
A BILL FOR AN ACT

RELATING TO STATE FUNDS.

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

1 SECTION 1. The purpose of this Act is to reduce general
2 fund appropriations to subsidize the counties' emergency medical
3 services systems by temporarily transferring deposits of certain
4 traffic violation surcharge revenues from the neurotrauma
5 special fund to the emergency medical services special fund.

6 This Act also transfers the unexpended and unencumbered
7 balance of the former health care revolving fund to the
8 emergency medical services special fund.

9 This Act takes effect on July 1, 2011, and shall be
10 repealed on June 30, 2013.

11 SECTION 2. Section 291-11.5, Hawaii Revised Statutes, is
12 amended by amending subsection (e) to read as follows:

13 "(e) Violation of this section shall be considered an
14 offense as defined under section 701-107(5) and shall subject
15 the violator to the following penalties:

16 (1) For a first conviction, the person shall:

17 (A) Be fined not more than \$100;



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1 (B) Be required by the court to attend a child
2 passenger restraint system safety class conducted
3 by the division of driver education; provided
4 that:

5 (i) The class may include video conferences as
6 determined by the administrator of the
7 division of driver education as an
8 alternative method of education; and

9 (ii) The class shall not exceed four hours;

10 (C) Pay a \$50 driver education assessment as provided
11 in section 286G-3;

12 (D) Pay a \$10 surcharge to be deposited into the
13 [~~neurotrauma~~] emergency medical services special
14 fund; [~~+~~]and[~~+~~].

15 (E) Pay up to a \$10 surcharge to be deposited into
16 the trauma system [~~+~~]special[~~+~~] fund if the court
17 so orders;

18 (2) For a conviction of a second offense committed within
19 three years of any other conviction under this
20 section, the person shall:

21 (A) Be fined not less than \$100 but not more than
22 \$200;



- 1 (B) Be required by the court to attend a child
2 passenger restraint system safety class not to
3 exceed four hours in length conducted by the
4 division of driver education if the person has
5 not previously attended such a class;
- 6 (C) Pay a \$50 driver education assessment as provided
7 in section 286G-3 if the person has not
8 previously attended a child passenger restraint
9 system safety class conducted by the division of
10 driver education;
- 11 (D) Pay a \$10 surcharge to be deposited into the
12 [~~neurotrauma~~] emergency medical services special
13 fund; [~~+~~]and[~~+~~]
- 14 (E) Pay up to a \$10 surcharge to be deposited into
15 the trauma system [~~+~~]special[~~+~~] fund if the court
16 so orders; and
- 17 (3) For a conviction of a third or subsequent offense
18 committed within three years of any other conviction
19 under this section, the person shall:
- 20 (A) Be fined not less than \$200 but not more than
21 \$500;



1 (B) Be required by the court to attend a child
 2 passenger restraint system safety class not to
 3 exceed four hours in length conducted by the
 4 division of driver education if the person has
 5 not previously attended such a class;

6 (C) Pay a \$50 driver education assessment as provided
 7 in section 286G-3 if the person has not
 8 previously attended a child passenger restraint
 9 system safety class conducted by the division of
 10 driver education;

11 (D) Pay a \$10 surcharge to be deposited into the
 12 [~~neurotrauma~~] emergency medical services special
 13 fund; [+]and[+]

14 (E) Pay up to a \$10 surcharge to be deposited into
 15 the trauma system [+]special[+] fund if the court
 16 so orders."

17 SECTION 3. Section 291-11.6, Hawaii Revised Statutes, is
 18 amended by amending subsection (e) to read as follows:

19 "(e) A person who fails to comply with the requirements of
 20 this section shall be subject to a fine of \$45 for each
 21 violation, a surcharge of \$10 [~~which~~] that shall be deposited
 22 into the [~~neurotrauma~~] emergency medical services special fund,



1 and may be subject to a surcharge of up to \$10 which shall be
2 deposited into the trauma system special fund."

3 SECTION 4. Section 291C-12, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) For any violation under this section, a surcharge of
6 \$500 shall be imposed, in addition to any other penalties, and
7 shall be deposited into the [~~neurotrauma~~] emergency medical
8 services special fund."

9 SECTION 5. Section 291C-12.5, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) For any violation under this section, a surcharge of
12 \$250 shall be imposed, in addition to any other penalties, and
13 shall be deposited into the [~~neurotrauma~~] emergency medical
14 services special fund."

15 SECTION 6. Section 291C-12.6, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) For any violation under this section, a surcharge of
18 \$100 shall be imposed, in addition to any other penalties, and
19 shall be deposited into the [~~neurotrauma~~] emergency medical
20 services special fund."

21 SECTION 7. Section 291C-102, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:



1 "(b) If the maximum speed limit is exceeded by more than
2 ten miles per hour, a surcharge of \$10 shall be imposed, in
3 addition to any other penalties, and shall be deposited into the
4 [~~neurotrauma~~] emergency medical services special fund."

5 SECTION 8. Section 291C-105, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) Any person who violates this section shall be guilty
8 of a petty misdemeanor and shall be sentenced as follows without
9 the possibility of probation or suspension of sentence:

10 (1) For a first offense not preceded by a prior conviction
11 for an offense under this section in the preceding
12 five years:

13 (A) A fine of not less than \$500 and not more than
14 \$1,000;

15 (B) Thirty-day prompt suspension of license and
16 privilege to operate a vehicle during the
17 suspension period, or the court may impose, in
18 lieu of the thirty-day prompt suspension of
19 license, a minimum fifteen-day prompt suspension
20 of license with absolute prohibition from
21 operating a vehicle and, for the remainder of the
22 thirty-day period, a restriction on the license



- 1 that allows the person to drive for limited work-
2 related purposes;
- 3 (C) Attendance in a course of instruction in driver
4 retraining;
- 5 (D) A surcharge of \$25 to be deposited into the
6 [neurotrauma] emergency medical services special
7 fund;
- 8 (E) May be charged a surcharge of up to \$100 to be
9 deposited into the trauma system special fund if
10 the court so orders;
- 11 (F) An assessment for driver education pursuant to
12 section 286G-3; and
- 13 (G) Either one of the following:
- 14 (i) Thirty-six hours of community service work;
15 or
16 (ii) Not less than forty-eight hours and not more
17 than five days of imprisonment;
- 18 (2) For an offense that occurs within five years of a
19 prior conviction for an offense under this section,
20 by:
- 21 (A) A fine of not less than \$750 and not more than
22 \$1,000;



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- 1 (B) Prompt suspension of license and privilege to
- 2 operate a vehicle for a period of thirty days
- 3 with an absolute prohibition from operating a
- 4 vehicle during the suspension period;
- 5 (C) Attendance in a course of instruction in driver
- 6 retraining;
- 7 (D) A surcharge of \$25 to be deposited into the
- 8 ~~[neurotrauma]~~ emergency medical services special
- 9 fund;
- 10 (E) May be charged a surcharge of up to \$100 to be
- 11 deposited into the trauma system special fund if
- 12 the court so orders;
- 13 (F) An assessment for driver education pursuant to
- 14 section 286G-3; and
- 15 (G) Either one of the following:
 - 16 (i) Not less than one hundred twenty hours of
 - 17 community service work; or
 - 18 (ii) Not less than five days but not more than
 - 19 fourteen days of imprisonment of which at
 - 20 least forty-eight hours shall be served
 - 21 consecutively; and



- 1 (3) For an offense that occurs within five years of two
2 prior convictions for offenses under this section, by:
- 3 (A) A fine of \$1,000;
- 4 (B) Revocation of license and privilege to operate a
5 vehicle for a period of not less than ninety days
6 but not more than one year;
- 7 (C) Attendance in a course of instruction in driver
8 retraining;
- 9 (D) No fewer than ten days but no more than thirty
10 days of imprisonment of which at least forty-
11 eight hours shall be served consecutively;
- 12 (E) A surcharge of \$25 to be deposited into the
13 [neurotrauma] emergency medical services special
14 fund;
- 15 (F) May be charged a surcharge of up to \$100 to be
16 deposited into the trauma system special fund if
17 the court so orders; and
- 18 (G) An assessment for driver education pursuant to
19 section 286G-3."

20 SECTION 9. Section 291E-61, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) A person committing the offense of operating a
2 vehicle under the influence of an intoxicant shall be sentenced
3 without possibility of probation or suspension of sentence as
4 follows:

5 (1) For the first offense, or any offense not preceded
6 within a five-year period by a conviction for an
7 offense under this section or section 291E-4(a):

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

12 (B) One-year revocation of license and privilege to
13 operate a vehicle during the revocation period
14 and installation during the revocation period of
15 an ignition interlock device on any vehicle
16 operated by the person;

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

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

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

21 (iii) A fine of not less than \$150 but not more
22 than \$1,000;



- 1 (D) A surcharge of \$25 to be deposited into the
- 2 [neurotrauma] emergency medical services special
- 3 fund; and
- 4 (E) A surcharge, if the court so orders, of up to \$25
- 5 to be deposited into the trauma system special
- 6 fund;
- 7 (2) For an offense that occurs within five years of a
- 8 prior conviction for an offense under this section or
- 9 section 291E-4(a):
- 10 (A) Revocation for not less than eighteen months nor
- 11 more than two years of license and privilege to
- 12 operate a vehicle during the revocation period
- 13 and installation during the revocation period of
- 14 an ignition interlock device on any vehicle
- 15 operated by the person;
- 16 (B) Either one of the following:
- 17 (i) Not less than two hundred forty hours of
- 18 community service work; or
- 19 (ii) Not less than five days but not more than
- 20 thirty days of imprisonment, of which at
- 21 least forty-eight hours shall be served
- 22 consecutively;



- 1 (C) A fine of not less than \$500 but not more than
2 \$1,500;
- 3 (D) A surcharge of \$25 to be deposited into the
4 [neurotrauma] emergency medical services special
5 fund; and
- 6 (E) A surcharge of up to \$50 if the court so orders,
7 to be deposited into the trauma system special
8 fund;
- 9 (3) For an offense that occurs within five years of two
10 prior convictions for offenses under this section or
11 section 291E-4(a):
- 12 (A) A fine of not less than \$500 but not more than
13 \$2,500;
- 14 (B) Revocation for two years of license and privilege
15 to operate a vehicle during the revocation period
16 and installation during the revocation period of
17 an ignition interlock device on any vehicle
18 operated by the person;
- 19 (C) Not less than ten days but not more than thirty
20 days imprisonment, of which at least forty-eight
21 hours shall be served consecutively;



- 1 (D) A surcharge of \$25 to be deposited into the
2 [neurotrauma] emergency medical services special
3 fund; and
- 4 (E) A surcharge of up to \$50 if the court so orders,
5 to be deposited into the trauma system special
6 fund;
- 7 (4) In addition to a sentence imposed under paragraphs (1)
8 through (3), any person eighteen years of age or older
9 who is convicted under this section and who operated a
10 vehicle with a passenger, in or on the vehicle, who
11 was younger than fifteen years of age, shall be
12 sentenced to an additional mandatory fine of \$500 and
13 an additional mandatory term of imprisonment of forty-
14 eight hours; provided that the total term of
15 imprisonment for a person convicted under this
16 paragraph shall not exceed the maximum term of
17 imprisonment provided in paragraph (1), (2), or (3),
18 as applicable. Notwithstanding paragraphs (1) and
19 (2), the revocation period for a person sentenced
20 under this paragraph shall be not less than two years;
21 and



1 (5) If the person demonstrates to the court that the
2 person:
3 (A) Does not own or have the use of a vehicle in
4 which the person can install an ignition
5 interlock device during the revocation period; or
6 (B) Is otherwise unable to drive during the
7 revocation period,
8 the person shall be absolutely prohibited from driving during
9 the period of applicable revocation provided in paragraphs (1)
10 to (4); provided that the court shall not issue an ignition
11 interlock permit pursuant to subsection (i) and the person shall
12 be subject to the penalties provided by section 291E-62 if the
13 person drives during the applicable revocation period."

14 SECTION 10. Section 321-234, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) Fees remitted pursuant to section 249-31, cigarette
17 tax revenues designated under section 245-15, interest and
18 investment earnings attributable to the moneys in the special
19 fund, legislative appropriations, and grants, donations, and
20 contributions from private or public sources for the purposes of
21 the fund, shall be deposited into the special fund.



1 From July 1, 2011 to June 30, 2013, surcharge revenues for
2 certain traffic offenses, as designated by law, shall also be
3 deposited into the special fund."

4 SECTION 11. Section 321H-4, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsection (a) to read:

7 "(a) There is established the neurotrauma special fund to
8 be administered by the department with advisory recommendations
9 from the neurotrauma advisory board. The fund shall consist of:

10 [~~1~~] ~~Moneys raised pursuant to the surcharges levied under~~
11 ~~sections 291-11.5, 291-11.6, 291C-12, 291C-12.5, 291C-~~
12 ~~12.6, 291C-102, 291C-105, and 291E-61;~~

13 ~~(2)]~~ (1) Federal funds granted by Congress or executive
14 order, for the purpose of this chapter; provided that
15 the acceptance and use of federal funds shall not
16 commit 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; and

20 [~~3~~] (2) Funds appropriated by the legislature for the
21 purpose of this chapter."

22 2. By amending subsection (c) to read:



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1 "(c) Moneys in the neurotrauma special fund may be
 2 appropriated to obtain federal and private grant matching funds,
 3 subject to [~~section 321H-4(a)(2).~~] subsection (a)(1)."

4 SECTION 12. On June 30, 2011, the unexpended and
 5 unencumbered balance of the health care revolving fund that was
 6 repealed by section 13 of Act 178, Session Laws of Hawaii 2002,
 7 shall be transferred into the emergency medical services special
 8 fund.

9 SECTION 13. Statutory material to be repealed is bracketed
 10 and stricken. New statutory material is underscored.

11 SECTION 14. This Act shall take effect on July 1, 2011,
 12 and be repealed on June 30, 2013; provided that sections 291-
 13 11.5, 291-11.6, 291C-12, 291C-12.5, 291C-12.6, 291C-102, 291C-
 14 105, 291E-61, 321-234, and 321H-4, Hawaii Revised Statutes,
 15 shall be reenacted in the form in which they read on the day
 16 before the effective date of this Act.

17

INTRODUCED BY:

Calvin K. Y. Day

 JAN 21 2011



Report Title:

Emergency Medical Services Special Fund; Transfer of Surcharge Revenues From Neurotrauma Special Fund

Description:

Requires temporarily the deposit of surcharge revenues to the emergency medical services special fund from the neurotrauma special fund. Requires the transfer of unexpended and unencumbered moneys in the repealed health care revolving fund to be transferred to the emergency medical services special fund.

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