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# 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           As the American College of Surgeons ("ACS") noted in its  
16 October 2005 Trauma System Consultation report, extreme  
17 isolation and limited physician re-supply capability renders



**PROPOSED**

1 Hawaii uniquely vulnerable to natural disasters that may occur  
2 in a mid-Pacific environment.

3 Injury is the leading cause of death for persons between  
4 the ages of one to forty-four in the State of Hawaii. This is  
5 more than the deaths caused by cancer and heart disease  
6 combined. This underscores the seriousness of traumatic injury  
7 as a public health problem in the State. When injuries are  
8 serious, the specialized equipment and prompt access to  
9 physicians available in trauma centers can make a significant  
10 difference in the patient's health outcome. Trauma centers have  
11 been shown to reduce preventable deaths by more than twenty per  
12 cent as compared to other hospital care.

13 Typically, the cost of running a trauma center is far  
14 higher than the total payments received from patients who are  
15 treated. Trauma centers incur high additional costs from having  
16 to pay physician specialists to provide emergency call coverage.  
17 Between 2000 and 2004, thirty trauma centers closed across the  
18 nation as hospitals faced volume increases, higher costs,  
19 liability concerns, and low or no payment for trauma services.  
20 According to a 2003 survey conducted by the American College of  
21 Emergency Physicians, about half of all emergency services in  
22 the country are uncompensated and about forty-two percent are

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1 significantly underpaid or paid only after considerable delay.  
 2 This lack of compensation severely weakens a trauma center's  
 3 ability to respond to serious injuries.

4 A weakened trauma center decreases the State's readiness to  
 5 respond not only to a normal flow of critically injured patients  
 6 but to unforeseen disasters and emergencies as well. The tragic  
 7 events of September 11th and Hurricane Katrina illustrate that  
 8 trauma readiness and availability is every bit as important, and  
 9 as much an issue of public safety, as police and fire services.  
 10 Skilled trauma services with the capacity to handle a surge in  
 11 demand are a fundamental necessity in responding to natural  
 12 disasters and man-made disasters.

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

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

20 "§321-A Trauma care fund. (a) There is established the  
 21 trauma care fund to be administered by the department. The fund

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1 is a special, non-lapsing fund that is not subject to chapter  
2 103D. The fund shall consist of:

3 (1) Moneys raised pursuant to the surcharges levied under  
4 sections 291-11.5, 291-11.6, 291C-12, 291C-12.5, 291C-  
5 12.6, 291C-102, 291E-61 and 291E-61.5;

6 (2) 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; and

13 (3) Funds appropriated by legislature for this purpose.  
14 Interest on and other income from the fund shall be  
15 separately accounted for and credited to the fund.

16 (b) The fund shall be used to subsidize the documented  
17 costs:

18 (1) Of uncompensated care incurred by a trauma center in  
19 providing trauma care; and

20 (2) Incurred by a trauma center to maintain physicians on-  
21 call for trauma care.

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1        (c) Disbursements from the fund shall be made in  
2 accordance with a methodology established by the department to  
3 calculate costs incurred by trauma centers that are eligible to  
4 receive reimbursement under subsection (b). The methodology  
5 shall take into account:

6        (1) The amount of uncompensated trauma care provided by  
7 the trauma center;

8        (2) The amount of under-compensated care attributable to  
9 the treatment of medicaid enrollees in the trauma  
10 center;

11        (3) The cost of maintaining physicians on-call for trauma  
12 care;

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

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

18        (6) The number of Hawaii residents served by the trauma  
19 center; and

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

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1        (d) To receive reimbursement, a trauma center shall apply  
2 to the fund on a form and in a manner approved by the  
3 department. The department shall adopt rules pursuant to  
4 chapter 91 to effectuate the purposes of this section.

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

8        (f) Necessary administrative expenses to carry out this  
9 section shall not exceed two percent of the total amount  
10 collected.

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

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

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

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

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

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

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

6 (h) For purposes of this section:

7 "Department" means the department of health.

8 "Director" means the director of health.

9 "Fund" means the trauma care fund.

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

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

19 "Uncompensated care" means care provided by trauma center  
20 to a trauma patient who:

21 (1) Has no health insurance;

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

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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;



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- 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;

# PROPOSED

- 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; shall deduct
- 13                    five per cent of all receipts of all other special
- 14                    funds, which deduction shall be transferred to the
- 15                    general fund of the State and become general
- 16                    realizations of the State. All officers of the State
- 17                    and other persons having power to allocate or disburse
- 18                    any special funds shall cooperate with the director in
- 19                    effecting these transfers. To determine the proper
- 20                    revenue base upon which the central service assessment
- 21                    is to be calculated, the director shall adopt rules
- 22                    pursuant to chapter 91 for the purpose of suspending

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

7 SECTION 4. 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;

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- 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 201B-
- 9                    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 328L-
- 14                    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) Trauma care fund under section 321-A; shall be  
4 responsible for its pro rata share of the  
5 administrative expenses incurred by the department  
6 responsible for the operations supported by the  
7 special fund concerned."

8 SECTION 5. Section 291-11.5, Hawaii Revised Statutes, is  
9 amended by amending subsection (e) to read as follows:

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

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

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

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

19 (i) The class may include video conferences as  
20 determined by the administrator of the division  
21 of driver education as an alternative method of  
22 education; and

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- 1 (ii) The class shall not exceed four hours;
- 2 (C) Pay a \$50 driver education assessment as provided
- 3 in section 286G-3; ~~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 (2) For a conviction of a second offense committed within  
 9 three years of any other conviction under this section, the  
 10 person shall:

- 11 (A) Be fined not less than \$100 but not more than
- 12 \$200;
- 13 (B) Be required by the court to attend a child
- 14 passenger restraint system safety class not to
- 15 exceed four hours in length conducted by the
- 16 division of driver education if the person has
- 17 not previously attended such a class;
- 18 (C) Pay a \$50 driver education assessment as provided
- 19 in section 286G-3 if the person has not
- 20 previously attended a child passenger restraint
- 21 system safety class conducted by the division of
- 22 driver education; and

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

3 (E) Pay a \$ \_\_\_\_\_ surcharge to be deposited into the  
4 trauma care fund; and

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

8 (A) Be fined not less than \$200 but not more than  
9 \$500;

10 (B) Be required by the court to attend a child  
11 passenger restraint system safety class not to  
12 exceed four hours in length conducted by the  
13 division of driver education if the person has  
14 not previously attended such a class;

15 (C) Pay a \$50 driver education assessment as provided  
16 in section 286G-3 if the person has not  
17 previously attended a child passenger restraint  
18 system safety class conducted by the division of  
19 driver education; and

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

1 (E) Pay a \$ \_\_\_\_\_ surcharge to be deposited into the  
2 trauma care fund."

3 SECTION 6. Section 291-11.6, Hawaii Revised Statutes, is  
4 amended by amending subsection (e) to read as follows:

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

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

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

10 (3) A surcharge of \$ \_\_\_\_\_ which shall be deposited into  
11 the trauma care fund."

12 SECTION 7. Section 291C-12, Hawaii Revised Statutes, is amended  
13 by amending subsection (d) to read as follows:

14 "(d) For any violation under this section, [~~a surcharge of~~  
15 ~~\$500 shall be imposed,~~] in addition to any other penalties[~~-~~  
16 ~~and~~]:

17 (1) A surcharge of \$500 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 8. Section 291C-12.5, Hawaii Revised Statutes, is  
22 amended by amending subsection (c) to read as follows:



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1           "(c) For any violation under this section, [~~a surcharge of~~  
2 ~~\$250 shall be imposed,~~] in addition to any other penalties[~~7~~]:

3           (1) A surcharge of \$250 shall be imposed and shall be  
4 deposited into the neurotrauma special fund[~~7~~]; and

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

7           SECTION 9. Section 291C-12.6, Hawaii Revised Statutes, is  
8 amended by amending subsection (c) to read as follows:

9           (c) For any violation under this section, [~~a surcharge of~~  
10 ~~\$100 shall be imposed,~~] in addition to any other penalties[~~7~~]:

11           (1) A surcharge of \$100 shall be imposed and shall be  
12 deposited into the neurotrauma special fund[~~7~~]; and

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

15           SECTION 10. Section 291C-102, Hawaii Revised Statutes, is  
16 amended by amending subsections (c) and (d) to read as follows:

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

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

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

3           (d) In addition to the penalties prescribed by section  
4 291C-161 and the [~~surcharge~~] surcharges imposed pursuant to  
5 subsection (c), the driver's license and privilege to operate a  
6 vehicle of a person who violates this section by operating a  
7 vehicle at a speed exceeding ninety miles per hour may be  
8 ordered revoked by the court for a period not to exceed five  
9 years."

10           SECTION 11. Section 291E-61, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12           "(b) A person committing the offense of operating a  
13 vehicle under the influence of an intoxicant shall be sentenced  
14 as follows without possibility of probation or suspension of  
15 sentence:

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

19           (A) A fourteen-hour minimum substance abuse  
20           rehabilitation program, including education and  
21           counseling, or other comparable program deemed  
22           appropriate by the court;

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- 1 (B) Ninety-day prompt suspension of license and
- 2 privilege to operate a vehicle during the
- 3 suspension period, or the court may impose, in
- 4 lieu of the ninety-day prompt suspension of
- 5 license, a minimum thirty-day prompt suspension
- 6 of license with absolute prohibition from
- 7 operating a vehicle and, for the remainder of the
- 8 ninety-day period, a restriction on the license
- 9 that allows the person to drive for limited work-
- 10 related purposes and to participate in substance
- 11 abuse treatment programs;
- 12 (C) Any one or more of the following:
  - 13 (i) Seventy-two hours of community service work;
  - 14 (ii) Not less than forty-eight hours and not more
  - 15 than five days of imprisonment; or
  - 16 (iii) A fine of not less than \$150 but not more
  - 17 than \$1,000; [~~and~~]
- 18 (D) A surcharge of \$25 to be deposited into the
- 19 neurotrauma special fund; and
- 20 (E) A surcharge of \$ \_\_\_\_\_ to be deposited into the
- 21 trauma care fund;

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1 (2) For an offense that occurs within five years of a  
2 prior conviction for an offense under this section or  
3 section 291E-4(a) by:

4 (A) Prompt suspension of license and privilege to  
5 operate a vehicle for a period of one year with  
6 an absolute prohibition from operating a vehicle  
7 during the suspension period;

8 (B) Either one of the following:

9 (i) Not less than two hundred forty hours of  
10 community service work; or

11 (ii) Not less than five days but not more than  
12 fourteen days of imprisonment of which at least  
13 forty-eight hours shall be served consecutively;

14 (C) A fine of not less than \$500 but not more than  
15 \$1,500; [~~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;

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

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- 1 (A) A fine of not less than \$500 but not more than
- 2 \$2,500;
- 3 (B) Revocation of license and privilege to operate a
- 4 vehicle for a period not less than one year but
- 5 not more than five years;
- 6 (C) Not less than ten days but not more than thirty
- 7 days imprisonment of which at least forty-eight
- 8 hours shall be served consecutively; [~~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; and
- 13 ~~[(E)]~~ (F) Forfeiture under chapter 712A of the vehicle
- 14 owned and operated by the person committing the
- 15 offense, provided that the department of
- 16 transportation shall provide storage for vehicles
- 17 forfeited under this subsection; and
- 18 (4) Any person eighteen years of age or older who is
- 19 convicted under this section and who operated a
- 20 vehicle with a passenger, in or on the vehicle, who
- 21 was younger than fifteen years of age, shall be
- 22 sentenced to an additional mandatory fine of \$500 and

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1 an additional mandatory term of imprisonment of forty-  
 2 eight hours; provided that the total term of  
 3 imprisonment for a person convicted under this  
 4 paragraph shall not exceed the maximum term of  
 5 imprisonment provided in paragraphs (1), (2), or (3)."

6 SECTION 12. Section 291E-61.5, Hawaii Revised Statutes, is  
 7 amended by amending subsection (d) to read as follows:

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

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

12 (2) A term of probation of five years, with conditions to  
 13 include:

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

17 (B) Not less than ten days imprisonment, of which at  
 18 least forty-eight hours shall be served  
 19 consecutively;

20 (C) Referral to a certified substance abuse counselor  
 21 as provided in section 291E-61(d); [~~and~~]

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

10 SECTION 13. This Act does not affect rights and duties  
11 that matured, penalties that were incurred, and proceedings that  
12 were begun, before its effective date.

13 SECTION 14. Effective for fiscal year 2006-2007, there is  
14 appropriated out of the general revenues of the state of Hawaii  
15 an amount necessary to finance the trauma care fund such that  
16 the trauma care fund's balance as of July 1, 2006 is equal to  
17 \$\_\_\_\_\_.

18 SECTION 15. The sum appropriated shall be expended by the  
19 department of health for the purposes of this Act.

20 SECTION 16. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22 SECTION 17. This Act shall take effect upon its approval.

**Report Title:**

Trauma Care

**Description:**

Establishes a trauma care fund to ensure and encourage the availability of trauma care in the state and establishes dedicated sources of revenue for the fund. (SD1)

**PROPOSED**

