

SB 489

RELATING TO TRAFFIC SAFETY.

Establishes a traffic safety injury prevention and treatment surcharge on each communications service connection, with revenue collected from the surcharge to be deposited equally between the trauma system special fund and the John A. Burns school of medicine special fund.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013**

ON THE FOLLOWING MEASURE:

S.B. NO. 489, RELATING TO TRAFFIC SAFETY.

BEFORE THE:

SENATE COMMITTEES ON TRANSPORTATION AND INTERNATIONAL AFFAIRS
AND ON COMMERCE AND CONSUMER PROTECTION

DATE: Wednesday, February 6, 2013 **TIME:** 1:16 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): David M. Louie, Attorney General, or
Marjorie A. Lau, Deputy Attorney General

Chairs English and Baker and Members of the Committees:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to establish, with certain exceptions, a traffic safety injury prevention and treatment monthly surcharge of 66 cents on each communications service connection. The surcharges collected are to be deposited in equal shares in the trauma system special fund and the John A. Burns school of medicine fund. The bill recites that distracted driving was a contributing factor in fatal car crashes in Hawaii, that distracted driving often occurs because of cell phone use, and that, therefore, such a surcharge could be used to promote traffic safety injury prevention and treatment-related programs.

The bill provides for an exception for “connections of the public utility providing telecommunications services and land line enhanced 911 services through section 269-16.95 [Hawaii Revised Statutes (HRS)].” However, it is not clear whether this exception covers all connections (including cell phone connections) of a public utility providing services under section 269-16.95, HRS. Our concern is that the law be clear as to what connections are covered. Additionally, if all connections of a public utility providing services under section 269-16.95 are excepted, then the surcharge would be imposed on connections based more upon who the service provider is than the type of connection. Whether a cell phone connection is subject to the surcharge would depend upon the service provider. Such an application would not fully implement the bill’s stated purpose as to cell phone use. An amendment could clarify this exception.

Additionally, the bill provides on page 3, line 15 to line 17, that the service provider or reseller “may” list the surcharge as a separate line item on each bill. If the surcharge is not listed as a separate item, it may be difficult to distinguish the surcharge from an increase in the rate being charged. To avoid the possibility of confusing the surcharge with a rate increase, an amendment could revise the language to provide that the service provider or reseller “shall” list the surcharge as a separate line item on each bill.

We note that the second sentence in subsection (g) on page 4, line 22, to page 5, line 2, does not include resellers as exempt from liability to remit surcharges that have not been paid by customers. If the intent is to include resellers, an amendment could add resellers to this provision.

We respectfully ask that, if the Committees pass this bill, the recommended clarifying amendments described above are included.



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TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
SENATE COMMITTEES
ON
TRANSPORTATION AND INTERNATIONAL AFFAIRS
AND
COMMERCE AND CONSUMER PROTECTION

February 6, 2013

1:16 p.m.

SB 489

RELATING TO TRAFFIC SAFETY.

Chair English, Chair Baker, Vice-Chair Dela Cruz, Vice-Chair Galuteria, and members of the committees, thank you for the opportunity to submit testimony on SB 489. The State Procurement Office's (SPO) comments are limited to SECTION 3 which includes an exemption from HRS chapter 103D, Hawaii Public Procurement Code (Code), and HRS chapter 103F, Purchases of Health and Human Services, for the Trauma System Special Fund expenditures.

The SPO opposes this exemption. Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion or fraud in awarding of contracts. To legislate that any one entity should be exempt from compliance with HRS chapter 103D or 103F conveys a sense of disproportionate equality in the law's application.

The SPO opposes the language on page 6, lines 18 to 19. Thank you.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

Senate Committee on Transportation and Internal Affairs

S.B.489, Relating to Traffic Safety

Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health

February 6, 2013, 1:16 pm

1 **Department's Position:** The Department of Health supports SB489 provided that some adjustments to
2 the proposed use of the trauma system special fund surcharge special account are made.

3 **Fiscal Implications:** This measure adds a surcharge of 66 cents per month to billings for
4 communications service connections, with the revenue divided equally between the trauma system
5 special fund and the John A. Burns School of Medicine special fund.

6 **Purpose and Justification:** Injuries are the leading cause of death in Hawaii for residents 1-44 years of
7 age with traffic related injuries the third leading cause of injury death and the second leading cause of
8 injury hospitalizations. Of particular concern is the striking peak of injuries in young adults in their
9 teens and twenties. In this group in particular, accustomed to constantly using their communication
10 devices, distracted driving is often cited as a contributing factor.

11 This measure adds a surcharge of 66 cents per month to billings for communications service
12 connections, with the revenue divided equally between the trauma system special fund, and the John A.
13 Burns School of Medicine special fund.

14 The trauma system special fund has been used since 2009 to support the development and
15 operation of a comprehensive state trauma system. A trauma system is the most cost effective response

Promoting Lifelong Health & Wellness

1 to the problem of injury. It consists of multiple components coordinated in a public health approach
2 designed to act together to reduce the incidence of injuries, and to improve the outcomes of patients who
3 are injured. A trauma system includes injury prevention, and requires access to a variety of specialty
4 acute care and rehabilitative medical services to produce positive impacts on community health.
5 Increased funding as proposed in this measure would further support those services to be developed and
6 implemented.

7 Regarding the use of the funds from the surcharge, we draw attention to healthcare workforce
8 development (Page 8, lines 7 and 8), and respectfully request that this function not be included in the
9 trauma system special fund, but rather be added to the use of the surcharge by the John A. Burns school
10 of medicine special fund. JABSOM representative Dr. Magnusson agrees this function is more
11 consistent with the purpose of their fund. Also, for further clarity and alignment with the purpose of the
12 trauma fund, we request that the term “rehabilitative services” as it appears on Page 8, line 5, be
13 replaced with “medical rehabilitative services” and that “specialty care” on Page 8, line 10 be replaced
14 with “specialty trauma care”.

15 Thank you for the opportunity to testify.



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1301 Punchbowl Street • Honolulu, Hawaii 96813 • Phone (808) 691-5900

SB 489, Relating to Traffic Safety
Senate Committee on Transportation and International Affairs
February 6, 2013 – 1:16 p.m.
Room 224

My name is Karen Seth, Director, Neuroscience Institute and Ancillary Services, at The Queen's Medical Center. I would like to provide testimony in support of SB 489, Relating to Traffic Safety.

In this bill there are already have many statistics outlined on the dangers of distracted driving and how it contributes to fatal car crashes in Hawaii. Some other facts from the United States Department of Transportation include:

- 40% of all American teens say they have been in a car when the driver used a cell phone in a way that put people in danger.
- Drivers who use hand-held devices are 4 times more likely to get into crashes serious enough to injure themselves.
- Text messaging creates a crash risk 23 times worse than driving while not distracted.
- Sending or receiving a text takes a driver's eyes from the road for an average of 4.6 seconds, the equivalent-at 55 mph-of driving the length of an entire football field, blind.

The best way to end distracted driving and the destruction it causes is through prevention strategies such as an educational campaign, protective gear, and collaborating with law enforcement agencies. Perhaps if consumers know that they are being charged this fee on their cell phone bills, it will make them think twice about driving distracted. Thank you for the opportunity to testify.

Literature cited: <http://www.distraction.gov/content/get-the-facts/facts-and-statistics.html>

**Testimony of CTIA – The Wireless Association
Before the Senate Committees on
Transportation and International Affairs and
Commerce and Consumer Protection**

S.B. 489

February 6, 2013

The Honorable Senator Kalani English, Chair

Senate Committee on Transportation and International Affairs

The Honorable Senator Roslyn Baker, Chair

Senate Committee on Commerce and Consumer Protection

RE: Testimony Senate Bill 489 – Trauma System Special Fund

Dear Chairman English and Chairwoman Baker and Members of the Committees,

On behalf of CTIA-The Wireless Association®,¹ I am writing in opposition to S.B. 489, which would impose a new fee on wireless subscribers to create the Trauma System Special Fund. Although we support the intent of the bill, we believe funding the trauma services should be accomplished via general funding and not through a new fee on wireless consumers. Because of the tremendous growth of wireless services, wireless users across the country have become a clear target for discriminatory and excessive taxes. CTIA firmly believes consumers should not pay more in taxes to use their wireless service than they pay for other taxable goods and services.

The wireless industry believes that user fees on wireless service are only appropriate when the user receives a direct benefit that is related to the fee paid. For this reason, CTIA supports the imposition of reasonable 911 fees to fund 911 systems when those fees are used specifically for 911 systems. However, funding the Trauma System through impositions on wireless users violates the user fee principle because there is no linkage between wireless service and trauma centers. A similar measure to fund emergency medical services became a ballot initiative in California in 2004. As a result of a broadly supported coalition, the tax increase on communications consumers was overwhelmingly defeated.

Because new discriminatory taxes and fees on wireless service are regressive and significantly increase consumers' cost of service, state increases in the tax burden fall disproportionately on

¹ CTIA is the international trade association for the wireless communications industry. Membership in the association includes wireless providers and their suppliers, as well as providers and manufacturers of wireless data services and products.



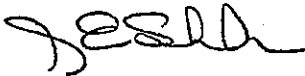
lower income users and may discourage seniors who are on fixed budgets from purchasing wireless service. Studies by the Centers for Disease Control illustrate how wireless taxes and fees are regressive in nature. According to the CDC survey (released in June 2011), more than one-third (39 percent) of adults living in poverty or living near the poverty level live in wireless-only households.

CTIA-The Wireless Association® believes excessive and discriminatory taxes on a service discourage its use. From an economic or tax fairness standpoint it makes no sense to place such arbitrary burdens on wireless consumers, especially when policymakers are continuing to look for additional ways to ensure affordable broadband access for all Americans.

Wireless consumers in Hawaii have first-hand experience in the legislative practice of taking special fund revenue and diverting the revenue to the general treasury. In 2009 alone, \$16 million dollars collected from wireless consumers to fund 911 emergency services was diverted to the general treasury. Legislative protections should be in place to protect public safety funds but history has proven otherwise. Will the revenue in a Trauma System Special Fund be treated any different?

The deployment of mobile broadband services needs to be encouraged by keeping prices affordable for all of your constituents (individuals and businesses) through a fair and reasonable tax regime. CTIA therefore respectfully encourages the Committee to determine whether the trauma care fund is necessary and if there are appropriate funds available through the state's General Fund.

Sincerely,



James E. Schuler
Assistant Vice President
External and State Affairs



Dan Youmans
Regional Vice President -
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February 6, 2013

Senator J. Kalani English, Chair, Committee on Transportation and International Affairs

Senator Rosalyn Baker, Chair, Committee on Commerce and Consumer Protection

Re: *Testimony Opposing Senate Bill 489*
Hearing before the Senate Committee on Transportation and International Affairs, and
Committee on Commerce and Consumer Protection
February 6, 1:15 p.m., Conference Room 224

Dear Committee Chairs English and Baker:

Thank you for providing AT&T this opportunity to offer **comments on Senate Bill 489.**

AT&T appreciates the concerns raised in Senate Bill 489, especially the problems on our highways created by distracted driving. Through our "It Can Wait" campaign, we urge our customers not to text while driving. Similar campaigns are also used by other wireless carriers to educate consumers about the dangers of texting while driving. We also would support the state creating similar educational programs to reduce motor vehicle crashes.

We are opposed, however, to creating a new tax on wireless consumers to fund these programs, especially when there are many other reasons for traffic accidents besides distractions from wireless devices. It would be more appropriate to fund traffic safety programs from the state's General Fund since this issue is of general concern to all citizens and, therefore, should be supported by broad-based taxes on all products and services in the state.

Because the tax is imposed on each "communications service connection," it would be especially onerous on families who have multiple wireless devices on their monthly plans, and on businesses for the same reason. Today, wireless communication has become essential for both families and businesses, and imposing this new tax would drive up the cost of service, making wireless communication less affordable. On the other hand, spreading the cost of these programs across all products and services with the state's more general taxes would not be so painful.

Senate Bill 489 also seems to put the cart before the horse by creating a tax that will generate millions of dollars without knowing what the actual costs would be of these new traffic safety and medical training programs. It could be that effective programs

could be created at far less cost than the revenue generated by a 66-cent tax per month on every communications connection.

AT&T would suggest that the Department of Health and John A. Burns School of Medicine produce a budget for these programs to determine their actual costs. The Legislature could then decide the most effective way to fund these programs, such as an allocation from the General Fund.

Again, we know that the E911 tax at 66-cents per month generates millions of dollars every year. Do these educational programs need this level of funding to be effective?

Finally, AT&T has always supported a reasonable, dedicated tax on our wireless customers to fund E911 technology to locate those customers in an emergency. This technology requires a significant investment by the E911 operators to provide this service. However, the tax on wireless customers is reasonable because there is a direct connection between the tax and the service it provides to wireless customers.

Such a nexus does not exist for the tax proposed in SB 489. There are many issues related to traffic safety and trauma care that are unrelated to the use of wireless services. And while there may be many benefits to supporting these programs, it is not fair to put the burden for funding them on the wireless consumer.

Thank you again for considering AT&T's testimony on Senate Bill 489.

Dan Youmans
AT&T

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Traffic safety injury prevention and treatment surcharge

BILL NUMBER: SB 489

INTRODUCED BY: Baker and 5 Democrats

BRIEF SUMMARY: Adds a new section to HRS 291C to provide for the imposition of a monthly traffic safety injury prevention and treatment surcharge on each communications service connection, except connections of the public utility providing telecommunications services and land line enhanced 911 services. The rate of the surcharge shall be 66 cents per month for each communications service connection except: (1) connections billed to federal, state, and county governmental entities; and (2) prepaid connections.

Requires all communications service providers and resellers to collect a monthly surcharge for each communications service connection and list the surcharge as a separate line item on each bill. Allows a communications service provider or reseller to retain up to two percent of the amount of surcharges to offset administrative expenses. Within 60 days after the end of the calendar month in which the surcharge is collected, an amount that represents the surcharge collected, less amounts retained for administrative expenses, shall be remitted by the communications service provider or reseller as follows: (1) 50% to the trauma system special fund established under HRS section 321-22.5; and (2) 50% to the John A. Burns school of medicine special fund established under HRS section 304A-2171. The surcharge collected by the communications service provider or reseller shall not be subject to any tax, fee, or assessment, nor is the surcharge considered revenue of the provider or reseller.

A customer shall be liable to the state for the surcharge until it has been paid to the communications service provider. Communications service providers shall have no liability to remit surcharges that have not been paid by customers. A communications service provider or reseller shall have no obligation to take any legal action to enforce the collection of the surcharge for which any customer is billed. Permits the department of health or the University of Hawaii to initiate a collection action against the customer.

“Communications service connection,” “communications service provider,” “prepaid connection” and “reseller” shall have the same meanings as in section HRS section 138-1.

Amends HRS section 321-22.5 to provide that surcharges collected shall be used to support public health educational campaigns, rehabilitative services, healthcare workforce development training programs, and telemedicine networks.

Revenue generated from the traffic safety injury prevention and treatment surcharge shall be deposited into a special account in the trauma system special fund. Moneys from the special account shall be used to fund: (1) public health educational campaigns related to traffic safety injury prevention; (2) rehabilitative services including patient and caregiver counseling, education, and training; (3) healthcare

workforce development training programs associated with an accredited university; and (4) support for telemedicine networks in all communities to ensure access to specialty care.

Amends HRS section 304A-2171 to provide that moneys transferred and deposited into the special fund shall be used to support the John A. Burns school of medicine's medical residency program and activities related to education and training for trauma care, rehabilitative care, and emergency medical services.

EFFECTIVE DATE: July 1, 2013

STAFF COMMENTS: This measure would impose a monthly 66 cent surcharge on each telephone number issued by a communications service provider with the revenue collected deposited into the trauma system special fund and the John A. Burns school of medicine special fund.

The purpose clause of the measure states: "The legislature also finds that between 2007 and 2010, inattentive or distracted driving was the third most common contributing factor in fatal car crashes in Hawaii. Distracted driving often occurs because of cell phone use. Therefore, a surcharge on communications service connections could be used to promote traffic safety injury prevention and treatment-related programs." To address the problem of distracted driving, it should be noted that as of 2010 all four counties ban the use of cell phones while driving. Therefore, the argument that this measure makes - that the use of cell phones distracts drivers and, therefore, creates a need for emergency medical services rings hollow. Apparently the author of this measure does not know about the actions taken by her county and others. It underscores the fact that this measure represents nothing more than another attempt to raise even more revenue from taxpayers.

While this measure proposes a traffic safety injury prevention and treatment surcharge to extract additional revenues for the trauma system special fund and the John A. Burns school of medicine special fund, it is questionable whether the amount derived from this additional source will be sufficient for the purposes of the special funds. If insufficient revenues are generated from this source, the amount of the surcharge may be increased or other sources of revenue may be tapped. Further, one has to ask what is the relationship between the issuance of a telephone number and the need for trauma or medical care other than the assumption that these people cause traffic accidents that need such care.

If the legislature wishes to generate revenues for the trauma system special fund and the John A. Burns school of medicine special fund, then they should utilize the appropriation process to ensure that adequate funds are appropriated. What this proposal says loud and clear is that lawmakers are not willing to use existing resources already provided to them by all taxpayers to pay for what they have deemed essential to the health and welfare of the community. This is, no doubt, emblematic of the legislature's inability to set spending priorities.

What this measure does underscore is the point that has been made over and over again, where fees or taxes are earmarked for a particular program or service and bear no relationship for the demand of that service, there will always be a mismatch of revenues and expenditures. Either the fee will generate insufficient resources or produce more resources than necessary for the program. To reiterate, it is, therefore, more appropriate to actually appropriate the necessary funds out of general funds for the desired purposes.

Taxpayers should recognize this proposal for what it is, a tax increase. It should be noted that the legislature has already provided a dedicated funding mechanism with fines that can be levied on moving traffic violations and it should be noted that these penalties are substantial amounts. Before any additional funding is provided to the trauma special fund, the fund and the beneficiary program should be audited. Similarly, taxpayers need to raise the question of how the John A. Burns school of medicine's medical residency program and activities related to education and training for trauma care, rehabilitative care, and emergency medical services are currently being funded. Again, one has to ask whether or not this source of revenues is appropriate to fund the residency program. Do lawmakers believe that taxpayer won't notice that this is nothing more than another hit on their pocketbooks for a totally irrelevant program?

Finally, cell phone users should be insulted by this proposal as they recall that the enhanced 911 fee extracted on their monthly bill several years ago to upgrade the capabilities for emergency response services to determine the location of an emergency request was conveniently raided by lawmakers despite warnings by the federal government that doing so would disqualify Hawaii from receiving matching federal funds. Obviously, lawmakers don't care that not only do they soak taxpayers for additional fees, but the revenues that they promise for this or that purpose, in this case for the trauma fund and for interns of the medical school is a shallow promise as they have already demonstrated the lack of commitment by raiding the enhanced 911 fee at the expense of losing federal matching funds. Thus, taxpayers should have every right to be cynical about a proposal like this. Given the track record of the legislature, the idea that the funds raised by the proposed fee will be used for the stated purpose is disingenuous at the least and hypocritical at the most.

Digested 2/4/12



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S.B. 489, RELATING TO TRAFFIC SAFETY
Senate Committee on Transportation and International Affairs
Senate Committee Commerce and Consumer Protection
February 6, 2013, 1:16 p.m.
Room 224

My name is Cora Speck, and I have worked as the Injury Prevention Coordinator at The Queen's Medical Center's Trauma Center for over five years. I am also a cell phone user, a driver, and a pedestrian.

It is very common to witness the distraction of fellow drivers and pedestrians (caused by cell phone use) during my daily commute. And working at Queen's, it is unfortunately easy to see how distracted road users cause PREVENTABLE catastrophic injuries to themselves and others.

I support SB489, which would add a very small surcharge onto cell phone users' bills, and increase funding for trauma injury prevention, care of critically injured trauma patients, and strengthening of Hawaii's medical education.

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 04, 2013 5:04 PM
To: TIATestimony
Cc: wwagner@hhsc.org
Subject: *Submitted testimony for SB489 on Feb 6, 2013 13:16PM*

SB489

Submitted on: 2/4/2013

Testimony for TIA/CPN on Feb 6, 2013 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Wendi Wagner	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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