
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. The legislature finds that trauma care in
2 Hawaii is in a state of crisis and a public health priority.

3 Injury is the leading cause of death for persons between
4 the ages of one to forty-four in Hawaii, causing more deaths
5 than are caused by cancer and heart disease combined. This
6 underscores the seriousness of traumatic injury as a public
7 health problem in the state.

8 Specialized equipment and prompt access to physicians and
9 other trained health care providers make a significant
10 difference in a trauma patient's health outcome. A weak trauma
11 system hampers the State's readiness to respond not only to the
12 critically injured on a daily basis, but to unforeseen disasters
13 and emergencies as well.

14 As the American College of Surgeons noted in its October
15 2005 report, "Hawaii Trauma System Consultation," extreme
16 isolation and limited physician re-supply capability renders
17 Hawaii uniquely vulnerable to natural disasters that may occur



1 in a mid-Pacific environment. A functional trauma system with
2 the capacity to handle a sudden surge in demand is a fundamental
3 necessity in responding to both natural and man-made disasters.

4 Typically, the cost of providing care to trauma patients is
5 far higher than the total payments received from those patients.
6 Without additional resources, it is unlikely that Hawaii's
7 trauma system will increase in capacity and is at risk of losing
8 what specialized trauma care is currently available.

9 A January 2006, report by the legislative reference bureau
10 entitled, "On-Call Crisis in Trauma Care: Government
11 Responses," noted that the rationale for public support of
12 uncompensated trauma services is the same as for critical police
13 and fire services; a trauma system is a necessary public service
14 that ought to be publicly supported.

15 In light of these findings, the State enacted Acts 305 and
16 316, Session Laws of Hawaii 2006, to ensure and encourage the
17 availability of trauma care by creating a trauma system special
18 fund and dedicating a portion of the revenues generated from
19 cigarette and tobacco tax to the special fund. However, under
20 the terms of the Acts, cigarette and tobacco tax revenues will
21 not be deposited into the trauma system special fund until
22 September 30, 2007, at the earliest.



1 The legislature acknowledges that there is a desperate need
2 to expand the resources available for trauma care in Hawaii. It
3 is also evident that additional resources are needed immediately
4 to ensure the health, welfare, and safety of the citizens of our
5 State. Accordingly, this Act provides a variety of mechanisms
6 to provide needed resources for Hawaii's trauma system.

7 Among other things, this Act:

- 8 (1) Establishes surcharges for violations of chapters 291
9 (traffic violations), 291E (use of intoxicants while
10 operating a vehicle), 707 and 708 (crimes of
11 violence), and 712, part IV (offenses related to drugs
12 and intoxicating compounds);
- 13 (2) Establishes surcharges for violations of sections
14 291C-12 (accidents involving death or serious bodily
15 injury), 291C-12.5 (accidents involving substantial
16 bodily injury), 291C-12.6 (accidents involving bodily
17 injury), and 291C-161 (statewide traffic code
18 penalties);
- 19 (3) Clarifies that the trauma system special fund consists
20 of, among other things, trauma system surcharges, and
21 cigarette tax revenues;



1 (4) Provides that the methodology used in calculating
2 costs incurred by hospitals providing care to trauma
3 patients takes into account:

4 (A) Physician on-call coverage that is demonstrated
5 to be essential for trauma services within the
6 hospital;

7 (B) Equipment that is demonstrated to be essential
8 for trauma services within the hospital; and

9 (C) The creation of overflow or surge capacity to
10 allow a trauma center to respond to mass
11 casualties resulting from an act of terrorism or
12 natural disaster;

13 (5) Defines "trauma center"; and

14 (6) Appropriates an unspecified amount for fiscal years
15 2007-2008 and 2008-2009, for the trauma system special
16 fund.

17 The purpose of this Act is to establish additional funding
18 mechanisms to enhance the availability of resources in the
19 trauma system special fund to ensure the availability of care
20 for trauma patients in the state.



1 SECTION 2. Chapter 291, Hawaii Revised Statutes, is
2 amended by adding a new section to part I, to be appropriately
3 designated and to read as follows:

4 "§291- Trauma system surcharge. (a) In addition to any
5 other civil penalties ordered by the court, a person who is
6 convicted of any offense under this part shall be ordered to pay
7 a trauma system surcharge of \$; provided that the
8 surcharge shall not be ordered when the court determines that
9 the defendant is unable to pay the surcharge.

10 (b) The defendant shall pay the surcharge to the clerk of
11 the court. The surcharge shall be deposited with the state
12 director of finance who shall transmit the surcharge to the
13 trauma system special fund pursuant to section 321-22.5."

14 SECTION 3. Chapter 291E, Hawaii Revised Statutes, is
15 amended by adding a new section to part IV to be appropriately
16 designated and to read as follows:

17 "§291E- Trauma system surcharge. (a) In addition to
18 any other civil penalties ordered by the court, a person who is
19 convicted of any offense under this part shall be ordered to pay
20 a trauma system surcharge of \$; provided that the
21 surcharge shall not be ordered when the court determines that
22 the defendant is unable to pay the surcharge.



1 (b) The defendant shall pay the surcharge to the clerk of
2 the court. The surcharge shall be deposited with the state
3 director of finance who shall transmit the surcharge to the
4 trauma system special fund pursuant to section 321-22.5."

5 SECTION 4. Chapter 706, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§706- Trauma system surcharge. (a) In addition to any
9 other civil penalties ordered by the court, a person who has
10 been convicted of either a crime of violence or any offense
11 listed in part IV of chapter 712 shall be ordered to pay a
12 trauma system surcharge of \$; provided that the
13 surcharge shall not be ordered when the court determines that
14 the defendant is unable to pay the surcharge.

15 (b) The defendant shall pay the surcharge to the clerk of
16 the court. The surcharge shall be deposited with the state
17 director of finance who shall transmit the surcharge to the
18 trauma system special fund pursuant to section 321-22.5.

19 (c) For purposes of this section, "crime of violence"
20 means:

21 (1) Murder in any degree;

22 (2) Manslaughter;



- 1 (3) Assault in the first degree;
- 2 (4) Kidnapping;
- 3 (5) Sexual assault in the first degree;
- 4 (6) Sexual assault in the second degree;
- 5 (7) Continuous sexual assault of a minor under the age of
6 fourteen years old;
- 7 (8) Robbery in the first degree;
- 8 (9) Robbery in the second degree; and
- 9 (10) Burglary in the first degree."

10 SECTION 5. Section 291C-12, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) [~~For~~] In addition to any other penalties ordered by
13 the court for any violation under this section[~~7-a~~]:

14 (1) A surcharge of \$500 shall be imposed[~~7, in addition to~~
15 any other penalties~~7~~] and shall be deposited into the
16 neurotrauma special fund[~~7~~] pursuant to section
17 321H-4; and

18 (2) A surcharge of \$ _____ shall be imposed and shall
19 be deposited into the trauma system special fund
20 pursuant to section 321-22.5;

21 provided that a surcharge shall not be imposed when the court
22 determines that the defendant is unable to pay the surcharge."



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

3 "(c) [~~For~~] In addition to any other penalties ordered by
4 the court for any violation under this section[~~-a~~]:

5 (1) A surcharge of \$250 shall be imposed[~~, in addition to~~
6 any other penalties~~,~~] and shall be deposited into the
7 neurotrauma special fund[~~-~~] pursuant to section
8 321H-4; and

9 (2) A surcharge of \$ _____ shall be imposed and shall
10 be deposited into the trauma system special fund
11 pursuant to section 321-22.5;

12 provided that a surcharge shall not be imposed when the court
13 determines that the defendant is unable to pay the surcharge."

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

16 "(c) [~~For~~] In addition to any other penalties ordered by
17 the court for any violation under this section[~~-a~~]:

18 (1) A surcharge of \$100 shall be imposed[~~, in addition to~~
19 any other penalties~~,~~] and shall be deposited into the
20 neurotrauma special fund[~~-~~] pursuant to section
21 321H-4; and



1 "[+]§321-22.5[+] **Trauma system special fund.** (a) There
2 is established within the state treasury a special fund to be
3 known as the trauma system special fund to be administered and
4 expended by the department of health. The fund shall consist
5 of:

- 6 (1) Surcharges collected pursuant to sections 291- ,
7 291C-12, 291C-12.5, 291C-12.6, 291C-161, 291E- , and
8 706- ;
- 9 (2) Cigarette tax revenues designated under section
10 245-15;
- 11 (3) Federal funds granted by Congress or executive order
12 for the purpose of this chapter; provided that the
13 acceptance and use of federal funds shall not commit
14 state funds for services and shall not place an
15 obligation upon the legislature to continue the
16 purpose for which the federal funds are made
17 available;
- 18 (4) Funds appropriated by the legislature for this
19 purpose, including grants-in-aid;
- 20 (5) Grants, donations, and contributions from private or
21 public sources for the purposes of the trauma system
22 special fund; and



1 (6) Interest on and other income from the fund, which
2 shall be separately accounted for.

3 Moneys in the trauma system special fund shall not lapse at
4 the end of the fiscal year. Expenditures from the trauma system
5 special fund shall be exempt from chapters 103D and 103F.

6 (b) The moneys in the trauma system special fund shall be
7 used by the department to support the continuing development and
8 operation of a comprehensive state trauma system. The trauma
9 system special fund shall be used to subsidize the documented
10 costs for the comprehensive state trauma system, including but
11 not limited to the following:

12 (1) Costs of under-compensated and uncompensated trauma
13 care incurred by hospitals providing care to trauma
14 patients; and

15 (2) Costs incurred by hospitals providing care to trauma
16 patients to maintain on-call physicians for trauma
17 care.

18 The money in the trauma system special fund shall not be
19 used to supplant funding for trauma services authorized prior to
20 July 1, 2006, and shall not be used for ambulance or medical air
21 transport services.



1 (c) ~~[Interest and investment earnings attributable to the~~
2 ~~moneys in the trauma system special fund, federal funding,~~
3 ~~legislative appropriations, and grants, donations, and~~
4 ~~contributions from private or public sources for the purposes of~~
5 ~~the trauma system special fund shall be deposited into the~~
6 ~~trauma system special fund.~~

7 ~~(d)]~~ Disbursements from the fund shall be made in
8 accordance with a methodology established by the department of
9 health to calculate costs incurred by a hospital providing care
10 to trauma patients that are eligible to receive reimbursement
11 under subsection (d). The methodology shall take into account:

- 12 (1) Physician on-call coverage that is demonstrated to be
13 essential for trauma services within the hospital;
14 (2) Equipment that is demonstrated to be essential for
15 trauma services within the hospital;
16 (3) The creation of overflow or surge capacity to allow a
17 trauma center to respond to mass casualties resulting
18 from an act of terrorism or natural disaster; and
19 (4) All other hospital services and resources that are
20 demonstrated to be essential for trauma services
21 within the hospital.



1 The department shall adopt rules pursuant to chapter 91 to
2 effectuate the purposes of this section[~~, including the~~
3 ~~methodology for disbursements from the trauma system special~~
4 ~~fund~~].

5 [~~(e)~~] (d) To receive reimbursement, a hospital providing
6 care to trauma patients shall apply to the trauma system special
7 fund on a form and in a manner approved by the department;
8 provided that recipients of reimbursements from the trauma
9 system special fund shall be subject to the following
10 conditions:

- 11 (1) The recipient of a reimbursement shall:
- 12 (A) Comply with applicable federal, state, and county
13 laws;
- 14 (B) Comply with any other requirements the director
15 may prescribe;
- 16 (C) Allow the director, the legislative bodies, and
17 the state auditor access to records, reports,
18 files, and other related documents, to the extent
19 permissible under applicable state and federal
20 law, so that the program, management, and fiscal
21 practices of the recipient may be monitored and



1 evaluated to ensure the proper and effective
2 expenditure of public funds;
3 (D) Provide care to all injured patients regardless
4 of their ability to pay; and
5 (E) Participate in data collection and peer review
6 activities for the purpose of system evaluation
7 and improvement of patient care; and
8 (2) Every reimbursement shall be monitored according to
9 rules established by the director under chapter 91 to
10 ensure compliance with this section.
11 (e) To remain eligible for reimbursement under this
12 section, all level I or level II trauma centers shall have at
13 least annual on-site verification visits by the department and
14 an on-site verification visit by the American College of
15 Surgeons at least every three years.
16 (f) Necessary administrative expenses to carry out this
17 section shall not exceed five per cent of the total amount
18 collected in any given year.
19 (g) The department shall submit an annual report to the
20 legislature no later than twenty days prior to the convening of
21 each regular session that outlines the receipts of and
22 expenditures from the trauma system special fund.



1 (h) For the purposes of this section:

2 "Comprehensive state trauma system" means a coordinated
3 integrated system providing a spectrum of medical care
4 throughout the State designed to reduce death and disability by
5 appropriate and timely diagnosis and specialized treatment of
6 injuries, which includes hospitals with successive levels of
7 advanced capabilities for trauma care in accordance with
8 nationally accepted standards established by the American
9 College of Surgeons Committee on Trauma.

10 "Hospital providing care to trauma patients" means a
11 hospital with emergency services that receives and treats
12 injured patients.

13 "Trauma care" means specialized medical care intended to
14 reduce death and disability from injuries.

15 "Trauma center" means a facility verified by the American
16 College of Surgeons or designated by the department applying
17 American College of Surgeons recommendations as guidelines as
18 being a level I, level II, level III, or level IV trauma center.
19 Level I represents the highest level attainable by a verified
20 trauma center, and level IV represents the lowest level
21 attainable by a verified trauma center."



1 SECTION 10. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$, or so
3 much thereof as may be necessary for fiscal year 2007-2008, and
4 the same sum or so much thereof as may be necessary for fiscal
5 year 2008-2009, to be deposited into the trauma system special
6 fund in accordance with section 321-22.5, Hawaii Revised
7 Statutes.

8 SECTION 11. There is appropriated out of the trauma system
9 special fund established in section 321-22.5, the sum of
10 \$, or so much thereof as may be necessary for fiscal
11 year 2007-2008, and the same sum, or so much thereof as may be
12 necessary for fiscal year 2008-2009, to subsidize the documented
13 costs for the comprehensive state trauma system, including the
14 costs of under-compensated and uncompensated trauma care
15 incurred by hospitals providing care to trauma patients and the
16 costs incurred by hospitals providing care to trauma patients to
17 maintain on-call physicians for trauma care.

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

20 SECTION 12. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 13. This Act shall take effect upon its approval;
2 provided that sections 2, 3, 4, 5, 6, 7, and 8 shall take effect
3 on January 1, 2008; and provided that sections 10 and 11 shall
4 take effect on January 1, 2112.



Report Title:

Trauma System Special Fund; Surcharge

Description:

Establishes additional funding mechanisms for the trauma system special fund. Makes appropriations. (SB1804 HD1)

