
A BILL FOR AN ACT

RELATING TO ENHANCED 911 SURCHARGE.

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

1 SECTION 1. Chapter 138, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§138- Prepaid wireless enhanced 911 surcharge. (a) A
5 prepaid wireless enhanced 911 surcharge of 1.2 per cent for each
6 retail sale of a prepaid wireless telecommunications service
7 shall be assessed and collected by each communications service
8 provider, reseller, or seller. The surcharge is the liability
9 of the customer and not of the provider, reseller, or seller,
10 and shall be listed separately on any receipt or invoice
11 provided to the customer.

12 (b) Each communications service provider, reseller, or
13 seller shall remit to the enhanced 911 fund, within sixty days
14 after the end of the calendar month in which any surcharge is
15 collected:

16 (1) An amount that represents the surcharges collected
17 less amounts retained for administrative expenses



1 incurred by the communications service provider,
2 reseller, or seller as provided in subsection (c); and

3 (2) The name, communication service connection, shipping
4 address, or billing address of each customer.

5 (c) Each communications service provider, reseller, or
6 seller may retain 3 per cent of the amount of surcharges
7 collected from each retail sale to offset administrative
8 expenses associated with billing and collecting the surcharge.

9 (d) The surcharge collected by the communications service
10 provider, reseller, or seller pursuant to this section shall not
11 be subject to any tax, nor are the surcharges considered gross
12 income of the provider, reseller, or seller.

13 (e) If the sale of the prepaid wireless telecommunications
14 service does not take place at the provider's, reseller's, or
15 seller's place of business, it shall be conclusively determined
16 to take place at the customer's shipping address, or if there is
17 no item shipped, the customer's billing address."

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

20 1. By adding five new definitions to be appropriately
21 inserted and to read:



1 "Customer" means a person who subscribes to a residential
2 or commercial communications service connection or purchases
3 prepaid wireless telecommunications service in a retail sale.

4 "Prepaid wireless telecommunications service" means a
5 wireless telecommunications service sold in a retail sale that
6 allows a caller to dial 911 to access the 911 system, must be
7 prepaid for in advance, and is sold in predetermined units or
8 dollars that decline with use of the service.

9 "Retail sale" means the purchase of prepaid wireless
10 telecommunications service from a communications service
11 provider, reseller, or seller for any purpose other than resale.

12 "Seller" means a person who sells retail prepaid wireless
13 telecommunications service to an end user whose place of primary
14 use is within the State.

15 "Wireless telecommunications service" means commercial
16 mobile radio service as defined in title 47 of the Code of
17 Federal Regulations, section 20.3, as amended."

18 2. By amending the definition of "communications service
19 provider" to read:

20 "Communications service provider" or "provider" means an
21 entity that provides communications service to a subscriber.



1 3. By repealing the definition of "prepaid connection".
2 ["~~Prepaid connection~~" means the sale of a communications
3 ~~service that is paid for in advance or sold in predetermined~~
4 ~~units of which the number of units declines with use of the~~
5 ~~services.~~"]

6 SECTION 3. Section 138-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§138-3 Enhanced 911 fund. There is established outside
9 the state treasury a special fund, to be known as the enhanced
10 911 fund, to be administered by the board. The fund shall
11 consist of amounts collected under [~~section~~] sections 138-4 [-]
12 and 138- . The board shall place the funds in an interest-
13 bearing account at any federally insured financial institution,
14 separate and apart from the general fund of the State. Moneys
15 in the fund shall be expended exclusively by the board for the
16 purposes of ensuring adequate funding to deploy and sustain
17 enhanced 911 service, developing and funding future enhanced 911
18 technologies, and funding expenses of administering the fund."

19 SECTION 4. Section 138-4, Hawaii Revised Statutes, is
20 amended as follows:

21 1. By amending subsection (b) to read:



1 "(b) The rate of the surcharge shall be set at 66 cents
2 per month for each communications service connection. The
3 surcharge shall have uniform application and shall be imposed on
4 each communications service connection operating within the
5 State except:

6 (1) Connections billed to federal, state, and county
7 governmental entities;

8 (2) Prepaid wireless telecommunications service
9 connections; and

10 (3) Connections provided by the public utility providing
11 telecommunications services and land line enhanced 911
12 services through section 269-16.95."

13 2. By amending subsection (i) to read:

14 "(i) Each customer who [~~is subject to this chapter~~]
15 subscribes to a residential or commercial communications service
16 connection shall be liable to the State for the surcharge
17 imposed by this section until it has been paid to the
18 communications service provider. Communications service
19 providers or resellers shall have no liability to remit
20 surcharges that have not been paid by customers. A
21 communications service provider or reseller shall have no



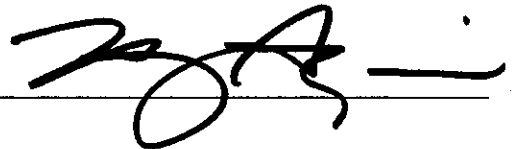
1 obligation to take any legal action to enforce the collection of
2 the surcharge for which any customer is billed. However, the
3 board may initiate a collection action against the customer. If
4 the board prevails in such a collection action, reasonable
5 attorney's fees and costs shall be awarded."

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect on January 1, 2016.

9

INTRODUCED BY: _____



JAN 23 2015



H.B. NO. 431

Report Title:

911 Surcharge; Prepaid Wireless Telecommunications Service

Description:

Establishes a prepaid wireless 911 surcharge of 1.2 per cent of each retail sale by a communication service provider, reseller, or seller, which shall be the liability of the customer.

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

