
A BILL FOR AN ACT

RELATING TO TRAUMA AND EMERGENCY CARE.

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

- 1 SECTION 1. The legislature finds and declares that:
- 2 (1) Trauma centers and emergency departments save lives by
- 3 providing immediate coordination of highly specialized
- 4 care for the most life-threatening injuries.
- 5 (2) Access to trauma and emergency care can mean the
- 6 difference between full recovery from an injury and
- 7 serious disability necessitating costly long-term
- 8 care.
- 9 (3) The on call or as needed availability of physician
- 10 specialists and back up physician specialists to
- 11 trauma centers and emergency departments ensures
- 12 appropriate screening, stabilizing, and treatment of
- 13 trauma and emergency patients.
- 14 (4) According to a 2003 survey conducted by the American
- 15 College of Emergency Physicians, about half of all
- 16 emergency services in the county are uncompensated and
- 17 about forty-two per cent are significantly underpaid
- 18 or paid only after considerable delays.



1 (5) It is increasingly difficult for physicians to
2 maintain their practices and on-call availability in
3 light of these mounting uncompensated costs.

4 (6) The State of Hawaii is experiencing a shortage of
5 physicians available to take call for trauma and
6 emergency care.

7 The purpose of this Act is to ensure the availability of on
8 call physicians for trauma and emergency care in the State of
9 Hawaii by establishing the emergency physicians services fund
10 and dedicating sources of revenue for the fund.

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

14 "§321-A Emergency physicians services fund. (a) There is
15 established the emergency physicians services fund to be
16 administered by the department. The fund is a special,
17 nonlapsing fund that is not subject to chapter 103D. The fund
18 shall consist of:

19 (1) Moneys raised pursuant to the surcharges levied under
20 sections 291-11.5, 291-11.6, 291C-12, 291C-12.5, 291C-
21 12.6, 291C-102, 291E-61, 291E-61.5, and 431:10C- ;



1 (2) Moneys transferred from the environmental response
2 revolving fund under section 128D-2;

3 (3) Federal funds granted by Congress or executive order
4 for the purpose of this chapter; provided that the
5 acceptance and use of federal funds shall not commit
6 state funds for services and shall not place an
7 obligation upon the legislature to continue the
8 purpose for which the federal funds are made
9 available; and

10 (4) Funds appropriated by legislature for this purpose.
11 Interest on and other income from the fund shall be
12 separately accounted for and credited to the fund.

13 (b) The fund shall be used to subsidize the documented
14 costs:

15 (1) Of uncompensated care incurred by a physician in
16 providing trauma or emergency care; and

17 (2) Incurred by a trauma center or emergency department to
18 maintain physicians on-call for trauma or emergency
19 care.

20 (c) Disbursements from the fund shall be made in
21 accordance with a methodology established by the department to
22 calculate costs incurred by physicians and trauma centers or

1 emergency departments that are eligible to receive reimbursement
2 under subsection (b). The methodology shall take into account:

3 (1) The amount of uncompensated trauma or emergency care
4 provided by physicians;

5 (2) The amount of undercompensated care attributable to
6 the treatment of medicaid enrollees in trauma centers
7 and emergency departments;

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

10 (4) The number of patients served by physicians in trauma
11 centers and emergency departments;

12 (5) The number of Hawaii residents served by physicians in
13 trauma centers and emergency departments; and

14 (6) The extent to which trauma-related and emergency-
15 related costs are otherwise subsidized by hospitals,
16 the federal government, and other sources;

17 provided that the methodology shall include an incentive to
18 encourage hospitals to continue to subsidize trauma-related and
19 emergency-related costs not otherwise included in hospital
20 rates.

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



1 The department may adopt rules under chapter 91 that specify the
2 information that physicians, trauma centers, and emergency
3 departments are required to submit in order to receive fund
4 moneys; provided that information shall include but not be
5 limited to:

6 (1) The name and federal tax identification number of the
7 physician rendering the service;

8 (2) The date of the service;

9 (3) Appropriate codes describing the service;

10 (4) Any amount recovered for the service rendered;

11 (5) The name of the trauma or emergency patient; and

12 (6) Any other information the department considers
13 necessary to disburse money from the fund.

14 (e) In administering the fund, the director shall maintain
15 records of all expenditures and disbursements made from the
16 fund.

17 (f) Necessary administrative expenses to carry out this
18 section shall not exceed two per cent of the total amount
19 collected.

20 (g) The director shall submit to the legislature an annual
21 report on the fund no later than twenty days prior to the
22 convening of each regular session. The report shall include:



- 1 (1) The amount of money in the fund on the last day of the
- 2 previous fiscal year;
- 3 (2) The total amount of money applied for by physicians,
- 4 trauma centers, and emergency departments during the
- 5 previous fiscal year;
- 6 (3) The total amount of money distributed in the form of
- 7 physician, trauma center, or emergency department
- 8 reimbursements during the previous fiscal year;
- 9 (4) Any recommendations for altering the manner in which
- 10 physicians, trauma centers, or emergency departments
- 11 are reimbursed from the fund;
- 12 (5) The costs incurred in administering the fund during
- 13 the previous fiscal year; and
- 14 (6) The amount that each hospital with a trauma center or
- 15 emergency department contributes toward the
- 16 subsidization of trauma-related and emergency-related
- 17 costs for its trauma center or emergency department.
- 18 (h) For purposes of this section:
- 19 "Department" means the department of health.
- 20 "Director" means the director of health.

1 "Emergency department" means any emergency facility
2 associated with a state licensed hospital or other licensed
3 emergency care unit.

4 "Fund" means the emergency physicians services fund.

5 "Physician" means a surgeon, orthopedic surgeon,
6 neurosurgeon, intensive care unit physician, anesthesiologist,
7 or an emergency physician who provides care in a trauma center
8 or emergency department to trauma or emergency patients.

9 "Trauma center" means a facility certified by the American
10 College of Surgeons as being a level I or level II trauma
11 center.

12 "Uncompensated care" means care provided by a physician to
13 a trauma or emergency patient who:

- 14 (1) Has no health insurance;
15 (2) Is not eligible for medical assistance coverage; and
16 (3) Has not paid the physician for care provided by the
17 physician, after documented attempts by the physician
18 to collect payment."

19 SECTION 3. Article 10C of chapter 431, Hawaii Revised
20 Statutes, is amended by adding a new section to be appropriately
21 designated and to read as follows:



1 "§431:10C- Surcharge for emergency care. Each insurer
2 shall pay a surcharge, to be deposited in the emergency
3 physicians services fund, of \$ for each no fault
4 insurance policy issued by the insurer in the State of Hawaii
5 each year."

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

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

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



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



1 (21) Deposit beverage container deposit special fund under
2 section 342G-104;

3 (22) Glass advance disposal fee special fund established by
4 section 342G-82;

5 (23) Center for nursing special fund under section 304D-5;

6 (24) Passenger facility charge special fund established by
7 section 261-5.5;

8 (25) Solicitation of funds for charitable purposes special
9 fund established by section 467B-15;

10 (26) Land conservation fund established by section 173A-5;
11 [~~and~~]

12 [+] (27) [+] Court interpreting services revolving fund [+] section
13 607-1.5[+]; and

14 (28) Emergency physicians services fund under section 321-
15 A;

16 shall deduct five per cent of all receipts of all other special
17 funds, which deduction shall be transferred to the general fund
18 of the State and become general realizations of the State. All
19 officers of the State and other persons having power to allocate
20 or disburse any special funds shall cooperate with the director
21 in effecting these transfers. To determine the proper revenue
22 base upon which the central service assessment is to be



1 calculated, the director shall adopt rules pursuant to chapter
2 91 for the purpose of suspending or limiting the application of
3 the central service assessment of any fund. No later than
4 twenty days prior to the convening of each regular session of
5 the legislature, the director shall report all central service
6 assessments' made during the preceding fiscal year."

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

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

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



- 1 (9) Unemployment compensation fund established under
- 2 section 383-121;
- 3 (10) Hawaii hurricane relief fund established under chapter
- 4 431P;
- 5 (11) Convention center enterprise special fund established
- 6 under section 201B-8;
- 7 (12) Hawaii health systems corporation special funds;
- 8 (13) Tourism special fund established under section
- 9 201B-11;
- 10 (14) Universal service fund established under chapter 269;
- 11 (15) Integrated tax information management systems special
- 12 fund under section 231-3.2;
- 13 (16) Emergency and budget reserve fund under section
- 14 328L-3;
- 15 (17) Public schools special fees and charges fund under
- 16 section 302A-1130(f);
- 17 (18) Sport fish special fund under section 187A-9.5;
- 18 (19) Neurotrauma special fund under section 321H-4;
- 19 (20) Center for nursing special fund under section 304D-5;
- 20 (21) Passenger facility charge special fund established by
- 21 section 261-5.5; [and]



1 (22) Court interpreting services revolving fund [†]section
2 607-1.5[†]; and

3 (23) Emergency physicians services fund under section 321-
4 A;

5 shall be responsible for its pro rata share of the
6 administrative expenses incurred by the department responsible
7 for the operations supported by the special fund concerned."

8 SECTION 6. Section 128D-2, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

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

16 (1) Shall also be used:

17 (A) For oil spill planning, prevention, preparedness,
18 education, research, training, removal, and
19 remediation; and

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



1 (2) May also be used to support environmental protection
 2 and natural resource protection programs, including
 3 but not limited to energy conservation and alternative
 4 energy development, and to address concerns related to
 5 air quality, global warming, clean water, polluted
 6 runoff, solid and hazardous waste, drinking water, and
 7 underground storage tanks, including support for the
 8 underground storage tank program of the department and
 9 funding for the acquisition by the State of a soil
 10 remediation site and facility[-]; and

11 (3) Shall also be expended by the department of health for
 12 documented costs related to trauma and emergency care
 13 as provided for in section 321-A, and per cent
 14 of the moneys in the fund shall be transferred each
 15 year to the emergency physicians services fund for
 16 this purpose."

17 SECTION 7. Section 291-11.5, Hawaii Revised Statutes, is
 18 amended by amending subsection (e) to read as follows:

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

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

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

1 (B) Be required by the court to attend a child
2 passenger restraint system safety class not to
3 exceed four hours in length conducted by the
4 division of driver education if the person has
5 not previously attended such a class;

6 (C) Pay a \$50 driver education assessment as provided
7 in section 286G-3 if the person has not
8 previously attended a child passenger restraint
9 system safety class conducted by the division of
10 driver education; and

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

13 (E) Pay a \$ _____ surcharge to be deposited into the
14 emergency physicians services fund; and

15 (3) For a conviction of a third or subsequent offense
16 committed within three years of any other conviction
17 under this section, the person shall:

18 (A) Be fined not less than \$200 but not more than
19 \$500;

20 (B) Be required by the court to attend a child
21 passenger restraint system safety class not to
22 exceed four hours in length conducted by the

- 1 division of driver education if the person has
- 2 not previously attended such a class;
- 3 (C) Pay a \$50 driver education assessment as provided
- 4 in section 286G-3 if the person has not
- 5 previously attended a child passenger restraint
- 6 system safety class conducted by the division of
- 7 driver education; 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 emergency physicians services fund."

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

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

- 16 (1) A fine of \$45 for each violation [~~and a~~];
- 17 (2) A surcharge of \$10 which shall be deposited into the
 18 neurotrauma special fund[-]; and
- 19 (3) A surcharge of \$ _____ which shall be deposited into
 20 the emergency physicians services fund."

21 SECTION 9. Section 291C-12, Hawaii Revised Statutes, is
 22 amended by amending subsection (d) to read as follows:

1 "(d) For any violation under this section, [~~a surcharge of~~
2 ~~\$500 shall be imposed,~~] in addition to any other penalties[~~,~~
3 ~~and~~]:

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

6 (2) A surcharge of \$ shall be imposed and shall be
7 deposited into the emergency physicians special fund."

8 SECTION 10. Section 291C-12.5, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

10 "(c) For any violation under this section, [~~a surcharge of~~
11 ~~\$250 shall be imposed,~~] in addition to any other penalties[~~,~~]:

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

14 (2) A surcharge of \$ shall be imposed and shall be
15 deposited into the emergency physicians services
16 fund."

17 SECTION 11. Section 291C-12.6, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 (c) For any violation under this section, [~~a surcharge of~~
20 ~~\$100 shall be imposed,~~] in addition to any other penalties[~~,~~]:

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



1 "(b) A person committing the offense of operating a
2 vehicle under the influence of an intoxicant shall be sentenced
3 as follows without possibility of probation or suspension of
4 sentence:

5 (1) For the first offense, or any offense not preceded
6 within a five-year period by a conviction for an
7 offense under this section or section 291E-4(a):

8 (A) A fourteen-hour minimum substance abuse
9 rehabilitation program, including education and
10 counseling, or other comparable program deemed
11 appropriate by the court;

12 (B) Ninety-day prompt suspension of license and
13 privilege to operate a vehicle during the
14 suspension period, or the court may impose, in
15 lieu of the ninety-day prompt suspension of
16 license, a minimum thirty-day prompt suspension
17 of license with absolute prohibition from
18 operating a vehicle and, for the remainder of the
19 ninety-day period, a restriction on the license
20 that allows the person to drive for limited work-
21 related purposes and to participate in substance
22 abuse treatment programs;



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

1 least forty-eight hours shall be served
2 consecutively;

3 (C) A fine of not less than \$500 but not more than
4 \$1,500; [~~and~~]

5 (D) A surcharge of \$25 to be deposited into the
6 neurotrauma special fund; and

7 (E) A surcharge of \$ to be deposited into the
8 emergency physicians services fund;

9 (3) For an offense that occurs within five years of two
10 prior convictions for offenses under this section or
11 section 291E-4(a):

12 (A) A fine of not less than \$500 but not more than
13 \$2,500;

14 (B) Revocation of license and privilege to operate a
15 vehicle for a period not less than one year but
16 not more than five years;

17 (C) Not less than ten days but not more than thirty
18 days imprisonment of which at least forty-eight
19 hours shall be served consecutively; [~~and~~]

20 (D) A surcharge of \$25 to be deposited into the
21 neurotrauma special fund; [~~and~~]



1 (E) A surcharge of \$ _____ to be deposited into the
2 emergency physicians services fund; and

3 [~~(E)~~] (F) Forfeiture under chapter 712A of the vehicle
4 owned and operated by the person committing the
5 offense, provided that the department of
6 transportation shall provide storage for vehicles
7 forfeited under this subsection; and

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

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

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

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

3 (2) A term of probation of five years, with conditions to
4 include:

5 (A) Mandatory revocation of license and privilege to
6 operate a vehicle for a period not less than one
7 year but not more than five years;

8 (B) Not less than ten days imprisonment, of which at
9 least forty-eight hours shall be served
10 consecutively;

11 (C) Referral to a certified substance abuse counselor
12 as provided in section 291E-61(d); ~~and~~

13 (D) A surcharge of \$25 to be deposited into the
14 neurotrauma special fund~~[-]~~; and

15 (E) A surcharge of \$ _____ to be deposited into the
16 emergency physicians services fund.

17 In addition to the foregoing, any vehicle owned and operated by
18 the person committing the offense shall be subject to forfeiture
19 pursuant to chapter 712A, provided that the department of
20 transportation shall provide storage for vehicles forfeited
21 under this subsection."



1 SECTION 15. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun, before its effective date.

4 SECTION 16. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 17. This Act shall take effect upon its approval;
7 provided that insurers shall commence collection of the
8 surcharge imposed by section 3 of this Act on January 1, 2007.

9

INTRODUCED BY: *Bruce Harbin*

JAN 25 2006

HB 3042

Report Title:

Emergency Physicians Fund; Trauma Care

Description:

Establishes the emergency physicians services fund to ensure the availability of on-call physicians for trauma and emergency care in the State and establishes dedicated sources of revenue for the fund.

