

JAN 23 2014

A BILL FOR AN ACT

RELATING TO ENHANCED 911 SURCHARGES.

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

1 SECTION 1. The legislature finds that, unlike traditional
2 telecommunication services, prepaid wireless telecommunications
3 services are not sold or used pursuant to term contracts or
4 subscriptions, and monthly bills are not sent to consumers by
5 prepaid wireless telecommunication service providers or retail
6 vendors. Instead, purchases tend to be made on a "cash-and-
7 carry" or "pay-as-you-go" basis from retailers at a wide variety
8 of general retail locations. Nevertheless, prepaid wireless
9 consumers have the same access to emergency 911 services from
10 their wireless devices as wireless consumers on term contracts,
11 and prepaid wireless consumers benefit from the ability to
12 access the 911 system by dialing 911, all without having to pay
13 the enhanced 911 surcharge imposed on wireless consumers on term
14 contracts.

15 In order to ensure equitable contributions to the funding
16 of 911 systems from consumers of prepaid wireless
17 telecommunication services, the collection and payment
18 obligation of charges to support enhanced 911 should be imposed



1 upon the consumer's retail purchase of the prepaid wireless
2 telecommunication service and should be in the form of a single,
3 statewide charge that is collected once at the time of purchase
4 directly from the consumer.

5 SECTION 2. Section 138-1, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By adding a new definition to be appropriately inserted
8 and to read as follows:

9 "Prepaid wireless telecommunications service" means a
10 wireless telecommunications service that allows a caller to dial
11 911 to access the 911 system, requires payment in advance of
12 service, and is sold in predetermined units or dollars of which
13 the number declines with use in a known amount."

14 2. By amending the definition of "prepaid connection" to
15 read as follows:

16 "Prepaid connection" means the sale of a communications
17 service other than a prepaid wireless telecommunications service
18 that is paid for in advance or sold in predetermined units of
19 which the number of units declines with use of the services."

20 SECTION 3. Section 138-2, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) There is created within the department of accounting
2 and general services, for administrative purposes, an enhanced
3 911 board consisting of thirteen voting members; provided that
4 the membership shall consist of:

5 (1) The chief information officer or the chief information
6 officer's designee;

7 (2) Three representatives from wireless communications
8 service providers, who shall be appointed by the
9 governor as provided in section 26-34; provided that
10 at least one of the three representatives shall be
11 from a prepaid wireless telecommunications service
12 provider;

13 (3) One representative each from the public safety
14 answering points for Oahu, Hawaii, Kauai, Maui, and
15 Molokai and one representative, chosen by the mayor of
16 the city and county of Honolulu, who shall be
17 appointed by the governor as provided in section 26-
18 34;

19 (4) The consumer advocate or the consumer advocate's
20 designee;

21 (5) One representative from a communications service
22 company that offers Interconnected Voice over Internet



1 Protocol services, who shall be appointed by the
 2 governor as provided in section 26-34; and
 3 (6) One representative of the public utility providing
 4 telecommunications services and land line enhanced 911
 5 services through section 269-16.95."

6 SECTION 4. Section 138-4, Hawaii Revised Statutes, is
 7 amended to read as follows:

8 "**§138-4 Surcharge.** (a) [A] Subject to this chapter, a
 9 monthly enhanced 911 surcharge~~[, subject to this chapter,]~~ shall
 10 be imposed upon each communications service connection~~[, except~~
 11 ~~connections of the public utility providing telecommunications~~
 12 ~~services and land line enhanced 911 services through section~~
 13 ~~269-16.95.]~~ and a one-time enhanced 911 surcharge shall be
 14 imposed upon each prepaid wireless telecommunication service.

15 (b) The rate of the surcharge shall be set at 66 cents per
 16 month for each communications service connection~~[,]~~; provided
 17 that the surcharge shall be set at _____ for each prepaid
 18 wireless telecommunication service. The surcharge shall have
 19 uniform application and shall be imposed on each communications
 20 service connection operating within the State except:

21 (1) Connections billed to federal, state, and county
 22 governmental entities;



- 1 (2) Prepaid connections; and
- 2 (3) Connections provided by the public utility providing
- 3 telecommunications services and land line enhanced 911
- 4 services through section 269-16.95.

5 (c) ~~[All]~~ Except as provided in subsection (1), all

6 communications service providers and resellers shall bill to and

7 collect from each of their customers a monthly surcharge at the

8 rate established for each communications service connection.

9 The communications service provider or reseller may list the

10 surcharge as a separate line item on each bill. If a

11 communications service provider or reseller receives a partial

12 payment for a monthly bill from a communications service

13 customer, the communications service provider or reseller shall

14 apply the payment against the amount the customer owes the

15 communications service provider or reseller, before applying the

16 partial payment against the surcharge.

- 17 (d) A communications service provider that:
- 18 (1) Is collecting the surcharge and remitting appropriate
 - 19 portions of the surcharge to the fund pursuant to this
 - 20 chapter; and



1 (2) Has been requested by a public safety answering point
2 to provide enhanced 911 service in a particular county
3 or counties,

4 may recover enhanced 911 service costs as provided in this
5 chapter.

6 (e) Each communications service provider or reseller may
7 retain two per cent of the amount of surcharges collected to
8 offset administrative expenses associated with billing and
9 collecting the surcharge.

10 (f) A communications service provider or reseller shall
11 remit to the enhanced 911 fund, within sixty days after the end
12 of the calendar month in which the surcharge is collected, an
13 amount that represents the surcharges collected less amounts
14 retained for administrative expenses incurred by the
15 communications service provider or reseller, as provided in
16 subsection (e).

17 (g) A public utility providing telecommunications services
18 and land line enhanced 911 services for its customer base and
19 other service providers using the wire line provider's enhanced
20 911 service may collect and retain the surcharge at the
21 established rate set forth in section 269-16.95.



1 (h) The surcharges collected by the communications service
2 provider or reseller pursuant to this section shall not be
3 subject to any tax, fee, or assessment, nor are the surcharges
4 considered revenue of the provider or reseller.

5 (i) Each customer who is subject to this chapter shall be
6 liable to the State for the surcharge until it has been paid to
7 the communications service provider. Communications service
8 providers shall have no liability to remit surcharges that have
9 not been paid by customers. A communications service provider
10 or reseller shall have no obligation to take any legal action to
11 enforce the collection of the surcharge for which any customer
12 is billed. However, the board may initiate a collection action
13 against the customer. If the board prevails in such a
14 collection action, reasonable attorney's fees and costs shall be
15 awarded.

16 (j) At any time the members deem it necessary and
17 appropriate, the board may meet to make recommendations to the
18 legislature as to whether the surcharge and fund should be
19 discontinued, continued as is, or amended.

20 (k) When considering whether to discontinue, continue as
21 is, or amend the fund or surcharge, the board's recommendations



1 shall be based on the latest available information concerning
2 costs associated with providing enhanced 911 service.

3 (1) A communications service provider or reseller shall
4 collect the surcharge on a prepaid wireless telecommunications
5 service connection from its customer at the time of the sale.
6 If a prepaid wireless telecommunications service connection is
7 transacted with the sale of one or more other products or
8 services for a single, non-itemized price, then the amount
9 specified in subsection (b) shall apply to the entire non-
10 itemized price; provided that if a minimal amount of prepaid
11 wireless telecommunication service is sold with a prepaid
12 wireless device for a single, non-itemized price, then the
13 communications service provider or reseller may elect not to
14 apply the amount specified in subsection (b) to the prepaid
15 connection. For purposes of this subsection, an amount of
16 service denominated as ten minutes or less, or \$5 or less, is
17 deemed minimal."

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on January 1, 2015.

2

INTRODUCED BY: Will Eyrvo



S.B. NO. 3103

Report Title:

Prepaid Wireless; Enhanced 911 Surcharge

Description:

Imposes an enhanced 911 surcharge upon prepaid wireless telecommunications service providers.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

