
A BILL FOR AN ACT

RELATING TO THE TRAUMA SYSTEM SPECIAL FUND.

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

1 SECTION 1. At fifty-two per cent, Hawaii has the highest
2 percentage of traffic deaths involving alcohol in the country.
3 The legislature finds that this rate is unacceptable and cause
4 for great concern.

5 The legislature further finds that many victims of alcohol-
6 related traffic accidents are prevented from becoming fatality
7 statistics because of trauma care that the State's hospitals
8 provide, regardless of the patient's ability to pay. At the
9 Queen's Medical Center, for example, fifty-two per cent of
10 trauma admissions (trauma patients serious enough to be
11 admitted) test positive for alcohol or drug use.

12 Because of the burden caused, in part, by drunk drivers,
13 many of the hospitals in the State are operating their emergency
14 and trauma departments at a loss. While Act 305, Session Laws
15 of Hawaii 2006, established the trauma system special fund to
16 subsidize hospitals that treat trauma patients and to ensure the
17 availability of care for trauma patients, only one source of
18 revenue for the special fund has been established since its



1 creation. Act 102, Session Laws of 2007, directed 0.25 cents
2 (or 1/4 of one cent) per cigarette (approximately five cents per
3 pack) to the trauma system special fund after September 30,
4 2007, and prior to October 1, 2008, with scheduled increases to
5 occur thereafter.

6 While the cigarette tax is a good start, the legislature
7 finds that the trauma system special fund is in need of
8 additional sources of funding. Because many of the emergency
9 and trauma admissions are caused by drunk drivers, it makes
10 sense to have drunk drivers fund the trauma system special fund.

11 Accordingly, the purpose of this Act is to establish
12 additional funding mechanisms through surcharges for violations
13 of chapter 291E, Hawaii Revised Statutes, relating to use of
14 intoxicants while operating a vehicle, to enhance the
15 availability of resources in the trauma system special fund.

16 SECTION 2. Section 291E-61, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

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



1 (1) Except as provided in [†]paragraph[†] (2), for the
2 first offense, or any offense not preceded within a
3 five-year period by a conviction for an offense under
4 this section or section 291E-4(a):

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

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

20 (C) Any one or more of the following:

21 (i) Seventy-two hours of community service work;



1 (ii) Not less than forty-eight hours and not more
2 than five days of imprisonment; or

3 (iii) A fine of not less than \$150 but not more
4 than \$1,000; [~~and~~]

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

7 (E) A surcharge of not less than \$1,000 but not more
8 than \$2,500 to be deposited into the trauma
9 system special fund;

10 (2) For a first offense committed by a highly intoxicated
11 driver, or for any offense committed by a highly
12 intoxicated driver not preceded within a five-year
13 period by a conviction for an offense under this
14 section or section 291E-4(a):

15 (A) A fourteen-hour minimum substance abuse
16 rehabilitation program, including education and
17 counseling, or other comparable program deemed
18 appropriate by the court;

19 (B) Prompt suspension of a license and privilege to
20 operate a vehicle for a period of six months with
21 an absolute prohibition from operating a vehicle
22 during the suspension period;



- 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 not less than \$1,500 but not more
- 10 than \$3,000 to be deposited into the trauma
- 11 system special fund;
- 12 (3) For an offense that occurs within five years of a
- 13 prior conviction for an offense under this section or
- 14 section 291E-4(a) by:
 - 15 (A) Prompt suspension of license and privilege to
 - 16 operate a vehicle for a period of one year with
 - 17 an absolute prohibition from operating a vehicle
 - 18 during the suspension period;
 - 19 (B) Either one of the following:
 - 20 (i) Not less than two hundred forty hours of
 - 21 community service work; or



1 (ii) Not less than five days but not more than
2 fourteen days of imprisonment of which at
3 least forty-eight hours shall be served
4 consecutively;

5 (C) A fine of not less than \$500 but not more than
6 \$1,500; [~~and~~]

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

9 (E) A surcharge of not less than \$2,000 but not more
10 than \$3,500 to be deposited into the trauma
11 system special fund;

12 (4) For an offense that occurs within five years of two
13 prior convictions for offenses under this section or
14 section 291E-4(a):

15 (A) A fine of not less than \$500 but not more than
16 \$2,500;

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

20 (C) Not less than ten days but not more than thirty
21 days imprisonment of which at least forty-eight
22 hours shall be served consecutively;



1 (D) A surcharge of \$25 to be deposited into the
2 neurotrauma special fund; ~~and~~

3 (E) A surcharge of not less than \$2,500 but not more
4 than \$4,000 to be deposited into the trauma
5 system special fund; and

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

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

21 SECTION 3. Section 291E-61.5, Hawaii Revised Statutes, is
22 amended by amending subsection (d) to read as follows:



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

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

5 (2) A term of probation of five years, with conditions to
6 include:

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

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

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

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

17 (E) A surcharge of not less than \$3,000 but not more
18 than \$4,500 to be deposited into the trauma
19 system special fund.

20 In addition to the foregoing, any vehicle owned and operated by
21 the person committing the offense shall be subject to forfeiture
22 pursuant to chapter 712A, provided that the department of



1 transportation shall provide storage for vehicles forfeited
2 under this subsection."

3 SECTION 4. Section 321-22.5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) There is established within the state treasury a
6 special fund to be known as the trauma system special fund to be
7 administered and expended by the department of health. The fund
8 shall consist of:

9 (1) Surcharges collected pursuant to sections 291E-61 and
10 291E-61.5;

11 (2) Cigarette tax revenues designated under section 245-
12 15;

13 (3) Federal funds granted by Congress or executive order
14 for the purpose of this chapter; provided that the
15 acceptance and use of federal funds shall not commit
16 state funds for services and shall not place an
17 obligation upon the legislature to continue the
18 purpose for which the federal funds are made
19 available;

20 (4) Funds appropriated by the legislature for this
21 purpose, including grants;



- 1 (5) Grants, donations, and contributions from private or
- 2 public sources for the purposes of the trauma system
- 3 special fund; and
- 4 (6) Interest on and other income from the fund, which
- 5 shall be separately accounted for.

6 Moneys in the trauma system special fund shall not lapse at the
 7 end of the fiscal year. Expenditures from the trauma system
 8 special fund shall be exempt from chapters 103D and 103F."

9 SECTION 5. This Act does not affect rights and duties that
 10 matured, penalties that were incurred, and proceedings that were
 11 begun, before its effective date.

12 SECTION 6. Statutory material to be repealed is bracketed
 13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect upon its approval.

15

INTRODUCED BY:

John M. [Signature]
[Signature]
[Signature]

 JAN 23 2008



Report Title:

Trauma System Special Fund

Description:

Provides additional sources of funding for the trauma system special fund by imposing surcharges for driving while intoxicated violations.

