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# A BILL FOR AN ACT

RELATING TO ENHANCED 911 SERVICES.

**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 1.5 per cent shall be imposed on the  
6 amount of prepaid wireless telecommunications service purchased.  
7 The prepaid wireless E911 surcharge shall be the liability of  
8 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  
13 any invoice, receipt, or other similar document that is provided  
14 to the consumer by the seller.

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



1 the State. A transaction shall also be treated as occurring  
2 within the State if the tangible personal property is shipped  
3 and the consumer's shipping address is within the State or, if  
4 there is no shipment, if the consumer's billing address is  
5 within the State. If no tangible personal property is shipped  
6 and the consumer's billing address is not known, the transaction  
7 shall be treated as occurring within the State if the consumer's  
8 prepaid wireless device is associated with an address within the  
9 State.

10 (d) A seller may deduct and retain three per cent of  
11 prepaid wireless E911 surcharges collected from consumers to  
12 offset administrative expenses associated with collecting the  
13 surcharge.

14 (e) The seller shall remit monthly, quarterly, or semi-  
15 annually on a calendar year basis to the enhanced 911 fund the  
16 balance of prepaid wireless E911 surcharges collected from  
17 consumers not later than the twentieth day after the end of the  
18 applicable remittance period. The frequency of remittance shall  
19 be determined as follows:



- 1        (1) If the seller expects to collect more than \$4,000 in  
2        prepaid wireless E911 surcharges during the year, the  
3        seller shall remit monthly;
- 4        (2) If the seller expects to collect \$4,000 or less in  
5        prepaid wireless E911 surcharges during the year, the  
6        seller may remit quarterly; and
- 7        (3) If the seller expects to collect \$2,000 or less in  
8        prepaid wireless E911 surcharges during the year, the  
9        seller may remit semi-annually.
- 10       (f) The board may require sellers to remit electronically  
11       the balance of the surcharges collected and shall establish  
12       registration and payment procedures.
- 13       (g) The amount of the prepaid wireless E911 surcharge that  
14       is collected by a seller from a consumer shall not be included  
15       in the base for measuring any tax, fee, surcharge, or other  
16       charge that is imposed by the State, any political subdivision  
17       of the State, or any governmental agency.
- 18       (h) If a minimal amount of prepaid wireless  
19       telecommunications service is sold with a prepaid wireless  
20       device for a single, non-itemized price, the seller shall not  
21       apply the surcharge imposed in subsection (a) to the



1 transaction. For purposes of this subsection, a "minimal  
2 amount" means service of ten minutes or less or \$5 or less.

3 (i) The board shall establish procedures by which a seller  
4 of prepaid wireless telecommunications service may document that  
5 a sale is not a retail transaction occurring within the state.

6 (j) Section 138-9 shall apply to providers and sellers.

7 (k) No provider or seller shall be liable for damages to  
8 any person resulting from or incurred in connection with the  
9 provision of any lawful assistance to any investigative or law  
10 enforcement officer of the United States or any political  
11 subdivision, in connection with any lawful investigation or  
12 other law enforcement activity by the investigative or law  
13 enforcement officer.

14 (l) The prepaid wireless E911 surcharge imposed by this  
15 section shall be the only funding obligation imposed on prepaid  
16 wireless telecommunications service in the State for enhanced  
17 911 services. No other tax, fee, surcharge, or other charge for  
18 enhanced 911 services shall be imposed by the State, any  
19 political subdivision of the State, or any governmental agency,  
20 upon any provider, seller, or consumer with respect to the sale,



1 purchase, use, or provision of prepaid wireless  
2 telecommunications service."

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

6 "Consumer" means a person or entity who purchases  
7 commercial mobile radio service or prepaid wireless  
8 telecommunications service in a retail transaction occurring  
9 within the State.

10 "Prepaid wireless E911 surcharge" means the surcharge that  
11 is required to be collected by a seller from a consumer in the  
12 amount established under section 138- .

13 "Prepaid wireless telecommunications service" means a  
14 wireless telecommunications service that:

- 15 (1) Is required to be paid for in advance;
- 16 (2) Is sold in predetermined units or dollars that decline  
17 with use in a known amount with respect to the minutes  
18 of usage or period of time for the service; and
- 19 (3) Allows a caller to dial 911 to access the 911 system.

20 "Provider" means a person or entity that provides  
21 commercial mobile radio service or prepaid wireless



1 telecommunications service pursuant to a license issued by the  
2 Federal Communications Commission.

3 "Retail transaction" means the purchase of commercial  
4 mobile radio service or prepaid wireless telecommunications  
5 service from a seller for any purpose other than resale.

6 "Seller" means a person or entity who sells commercial  
7 mobile radio service or prepaid wireless telecommunications  
8 service to another person.

9 "Wireless telecommunications service" means commercial  
10 mobile radio service as defined by title 47 Code of Federal  
11 Regulations section 20.3."

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

14 "**§138-3 Enhanced 911 fund.** There is established outside  
15 the state treasury a special fund, to be known as the enhanced  
16 911 fund, to be administered by the board. The fund shall  
17 consist of amounts collected under ~~[section]~~ sections 138-4[-]  
18 and 138- . The board shall place the funds in an interest-  
19 bearing account at any federally insured financial institution,  
20 separate and apart from the general fund of the State. Moneys  
21 in the fund shall be expended exclusively by the board for the



1 purposes of ensuring adequate funding to deploy and sustain  
2 enhanced 911 service, developing and funding future enhanced 911  
3 technologies, and funding expenses of administering the fund."

4 SECTION 4. Section 138-4, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6 "(b) The rate of the surcharge shall be set at 66 cents  
7 per month for each communications service connection. The  
8 surcharge shall have uniform application and shall be imposed on  
9 each communications service connection operating within the  
10 State except:

- 11 (1) Connections billed to federal, state, and county  
12 governmental entities;
- 13 (2) Prepaid connections [~~and~~], including prepaid wireless  
14 telecommunications service; and
- 15 (3) Connections provided by the public utility providing  
16 telecommunications services and land line enhanced 911  
17 services through section 269-16.95."

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

20 SECTION 6. This Act shall take effect on July 1, 2018.



**Report Title:**

Prepaid Wireless; Enhanced 911 Services; Surcharge

**Description:**

Establishes a prepaid wireless E911 surcharge of 1.5 per cent of prepaid wireless service purchased at the point of sale. Allows sellers to deduct and retain 3 per cent of the surcharges collected to offset administrative expenses, but requires sellers to remit the balance of surcharges collected to the Enhanced 911 fund on a specified periodic basis. Effective July 1, 2018. (SD1)

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

