other persons having power to allocate
17 or disburse any special funds shall cooperate with the director
18 in effecting these transfers. To determine the proper revenue
19 base upon which the central service assessment is to be
20 calculated, the director shall adopt rules pursuant to chapter
21 91 for the purpose of suspending or limiting the application of
22 the central service assessment of any fund. No later than



1 twenty days prior to the convening of each regular session of
2 the legislature, the director shall report all central service
3 assessments made during the preceding fiscal year."

4 SECTION 4. Section 36-30, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Each special fund, except the:

- 7 (1) Transportation use special fund established by section
8 261D-1;
- 9 (2) Special out-of-school time instructional program fund
10 under section 302A-1310;
- 11 (3) School cafeteria special funds of the department of
12 education;
- 13 (4) Special funds of the University of Hawaii;
- 14 (5) State educational facilities improvement special fund;
- 15 (6) Special funds established by section 206E-6;
- 16 (7) Aloha Tower fund created by section 206J-17;
- 17 (8) Funds of the employees' retirement system created by
18 section 88-109;
- 19 (9) Unemployment compensation fund established under
20 section 383-121;
- 21 (10) Hawaii hurricane relief fund established under chapter
22 431P;



- 1 (11) Convention center enterprise special fund established
2 under section 201B-8;
- 3 (12) Hawaii health systems corporation special funds;
- 4 (13) Tourism special fund established under section 201B-
5 11;
- 6 (14) Universal service fund established under chapter 269;
- 7 (15) Integrated tax information management systems special
8 fund under section 231-3.2;
- 9 (16) Emergency and budget reserve fund under section 328L-
10 3;
- 11 (17) Public schools special fees and charges fund under
12 section 302A-1130(f);
- 13 (18) Sport fish special fund under section 187A-9.5;
- 14 (19) Neurotrauma special fund under section 321H-4;
- 15 (20) Center for nursing special fund under section 304D-5;
- 16 (21) Passenger facility charge special fund established by
17 section 261-5.5; [and]
- 18 (22) Court interpreting services revolving fund [+]section
19 607-1.5[+]; and
- 20 (23) Trauma care fund under section 321-A,



1 shall be responsible for its pro rata share of the
2 administrative expenses incurred by the department responsible
3 for the operations supported by the special fund concerned."

4 SECTION 5. Section 128D-2, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) Moneys from the fund shall be expended by the
7 department for response actions and preparedness, including
8 removal and remedial actions, consistent with this chapter;
9 provided that the revenues generated by the "environmental
10 response tax" and deposited into the environmental response
11 revolving fund:

12 (1) Shall also be used:

13 (A) For oil spill planning, prevention, preparedness,
14 education, research, training, removal, and
15 remediation; and

16 (B) For direct support for county used oil recycling
17 programs; [~~and~~]

18 (2) May also be used to support environmental protection
19 and natural resource protection programs, including
20 but not limited to energy conservation and alternative
21 energy development, and to address concerns related to
22 air quality, global warming, clean water, polluted



1 runoff, solid and hazardous waste, drinking water, and
2 underground storage tanks, including support for the
3 underground storage tank program of the department and
4 funding for the acquisition by the State of a soil
5 remediation site and facility[-]; and

6 (3) Shall also be used for documented costs related to
7 trauma care as provided for in section 321-A; provided
8 that _____ per cent of the moneys in the fund shall be
9 transferred each year to the trauma care fund for this
10 purpose."

11 SECTION 6. Section 291-11.5, Hawaii Revised Statutes, is
12 amended by amending subsection (e) to read as follows:

13 "(e) Violation of this section shall be considered an
14 offense as defined under section 701-107(5) and shall subject
15 the violator to the following penalties:

16 (1) For a first conviction, the person shall:

17 (A) Be fined not more than \$100;

18 (B) Be required by the court to attend a child
19 passenger restraint system safety class conducted
20 by the division of driver education; provided
21 that:



- 1 (i) The class may include video conferences as
- 2 determined by the administrator of the
- 3 division of driver education as an
- 4 alternative method of education; and
- 5 (ii) The class shall not exceed four hours;
- 6 (C) Pay a \$50 driver education assessment as provided
- 7 in section 286G-3; [~~and~~]
- 8 (D) Pay a \$10 surcharge to be deposited into the
- 9 neurotrauma special fund; and
- 10 (E) Pay a \$ _____ surcharge to be deposited into the
- 11 trauma care fund;
- 12 (2) For a conviction of a second offense committed within
- 13 three years of any other conviction under this
- 14 section, the person shall:
- 15 (A) Be fined not less than \$100 but not more than
- 16 \$200;
- 17 (B) Be required by the court to attend a child
- 18 passenger restraint system safety class not to
- 19 exceed four hours in length conducted by the
- 20 division of driver education if the person has
- 21 not previously attended such a class;

- 1 (C) Pay a \$50 driver education assessment as provided
2 in section 286G-3 if the person has not
3 previously attended a child passenger restraint
4 system safety class conducted by the division of
5 driver education; [~~and~~]
- 6 (D) Pay a \$10 surcharge to be deposited into the
7 neurotrauma special fund; and
- 8 (E) Pay a \$ _____ surcharge to be deposited into the
9 trauma care fund;
- 10 and
- 11 (3) For a conviction of a third or subsequent offense
12 committed within three years of any other conviction
13 under this section, the person shall:
- 14 (A) Be fined not less than \$200 but not more than
15 \$500;
- 16 (B) Be required by the court to attend a child
17 passenger restraint system safety class not to
18 exceed four hours in length conducted by the
19 division of driver education if the person has
20 not previously attended such a class;
- 21 (C) Pay a \$50 driver education assessment as provided
22 in section 286G-3 if the person has not



1 previously attended a child passenger restraint
2 system safety class conducted by the division of
3 driver education; ~~and~~

4 (D) Pay a \$10 surcharge to be deposited into the
5 neurotrauma special fund~~[-]~~; and

6 (E) Pay a \$ _____ surcharge to be deposited into the
7 trauma care fund."

8 SECTION 7. Section 291-11.6, Hawaii Revised Statutes, is
9 amended by amending subsection (e) to read as follows:

10 "(e) A person who fails to comply with the requirements of
11 this section shall be subject to ~~[a]~~ :

12 (1) A fine of \$45 for each violation ~~[and a]~~;

13 (2) A surcharge of \$10 which shall be deposited into the
14 neurotrauma special fund~~[-]~~; and

15 (3) A surcharge of \$ _____ which shall be deposited into
16 the trauma care fund."

17 SECTION 8. Section 291C-12, Hawaii Revised Statutes, is
18 amended by amending subsection (d) to read as follows:

19 "(d) For any violation under this section, ~~[a surcharge of~~
20 ~~\$500 shall be imposed,~~] in addition to any other penalties~~[-~~
21 ~~and]~~ :

1 (1) A surcharge of \$500 shall be imposed and shall be
2 deposited into the neurotrauma special fund[-]; and

3 (2) A surcharge of \$ shall be imposed and shall be
4 deposited into the trauma care fund."

5 SECTION 9. Section 291C-12.5, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) For any violation under this section, [~~a surcharge of~~
8 ~~\$250 shall be imposed,~~] in addition to any other penalties[-]:

9 (1) A surcharge of \$250 shall be imposed and shall be
10 deposited into the neurotrauma special fund[-]; and

11 (2) A surcharge of \$ shall be imposed and shall be
12 deposited into the trauma care fund."

13 SECTION 10. Section 291C-12.6, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 (c) For any violation under this section, [~~a surcharge of~~
16 ~~\$100 shall be imposed,~~] in addition to any other penalties[-]:

17 (1) A surcharge of \$100 shall be imposed and shall be
18 deposited into the neurotrauma special fund[-]; and

19 (2) A surcharge of \$ shall be imposed and shall be
20 deposited into the trauma care fund."

21 SECTION 11. Section 291C-102, Hawaii Revised Statutes, is
22 amended by amending subsections (c) and (d) to read as follows:

1 "(c) If the maximum speed limit is exceeded by more than
2 ten miles per hour, [~~a surcharge of \$10 shall be imposed,~~] in
3 addition to any other penalties[~~7~~]:

4 (1) A surcharge of \$10 shall be imposed and shall be
5 deposited into the neurotrauma special fund[~~7~~]; and

6 (2) A surcharge of \$ shall be imposed and shall be
7 deposited into the trauma care fund.

8 (d) In addition to the penalties prescribed by section
9 291C-161 and the [~~surcharge~~] surcharges imposed pursuant to
10 subsection (c), the driver's license and privilege to operate a
11 vehicle of a person who violates this section by operating a
12 vehicle at a speed exceeding ninety miles per hour may be
13 ordered revoked by the court for a period not to exceed five
14 years."

15 SECTION 12. Section 291E-61, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) A person committing the offense of operating a
18 vehicle under the influence of an intoxicant shall be sentenced
19 as follows without possibility of probation or suspension of
20 sentence:

- 1 (1) For the first offense, or any offense not preceded
2 within a five-year period by a conviction for an
3 offense under this section or section 291E-4(a):
- 4 (A) A fourteen-hour minimum substance abuse
5 rehabilitation program, including education and
6 counseling, or other comparable program deemed
7 appropriate by the court;
- 8 (B) Ninety-day prompt suspension of license and
9 privilege to operate a vehicle during the
10 suspension period, or the court may impose, in
11 lieu of the ninety-day prompt suspension of
12 license, a minimum thirty-day prompt suspension
13 of license with absolute prohibition from
14 operating a vehicle and, for the remainder of the
15 ninety-day period, a restriction on the license
16 that allows the person to drive for limited work-
17 related purposes and to participate in substance
18 abuse treatment programs;
- 19 (C) Any one or more of the following:
- 20 (i) Seventy-two hours of community service work;
- 21 (ii) Not less than forty-eight hours and not more
22 than five days of imprisonment; or



- 1 (iii) A fine of not less than \$150 but not more
2 than \$1,000; [~~and~~]
- 3 (D) A surcharge of \$25 to be deposited into the
4 neurotrauma special fund; and
- 5 (E) A surcharge of \$ _____ to be deposited into the
6 trauma care fund;
- 7 (2) For an offense that occurs within five years of a
8 prior conviction for an offense under this section or
9 section 291E-4(a) by:
- 10 (A) Prompt suspension of license and privilege to
11 operate a vehicle for a period of one year with
12 an absolute prohibition from operating a vehicle
13 during the suspension period;
- 14 (B) Either one of the following:
- 15 (i) Not less than two hundred forty hours of
16 community service work; or
- 17 (ii) Not less than five days but not more than
18 fourteen days of imprisonment of which at
19 least forty-eight hours shall be served
20 consecutively;
- 21 (C) A fine of not less than \$500 but not more than
22 \$1,500; [~~and~~]



- 1 (D) A surcharge of \$25 to be deposited into the
- 2 neurotrauma special fund; and
- 3 (E) A surcharge of \$ _____ to be deposited into the
- 4 trauma care fund;

5 (3) For an offense that occurs within five years of two

6 prior convictions for offenses under this section or

7 section 291E-4(a):

8 (A) A fine of not less than \$500 but not more than

9 \$2,500;

10 (B) Revocation of license and privilege to operate a

11 vehicle for a period not less than one year but

12 not more than five years;

13 (C) Not less than ten days but not more than thirty

14 days imprisonment of which at least forty-eight

15 hours shall be served consecutively; [~~and~~]

16 (D) A surcharge of \$25 to be deposited into the

17 neurotrauma special fund; [~~and~~]

18 (E) A surcharge of \$ _____ to be deposited into the

19 trauma care fund; and

20 [~~(E)~~] (F) Forfeiture under chapter 712A of the vehicle

21 owned and operated by the person committing the

22 offense[~~;~~]; provided that the department of

1 transportation shall provide storage for vehicles
2 forfeited under this subsection; and

3 (4) Any person eighteen years of age or older who is
4 convicted under this section and who operated a
5 vehicle with a passenger, in or on the vehicle, who
6 was younger than fifteen years of age, shall be
7 sentenced to an additional mandatory fine of \$500 and
8 an additional mandatory term of imprisonment of forty-
9 eight hours; provided that the total term of
10 imprisonment for a person convicted under this
11 paragraph shall not exceed the maximum term of
12 imprisonment provided in ~~[paragraphs]~~ paragraph (1),
13 (2), or (3)."

14 SECTION 13. Section 291E-61.5, Hawaii Revised Statutes, is
15 amended by amending subsection (d) to read as follows:

16 "(d) For a conviction under this section, the sentence
17 shall be either:

18 (1) An indeterminate term of imprisonment of five years;
19 or

20 (2) A term of probation of five years, with conditions to
21 include:

- 1 (A) Mandatory revocation of license and privilege to
2 operate a vehicle for a period not less than one
3 year but not more than five years;
- 4 (B) Not less than ten days imprisonment, of which at
5 least forty-eight hours shall be served
6 consecutively;
- 7 (C) Referral to a certified substance abuse counselor
8 as provided in section 291E-61(d); [~~and~~]
- 9 (D) A surcharge of \$25 to be deposited into the
10 neurotrauma special fund[~~-~~]; and
- 11 (E) A surcharge of \$ _____ to be deposited into the
12 trauma care fund.

13 In addition to the foregoing, any vehicle owned and operated by
14 the person committing the offense shall be subject to forfeiture
15 pursuant to chapter 712A[~~-~~]; provided that the department of
16 transportation shall provide storage for vehicles forfeited
17 under this subsection."

18 SECTION 14. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ _____ or so much
20 thereof as may be necessary for fiscal year 2006-2007 to be
21 deposited into the trauma care fund.



1 The sum appropriated shall be expended by the department of
2 budget and finance for the purposes of this Act.

3 SECTION 15. There is appropriated out of the trauma care
4 fund the sum of \$ or so much thereof as may be necessary
5 for fiscal year 2006-2007 for the purposes of the trauma care
6 fund.

7 The sum appropriated shall be expended by the department of
8 health for the purposes of this Act.

9 SECTION 16. This Act does not affect rights and duties
10 that matured, penalties that were incurred, and proceedings that
11 were begun, before its effective date.

12 SECTION 17. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 18. This Act shall take effect on July 1, 2006.



HB 3142 HD1

Report Title:

Trauma Care

Description:

Establishes the trauma care fund to ensure and encourage the availability of trauma care in the state. Establishes dedicated sources of revenue for the trauma care fund. (HB3142 HD1)

HB3142 HD1 HMS 2006-1676

