

JAN 24 2007

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 recognizes that trauma care
3 is a public health priority.

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

9 When injuries are serious, specialized equipment and prompt
10 access to physicians and other trained health care providers
11 make a significant difference in a trauma patient's health
12 outcome. A weak trauma system decreases the State's readiness
13 to respond not only to the normal flow of critically injured
14 patients, but to unforeseen disasters and emergencies as well.

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



1 Hawaii uniquely vulnerable to natural disasters that may occur
2 in a mid-pacific environment. A functional trauma system with
3 the capacity to handle a surge in demand is a fundamental
4 necessity in responding to both natural and man-made disasters.

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

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

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



1 into the trauma system special fund until September 30, 2007, at
2 the earliest.

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

9 Among other things, this Act:

10 (1) Establishes surcharges for violations of chapters 291
11 (traffic violations), 291E (use of intoxicants while
12 operating a vehicle), 706 (crimes of violence), and
13 712, part IV (offenses related to drugs and
14 intoxicating compounds);

15 (2) Establishes surcharges for violations of sections
16 291C-12 (accidents involving death or serious bodily
17 injury), 291C-12.5 (accidents involving substantial
18 bodily injury), 291C-6 (accidents involving bodily
19 injury), and 291C-161 (Statewide Traffic Code);

20 (3) Clarifies that the trauma system special fund consists
21 of, among other things, trauma system surcharges, and
22 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;
- 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; and
- 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 fee.

10 (b) The defendant shall pay the surcharge to the clerk of
11 the court. The surcharge shall be deposited with the director
12 of finance who shall transmit the fee to the trauma system
13 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 fee.



1 (b) The defendant shall pay the surcharge to the clerk of
2 the court. The surcharge shall be deposited with the director
3 of finance who shall transmit the fee to the trauma system
4 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 fee.

15 (b) The defendant shall pay the surcharge to the clerk of
16 the court. The surcharge shall be deposited with the director
17 of finance who shall transmit the fee to the trauma system
18 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) ~~[Fee]~~ 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,] 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 fee."



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[~~7~~-a]:

5 (1) A surcharge of \$250 shall be imposed[~~7~~, in addition to
6 any other penalties~~7~~] and shall be deposited into the
7 neurotrauma special fund[~~7~~] 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 fee."

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[~~7~~-a]:

18 (1) A surcharge of \$100 shall be imposed[~~7~~, in addition to
19 any other penalties~~7~~] and shall be deposited into the
20 neurotrauma special fund[~~7~~] pursuant to section
21 321H-4; and



1 (2) A surcharge of \$ _____ shall be imposed and shall
2 be deposited into the trauma system special fund
3 pursuant to section 321-22.5;
4 provided that a surcharge shall not be ordered when the court
5 determines that the defendant is unable to pay the fee."

6 SECTION 8. Section 291C-161, Hawaii Revised Statutes, is
7 amended by amending subsection (e) to read as follows:

8 "(e) In addition to any other civil penalties ordered by
9 the court, the court shall order every person who has violated
10 this chapter to pay a trauma system surcharge of \$ _____ ;
11 provided that the surcharge shall not be ordered when the court
12 determines that the defendant is unable to pay the surcharge;
13 and provided further that the defendant shall pay the surcharge
14 to the clerk of the court. The trauma system surcharge shall be
15 deposited with the director of finance who shall transmit the
16 fee to the trauma system special fund pursuant to section
17 321-22.5. The court may assess a sum not to exceed \$50 for the
18 cost of issuing a penal summons upon any person who fails to
19 appear at the place within the time specified in the citation
20 issued to the person for any traffic violation."

21 SECTION 9. Section 321-22.5, Hawaii Revised Statutes, is
22 amended to read as follows:



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-
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 to
9 calculate costs incurred by a hospital providing care to trauma
10 patients that are eligible to receive reimbursement under
11 subsection (b). 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 [~~(f)~~] (e) Necessary administrative expenses to carry out
12 this section shall not exceed five per cent of the total amount
13 collected in any given year.

14 [~~(g)~~] (f) The department shall submit an annual report to
15 the legislature no later than twenty days prior to the convening
16 of each regular session that outlines the receipts of and
17 expenditures from the trauma system special fund.

18 [~~(h)~~] (g) For the purposes of this section:

19 "Comprehensive state trauma system" means a coordinated
20 integrated system providing a spectrum of medical care
21 throughout the State designed to reduce death and disability by
22 appropriate and timely diagnosis and specialized treatment of



1 injuries, which includes hospitals with successive levels of
2 advanced capabilities for trauma care in accordance with
3 nationally accepted standards established by the American
4 College of Surgeons Committee on Trauma.

5 "Hospital providing care to trauma patients" means a
6 hospital with emergency services that receives and treats
7 injured patients.

8 "Trauma care" means specialized medical care intended to
9 reduce death and disability from injuries.

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

15 SECTION 10. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$, or so
17 much as may be necessary for fiscal year 2007-2008, and the sum
18 of \$, or so much as may be necessary for fiscal year
19 2008-2009, to subsidize the documented costs for the
20 comprehensive state trauma system, including the costs of under-
21 compensated and uncompensated trauma care incurred by hospitals
22 providing care to trauma patients and the costs incurred by



1 hospitals providing care to trauma patients to maintain on-call
2 physicians for trauma care.

3 The sums appropriated shall be deposited into the trauma
4 system special fund in accordance with section 321-22.5, Hawaii
5 Revised Statutes.

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

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

18 SECTION 12. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 13. This Act shall take effect upon its approval;



1 provided that sections 10 and 11 shall take effect on July 1,
2 2007.
3

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Report Title:

Trauma System Special Fund; Surcharge

Description:

Establishes additional funding mechanisms for the trauma system special fund. Makes appropriations.

