

JAN 18 2008

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 percent, 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 the trauma care that the State's hospitals
8 are able to provide, regardless of a patient's ability to pay.
9 At The Queen's Medical Center, for example, fifty-two percent 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



1 revenue for the special fund has been established since its
2 creation. Act 102, Session Laws of Hawaii 2007, directed 0.25
3 cents (or one-fourth of one cent) out of the cigarette tax
4 collected per cigarette (approximately five cents per pack) to
5 the trauma system special fund after September 30, 2007, and
6 prior to October 1, 2008, with scheduled increases to occur
7 thereafter.

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

13 Accordingly, the purpose of this Act is to establish
14 additional funding mechanisms through surcharges for violations
15 of chapter 291E (use of intoxicants while operating a vehicle)
16 to enhance the availability of resources in the trauma system
17 special fund.

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

20 "(b) A person committing the offense of operating a
21 vehicle under the influence of an intoxicant shall be sentenced



1 as follows without possibility of probation or suspension of
2 sentence:

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

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

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

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



- 1 (i) Seventy-two hours of community service work;
- 2 (ii) Not less than forty-eight hours and not more
- 3 than five days of imprisonment; or
- 4 (iii) A fine of not less than \$150 but not more
- 5 than \$1,000; [~~and~~]
- 6 (D) A surcharge of \$25 to be deposited into the
- 7 neurotrauma special fund; and
- 8 (E) A surcharge of not less than \$1,000 but not more
- 9 than \$2,500 to be deposited into the trauma
- 10 systems special fund;
- 11 (2) For a first offense committed by a highly intoxicated
- 12 driver, or for any offense committed by a highly
- 13 intoxicated driver not preceded within a five-year
- 14 period by a conviction for an offense under this
- 15 section or section 291E-4(a):
- 16 (A) A fourteen-hour minimum substance abuse
- 17 rehabilitation program, including education and
- 18 counseling, or other comparable program deemed
- 19 appropriate by the court;
- 20 (B) Prompt suspension of a license and privilege to
- 21 operate a vehicle for a period of six months with



1 an absolute prohibition from operating a vehicle
2 during the suspension period;

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

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

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

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

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

11 (E) A surcharge of not less than \$1,500 but not more
12 than \$3,000 to be deposited into the trauma
13 systems special fund;

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

17 (A) Prompt suspension of license and privilege to
18 operate a vehicle for a period of one year with
19 an absolute prohibition from operating a vehicle
20 during the suspension period;

21 (B) Either one of the following:



- 1 (i) Not less than two hundred forty hours of
2 community service work; or
3 (ii) Not less than five days but not more than
4 fourteen days of imprisonment of which at
5 least forty-eight hours shall be served
6 consecutively;
- 7 (C) A fine of not less than \$500 but not more than
8 \$1,500; [~~and~~]
- 9 (D) A surcharge of \$25 to be deposited into the
10 neurotrauma special fund; and
- 11 (E) A surcharge of not less than \$2,000 but not more
12 than \$3,500 to be deposited into the trauma
13 systems special fund;
- 14 (4) For an offense that occurs within five years of two
15 prior convictions for offenses under this section or
16 section 291E-4(a):
- 17 (A) A fine of not less than \$500 but not more than
18 \$2,500;
- 19 (B) Revocation of license and privilege to operate a
20 vehicle for a period not less than one year but
21 not more than five years;



- 1 (C) Not less than ten days but not more than thirty
2 days imprisonment of which at least forty-eight
3 hours shall be served consecutively;
- 4 (D) A surcharge of \$25 to be deposited into the
5 neurotrauma special fund; [~~and~~]
- 6 (E) A surcharge of not less than \$2,500 but not more
7 than \$4,000 to be deposited into the trauma
8 systems special fund; and
- 9 [~~(E)~~] (F) Forfeiture under chapter 712A of the vehicle
10 owned and operated by the person committing the
11 offense; provided that the department of
12 transportation shall provide storage for vehicles
13 forfeited under this subsection; and
- 14 (5) Any person eighteen years of age or older who is
15 convicted under this section and who operated a
16 vehicle with a passenger, in or on the vehicle, who
17 was younger than fifteen years of age, shall be
18 sentenced to an additional mandatory fine of \$500 and
19 an additional mandatory term of imprisonment of
20 forty-eight hours; provided that the total term of
21 imprisonment for a person convicted under this



1 paragraph shall not exceed the maximum term of
2 imprisonment provided in paragraph (1), (3), or (4)."

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

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

7 (1) An indeterminate term of imprisonment of five years;

8 or

9 (2) A term of probation of five years, with conditions to
10 include:

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

14 (B) Not less than ten days imprisonment, of which at
15 least forty-eight hours shall be served
16 consecutively;

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

19 (D) A surcharge of \$25 to be deposited into the
20 neurotrauma special fund[~~-~~]; and



1 (E) A surcharge of not less than \$3,000 but not more
2 than \$4,500 to be deposited into the trauma
3 systems special fund.

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

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

11 "(a) There is established within the state treasury a
12 special fund to be known as the trauma system special fund to be
13 administered and expended by the department of health. The
14 trauma system special fund shall consist of:

15 (1) Surcharges collected pursuant to sections 291E-61 and
16 291E-61.5;

17 (2) Cigarette tax revenues designated under section 245-
18 15;

19 (3) Federal funds granted by Congress or executive order
20 for the purpose of this chapter; provided that the
21 acceptance and use of federal funds shall not commit
22 state funds for services and shall not place an



1 obligation upon the legislature to continue the
2 purpose for which the federal funds are made
3 available;

4 (4) Funds appropriated by the legislature, including
5 grants;

6 (5) Grants, donations, and contributions from private or
7 public sources for the purposes of the trauma system
8 special fund; and

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

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

14 SECTION 5. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect upon its approval.

17

INTRODUCED BY:

R. D. O'Neil
by request



Report Title:

Trauma System Special Fund

Description:

Provides additional sources of funding for the trauma system special fund from surcharges paid by those convicted of drunk driving.

