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# A BILL FOR AN ACT

RELATING TO ENHANCED 911 SURCHARGES.

**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 E911 surcharge. (a) A prepaid  
5 wireless E911 surcharge of \_\_\_\_\_ cents shall be imposed on each  
6 retail transaction of prepaid wireless telecommunications  
7 service. The prepaid wireless E911 surcharge is the liability  
8 of the consumer and not of the seller or provider.

9 (b) The prepaid wireless E911 surcharge shall be collected  
10 by the seller from the consumer with respect to each retail  
11 transaction occurring within the State. The amount of the  
12 prepaid wireless E911 surcharge shall be separately listed on an  
13 invoice, receipt, or other similar document that is provided to  
14 the consumer by the seller; or otherwise disclosed to the  
15 consumer.

16 (c) A retail transaction that is transacted in person by a  
17 consumer at a seller's business location shall be treated as  
18 occurring within the State if the business location is within



1 the State or for any retail transaction that is treated as  
2 occurring in the State for purposes of the tax imposed pursuant  
3 to section 237-13.8; provided that if no tangible personal  
4 property is shipped and the billing address of the consumer or  
5 the consumer's payment instrument is not known, the transaction  
6 shall be sourced to the State if the consumer's mobile telephone  
7 is associated with an address within the State.

8 (d) A seller may deduct and retain 3 per cent of prepaid  
9 wireless E911 surcharges collected from consumers. The seller  
10 shall remit the balance of prepaid wireless E911 surcharges  
11 collected from consumers, including all surcharges collected  
12 where the amount of the surcharge has not been separately stated  
13 on an invoice, receipt, or other similar document provided to  
14 the consumer by the seller, to the board. The board may require  
15 sellers to remit the balance of the surcharges collected  
16 electronically and shall establish registration and payment  
17 procedures.

18 (e) The amount of the prepaid wireless E911 surcharge that  
19 is collected by a seller from a consumer, if the amount is  
20 separately stated on an invoice, receipt, or other similar  
21 document provided to the consumer by the seller, shall not be



1 included in the base for measuring any tax, fee, surcharge, or  
2 other charge that is imposed by the State, any political  
3 subdivision of the State, or any intergovernmental agency.

4 (f) If a minimal amount of prepaid wireless  
5 telecommunications service is sold with a prepaid wireless  
6 device for a single, non-itemized price, the seller shall not  
7 apply the surcharge imposed in subsection (a) to the  
8 transaction. For purposes of this subsection, a "minimal  
9 amount" means service of ten minutes or less or \$5 or less.

10 (g) The board shall establish procedures by which a seller  
11 of prepaid wireless telecommunications service may document that  
12 a sale is not a retail transaction.

13 (h) Within thirty days of receipt and for use in  
14 accordance with the purposes of chapter 138, the board shall  
15 transfer all remitted prepaid wireless E911 surcharges to the  
16 enhanced E911 fund pursuant to section 138-3.

17 (i) Section 138-9 shall apply to providers and sellers.

18 (j) No provider or seller shall be liable for damages to  
19 any person resulting from or incurred in connection with the  
20 provision of any lawful assistance to any investigative or law  
21 enforcement officer of the United States or any political



1 subdivision, in connection with any lawful investigation or  
2 other law enforcement activity by such law enforcement officer.

3 (k) The prepaid wireless E911 surcharge imposed by this  
4 section shall be the only funding obligation imposed on prepaid  
5 wireless telecommunications service in the State for enhanced  
6 911 services. No other tax, fee, surcharge, or other charge for  
7 enhanced 911 services shall be imposed by the State, any  
8 political subdivision of the State, or any intergovernmental  
9 agency, upon any provider, seller, or consumer with respect to  
10 the sale, purchase, use, or provision of prepaid wireless  
11 telecommunications service."

12 SECTION 2. Section 138-1, Hawaii Revised Statutes, is  
13 amended by adding seven new definitions to be appropriately  
14 inserted and to read as follows:

15 "Consumer" means a person who purchases prepaid wireless  
16 telecommunications service in a retail transaction.

17 "Prepaid wireless E911 surcharge" means the surcharge that  
18 is required to be collected by a seller from a consumer in the  
19 amount established under 138- .

20 "Prepaid wireless telecommunications service" means a  
21 wireless telecommunications service that is sold in



1 predetermined units or dollars that decline with use in a known  
2 amount and allows a caller to dial 911 to access the 911 system,  
3 a service that shall be paid for in advance.

4 "Provider" means a person that provides prepaid wireless  
5 telecommunications service pursuant to a license issued by the  
6 Federal Communications Commission.

7 "Retail transaction" means the purchase of prepaid wireless  
8 telecommunications service from a seller for any purpose other  
9 than resale.

10 "Seller" means a person who sells prepaid wireless  
11 telecommunications service to another person.

12 "Wireless telecommunications service" means commercial  
13 mobile radio service as defined by title 47 Code of Federal  
14 Regulations section 20.3."

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

17 **"§138-3 Enhanced 911 fund.** There is established outside  
18 the state treasury a special fund, to be known as the enhanced  
19 911 fund, to be administered by the board. The fund shall  
20 consist of amounts collected under [~~section~~] sections 138-4[~~-~~]  
21 and 138- . The board shall place the funds in an interest-



1 bearing account at any federally insured financial institution,  
2 separate and apart from the general fund of the State. Moneys  
3 in the fund shall be expended exclusively by the board for the  
4 purposes of ensuring adequate funding to deploy and sustain  
5 enhanced 911 service, developing and funding future enhanced 911  
6 technologies, and funding expenses of administering the fund."

7 SECTION 4. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect on July 1, 2020.



**Report Title:**

Prepaid Wireless; Enhanced 911 Surcharge

**Description:**

Establishes an unspecified prepaid wireless E911 surcharge per retail transaction of prepaid wireless telecommunications service at the point of sale; allows sellers to deduct and retain 3 per cent of the surcharge that is collected; and requires the amounts collected by the enhanced 911 board to be placed in the enhanced 911 fund. Effective July, 1, 2020.  
(SD1)

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

