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# 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 the  
4 ages of one to forty-four in Hawaii, causing more deaths than  
5 are caused by cancer and heart disease combined. This fact  
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 ocean environment. A functional trauma system  
2 with the capacity to handle a sudden surge in demand is a  
3 fundamental necessity in responding to both natural and man-made  
4 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  
8 trauma system will increase in capacity and is at risk of losing  
9 what 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 Responses",  
12 noted that the rationale for public support of uncompensated  
13 trauma services is the same as for critical police and fire  
14 services: a trauma system is a necessary public service that  
15 ought to be publicly supported.

16 In light of these findings, Acts 305 and 316, Session Laws  
17 of Hawaii 2006, were enacted to ensure and encourage the  
18 availability of trauma care in the State by creating a trauma  
19 system special fund and dedicating a portion of the revenues  
20 generated from cigarette and tobacco tax to the special fund.

21 The legislature acknowledges that there is a desperate need  
22 to expand the resources available for trauma care in Hawaii. It



1 is also evident that additional resources are needed immediately  
2 to ensure the health, welfare, and safety of the citizens of our  
3 State. Accordingly, this Act provides a variety of mechanisms  
4 to provide needed resources for Hawaii's trauma system.

5 Among other things, this Act:

- 6 (1) Establishes surcharges for violations of chapters 291  
7 (traffic violations), 291E (use of intoxicants while  
8 operating a vehicle), 707 and 708 (crimes of  
9 violence), and 712, part IV (offenses related to drugs  
10 and intoxicating compounds), Hawaii Revised Statutes;
- 11 (2) Establishes surcharges for violations of sections  
12 291C-12 (accidents involving death or serious bodily  
13 injury), 291C-12.5 (accidents involving substantial  
14 bodily injury), 291C-12.6 (accidents involving bodily  
15 injury), and 291C-161 (statewide traffic code  
16 penalties), Hawaii Revised Statutes;
- 17 (3) Clarifies that moneys in the trauma system special  
18 fund include, among other things, trauma system  
19 surcharges and cigarette tax revenues;
- 20 (4) Provides that the methodology used in calculating  
21 costs incurred by hospitals providing care to trauma  
22 patients takes into account:



- 1 (A) Physician on-call coverage that is demonstrated  
2 to be essential for trauma services within the  
3 hospital;
- 4 (B) Equipment that is demonstrated to be essential  
5 for trauma services within the hospital; and
- 6 (C) The creation of overflow or surge capacity to  
7 allow a trauma center to respond to mass  
8 casualties resulting from an act of terrorism or  
9 natural disaster;
- 10 (5) Defines the term "trauma center"; and
- 11 (6) Appropriates an unspecified amount for fiscal year  
12 2008-2009, for deposit into the trauma system special  
13 fund.

14 The purpose of this Act is to establish additional funding  
15 mechanisms to enhance the availability of revenues in the trauma  
16 system special fund to ensure the availability of care for  
17 trauma patients in the State.

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

21 "§291- Trauma system surcharge. (a) In addition to any  
22 other civil penalties ordered by the court, a person who is



1 convicted of any offense under this part shall be ordered to pay  
2 a trauma system surcharge of \$ \_\_\_\_\_ ; provided that the  
3 surcharge shall not be ordered when the court determines that  
4 the defendant is unable to pay the surcharge.

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

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

12 "§291E- Trauma system surcharge. (a) In addition to  
13 any other civil penalties ordered by the court, a person who is  
14 convicted of any offense under this part shall be ordered to pay  
15 a trauma system surcharge of \$ \_\_\_\_\_ ; provided that the  
16 surcharge shall not be ordered when the court determines that  
17 the defendant is unable to pay the surcharge.

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



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

4 "§706- Trauma system surcharge. (a) In addition to any  
5 other civil penalties ordered by the court, a person who has  
6 been convicted of either a crime of violence or any offense  
7 listed in part IV of chapter 712 shall be ordered to pay a  
8 trauma system surcharge of \$ ; provided that the  
9 surcharge shall not be ordered when the court determines that  
10 the defendant is unable to pay the surcharge.

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

15 (c) For purposes of this section, "crime of violence"  
16 means:

- 17 (1) Murder in any degree;  
18 (2) Manslaughter;  
19 (3) Assault in the first degree;  
20 (4) Kidnapping;  
21 (5) Sexual assault in the first degree;  
22 (6) Sexual assault in the second degree;



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

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

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

10          (1) A surcharge of \$500 shall be imposed[~~7~~ in addition to  
11 any other penalties,] and shall be deposited into the  
12 neurotrauma special fund[~~7~~] pursuant to section  
13 321H-4; and

14          (2) A surcharge of \$ \_\_\_\_\_ shall be imposed and shall  
15 be deposited into the trauma system special fund  
16 pursuant to section 321-22.5;

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

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

21            "(c) ~~[Fœ]~~ In addition to any other penalties ordered by  
22 the court for any violation under this section[~~7~~-a]:



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

5       (2) A surcharge of \$ \_\_\_\_\_ shall be imposed and shall  
6       be deposited into the trauma system special fund  
7       pursuant to section 321-22.5;

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

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

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

14       (1) A surcharge of \$100 shall be imposed~~[, in addition to~~  
15       ~~any other penalties,]~~ and shall be deposited into the  
16       neurotrauma special fund~~[-]~~ 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 ordered when the court  
22       determines that the defendant is unable to pay the surcharge."





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

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

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

18 "[+]§321-22.5[+] **Trauma system special fund.** (a) There  
19 is established within the state treasury a special fund to be  
20 known as the trauma system special fund to be administered and  
21 expended by the department of health. The fund shall consist  
22 of:



- 1        (1) Surcharges collected pursuant to sections 291- ,  
2        291C-12, 291C-12.5, 291C-12.6, 291C-161, 291E- , and  
3        706- ;
- 4        (2) Cigarette tax revenues designated under section  
5        245-15;
- 6        (3) 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;
- 13       (4) Funds appropriated by the legislature for this  
14       purpose, including grants-in-aid;
- 15       (5) Grants, donations, and contributions from private or  
16       public sources for the purposes of the trauma system  
17       special fund; and
- 18       (6) Interest on and other income from the fund, which  
19       shall be separately accounted for.

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



1 (b) The moneys in the trauma system special fund shall be  
2 used by the department to support the continuing development and  
3 operation of a comprehensive state trauma system. The trauma  
4 system special fund shall be used to subsidize the documented  
5 costs for the comprehensive state trauma system, including but  
6 not limited to the following:

- 7 (1) Costs of under-compensated and uncompensated trauma  
8 care incurred by hospitals providing care to trauma  
9 patients; and
- 10 (2) Costs incurred by hospitals providing care to trauma  
11 patients to maintain on-call physicians for trauma  
12 care.

13 The money in the trauma system special fund shall not be used to  
14 supplant funding for trauma services authorized prior to July 1,  
15 2006, and shall not be used for ambulance or medical air  
16 transport services.

17 ~~[(c) Interest and investment earnings attributable to the~~  
18 ~~moneys in the trauma system special fund, federal funding,~~  
19 ~~legislative appropriations, and grants, donations, and~~  
20 ~~contributions from private or public sources for the purposes of~~  
21 ~~the trauma system special fund shall be deposited into the~~  
22 ~~trauma system special fund.~~



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

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

16       The department shall adopt rules pursuant to chapter 91 to  
17 effectuate the purposes of this section [~~, including the~~  
18 ~~methodology for disbursements from the trauma system special~~  
19 ~~fund]~~.

20       ~~[(e)]~~ (d) To receive reimbursement, a hospital providing  
21 care to trauma patients shall apply to the trauma system special  
22 fund on a form and in a manner approved by the department;



1 provided that recipients of reimbursements from the trauma  
2 system special fund shall be subject to the following  
3 conditions:

4 (1) The recipient of a reimbursement shall:

5 (A) Comply with applicable federal, state, and county  
6 laws;

7 (B) Comply with any other requirements the director  
8 may prescribe;

9 (C) Allow the director, the legislative bodies, and  
10 the state auditor access to records, reports,  
11 files, and other related documents, to the extent  
12 permissible under applicable state and federal  
13 law, so that the program, management, and fiscal  
14 practices of the recipient may be monitored and  
15 evaluated to ensure the proper and effective  
16 expenditure of public funds;

17 (D) Provide care to all injured patients regardless  
18 of their ability to pay; and

19 (E) Participate in data collection and peer review  
20 activities for the purpose of system evaluation  
21 and improvement of patient care; and



1 (2) Every reimbursement shall be monitored according to  
2 rules established by the director under chapter 91 to  
3 ensure compliance with this section.

4 (e) To remain eligible for reimbursement under this  
5 section, all level I or level II trauma centers shall have at  
6 least annual on-site verification visits by the department and  
7 an on-site verification visit by the American College of  
8 Surgeons at least every three years.

9 (f) Necessary administrative expenses to carry out this  
10 section shall not exceed five per cent of the total amount  
11 collected in any given year.

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

16 (h) For the purposes of this section:

17 "Comprehensive state trauma system" means a coordinated  
18 integrated system providing a spectrum of medical care  
19 throughout the State designed to reduce death and disability by  
20 appropriate and timely diagnosis and specialized treatment of  
21 injuries, which includes hospitals with successive levels of  
22 advanced capabilities for trauma care in accordance with



1 nationally accepted standards established by the American  
2 College of Surgeons Committee on Trauma.

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

6 "Trauma care" means specialized medical care intended to  
7 reduce death and disability from injuries."

8 "Trauma center" means a facility verified by the American  
9 College of Surgeons or designated by the department applying  
10 American College of Surgeons recommendations as guidelines as  
11 being a level I, level II, level III, or level IV trauma center.  
12 Level I represents the highest level attainable by a verified  
13 trauma center, and level IV represents the lowest level  
14 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 thereof as may be necessary for fiscal year 2008-2009 to be  
18 deposited into the trauma system special fund in accordance with  
19 section 321-22.5, Hawaii Revised Statutes.

20 SECTION 11. There is appropriated out of the trauma system  
21 special fund established in section 321-22.5 the sum of \$  
22 or so much thereof as may be necessary for fiscal year 2008-2009



1 to subsidize the documented costs for the comprehensive state  
2 trauma system, including the costs of under-compensated and  
3 uncompensated trauma care incurred by hospitals providing care  
4 to trauma patients and the costs incurred by hospitals providing  
5 care to trauma patients to maintain on-call physicians for  
6 trauma care.

7 The sum appropriated shall be expended by the department of  
8 health for the purposes of this Act.

9 SECTION 12. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 13. This Act shall take effect on July 1, 2008.





**Report Title:**

Trauma System Special Fund; Surcharge; Appropriation

**Description:**

Establishes additional funding mechanisms for the trauma system special fund. Makes appropriation. (SD1)

