

JAN 26 2022

A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC WIRELESS SAFETY ACT.

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

1 SECTION 1. The legislature finds that Hawaii, like other
2 jurisdictions, recognizes the need for responsible and managed
3 wireless growth. Hawaii has over two thousand wireless antenna
4 sites, many of which accommodate multiple wireless carriers.
5 With the rapid deployment of 5G networks to deliver faster and
6 more reliable communications, Hawaii recognizes that additional
7 wireless sites and radio frequency transmitting antennas will be
8 deployed to deliver better and expanded services (e.g., Internet
9 of Things, autonomous vehicles, fixed wireless broadband, and
10 faster video viewing) to consumers and business customers. The
11 Federal Communications Commission is taking leadership towards
12 moving the United States to lead the world in the next
13 generation of wireless connectivity, including Fifth Generation
14 or 5G technologies. These new networks and technologies will
15 enable faster speeds and low-latency wireless broadband
16 services, cultivating the Internet of Things and innovations not
17 yet imagined.



1 Unprecedented wireless data traffic requires network
2 densification with many new wireless antenna sites required to
3 deliver on the promise of 5G by filling in network gaps and
4 adding critical coverage and capacity for consumers and
5 businesses. The Federal Communications Commission has
6 considered additional safeguards pertaining to wireless site
7 safety and accountability, including H.R. 7236 introduced in
8 December 2018, to resolve the challenges of wireless antenna
9 site management. However, the Federal Communications Commission
10 has been unsuccessful in updating its rules and regulations to
11 promote the type of accountability required to safely manage
12 wireless growth and services in all segments of the industry.

13 The legislature further finds that, although wireless
14 communications service providers are licensed by the Federal
15 Communications Commission and are required to comply with the
16 Commission's regulations established to protect public health
17 and safety with regard to overexposure to radio frequency
18 emissions, a reliable, independent, and transparent methodology
19 for Commission licensees to generate, store, access, and share
20 the data and information necessary to assess potential risks to



1 public health and safety from radio frequency emissions, and
2 demonstrate compliance with regulations, has been lacking.

3 Similarly, in the absence of credible data and information
4 of this nature, public perceptions concerning wireless
5 technologies have too often been shaped by speculation and
6 misinformation rather than verifiable scientific evidence.

7 In addition, and unknown to most building and property
8 owners who host wireless antennas, global insurance providers no
9 longer offer coverage for any radio frequency-related injury
10 claims, which may leave unsuspecting property owners, including
11 the State of Hawaii and local governments, exposed to an
12 uninsured risk and potential claims and litigation.

13 Consistent with Hawaii public policy promoting the adoption
14 and utilization of broadband and other advanced information and
15 communication technologies, and Hawaii's commitment to
16 safeguarding the public health and safety of its citizenry, this
17 Act will place Hawaii in the vanguard of jurisdictions seeking
18 to promote responsible growth of wireless technologies through
19 the development of open, transparent, and reliable data and
20 information concerning radio frequency emissions associated with
21 these next generation technologies.



1 Accordingly, the purpose of this Act is to establish the
2 Hawaii Public Wireless Safety Act within the department of
3 commerce and consumer affairs to ensure that growth in new
4 wireless technologies, and corresponding growth in wireless
5 transmitting antennas, occurs in a responsible and managed
6 manner, consistent and in compliance with Federal Communications
7 Commission regulations. This Act further addresses and supports
8 the existing wireless transmitting systems, technological
9 growth, and deployment of 5G and other next generation wireless
10 technologies and services available to our communities today and
11 into the future and will help ensure that wireless antenna sites
12 located within the State utilize technology that addresses and
13 supports the needs of our communities for current and expanded
14 wireless service offerings.

15 SECTION 2. The Hawaii Revised Statutes is amended by
16 adding a new chapter to be appropriately designated and to read
17 as follows:

18 "CHAPTER

19 HAWAII PUBLIC WIRELESS SAFETY ACT

20 § -1 Definitions. As used in this chapter:

21 "Commission" means the Federal Communications Commission.



1 "Department" means the department of commerce and consumer
2 affairs.

3 "Director" means the director of the department of commerce
4 and consumer affairs.

5 "Facility" means a facility, operation or transmitter that
6 houses radio frequency transmitting antennas in a fixed location
7 and is subject to the radio frequency radiation exposure limits
8 set forth in title 47 C.F.R. section 1.1310.

9 "Fixed location" means, with respect to a facility,
10 operation or transmitter, is physically secured at one location
11 and is not able to be easily moved to another location.

12 "Radio frequency transmitting antenna" means a radio
13 frequency wireless transmitting antenna located at a facility.

14 **§ -2 Hawaii public wireless safety administration.** The
15 department shall administer this chapter through the director.
16 The director may delegate to or procure from any person the
17 power and authority vested in the director by this chapter as
18 the director deems reasonable and proper for the effective
19 administration of this chapter, except the power to make rules.

20 **§ -3 Hawaii public wireless safety; duties.** The
21 department shall establish a process to determine the most



1 appropriate means of providing the public, workers, and others
2 who may be in close proximity to an radio frequency transmitting
3 antenna at a facility with information that supports compliance
4 with the Commission's regulations pursuant to title 47 C.F.R.
5 section 1.1307(b), which establishes radio frequency exposure
6 limits at facilities to protect public health and safety. In
7 doing so, the department shall consider fully:

8 (1) A central data repository for the information to be
9 stored in and accessed by authorized users and include
10 radio frequency emission information for each
11 transmitting facility;

12 (2) The radio frequency information shall include all
13 necessary radio frequency emission characteristics of
14 the facility (e.g. transmitter power, transmit
15 frequency and antenna type) provided by each
16 Commission licensee to the State of Hawaii or
17 designated third party, together with any updates, to
18 ensure the public, workers, or others who may be
19 exposed to radio frequency emission areas that can
20 exceed the Commission's allowable radio frequency
21 exposure limits are not exposed to radio frequency



1 emission limits above the Commission's allowable radio
2 frequency exposure limits;

3 (3) The information shall include visual depictions of the
4 radio frequency emissions in relationship to the
5 physical improvement at such facilities, such that any
6 or all visual depictions of the radio frequency
7 emissions be attributed to a particular antenna or
8 sector at such facility with the latest information;

9 (4) A capability for exchanging information about
10 facilities and coordinating communications about the
11 facilities, both with respect to a particular facility
12 and with respect to multiple facilities, persons who
13 own or control sites where the facilities are located,
14 contractors performing work on the facilities or at
15 such sites, persons (including any of the foregoing)
16 who employ individuals performing work on the
17 facilities or at such sites or hire individuals
18 performing work on the facilities or at such sites,
19 and emergency service agencies or personnel;



- 1 (5) The ability for authorized persons to access and use
2 the latest available radio frequency emission
3 information system established under this section;
- 4 (6) The ability to record by whom and the date the
5 information as noted above was accessed to ensure
6 compliance with this chapter;
- 7 (7) A method to annually audit the site specific safety
8 information to ensure the accuracy of critical safety
9 information;
- 10 (8) A method that provides radio frequency exposure
11 insurance to affected parties, including the
12 Commission's licensees, property owners, employers,
13 State and local governments, and others, for radio
14 frequency-related injury claims at all wireless
15 antenna sites to minimize exposure to an uninsured
16 risk and potential claims and litigation;
- 17 (9) A neutral radio frequency compliance third-party to
18 administer and provide services with regard to the
19 proper creation, distribution, access, updates and
20 management of the information required in paragraphs
21 (1) through (8) above, and provide any other



1 additional related services as may be deemed necessary
2 by the director; and

3 (10) The department may prequalify a prospective third-
4 party radio frequency compliance administrator and
5 service provider for the performance of the services
6 in this section and limit a solicitation to those
7 prequalified administrators and service providers.

8 § -4 **Public wireless safety fund.** There is established
9 the public wireless safety fund to be administered by the
10 department. The fund shall consist of amounts collected under
11 section -5. The department shall place the funds in an
12 interest-bearing account at any federally insured financial
13 institution, separate and apart from the general fund of the
14 State. Moneys in the fund shall be expended exclusively by the
15 department for the purposes of ensuring adequate public wireless
16 safety and funding expenses of administering the fund.

17 § -5 **Wireless safety surcharge.** (a) A monthly wireless
18 safety surcharge, subject to this chapter, shall be imposed upon
19 each wireless communications service provider.

20 (b) The rate of the surcharge shall be set at one and one-
21 half per cent of the amount charged for all wireless services



1 fees billed to each customer per month for each wireless
2 communications service provider. The surcharge shall have
3 uniform application and shall be imposed on each wireless
4 communications service provider operating within the State
5 except services billed to federal, state, and county
6 governmental entities.

7 (c) All wireless communications service providers shall
8 bill to and collect from each of their customers a monthly
9 surcharge at the rate established in subsection (a). The
10 wireless communications service provider may list the surcharge
11 as a separate line item on each bill.

12 (d) A wireless communications service provider that is
13 collecting the surcharge and remitting appropriate portions of
14 the surcharge to the public wireless safety fund pursuant to
15 this chapter may recover costs as provided in this chapter.

16 (e) Each wireless communications service provider may
17 retain five per cent of the amount of surcharges collected to
18 offset administrative expenses associated with billing and
19 collecting the surcharge.

20 (f) A wireless communications service provider shall remit
21 to the public wireless safety fund, within sixty days after the



1 end of the calendar month in which the surcharge is collected,
2 an amount that represents the surcharges collected, less amounts
3 retained for administrative expenses incurred by the wireless
4 communications service provider, as provided in subsection (e).

5 (g) The surcharges collected by the wireless
6 communications service provider pursuant to this section shall
7 not be subject to any tax, fee, or assessment, nor shall the
8 surcharges be considered revenue of the provider.

9 (h) Each customer who is subject to this chapter shall be
10 liable to the State for the surcharge until it has been paid to
11 the wireless communications service provider. Wireless
12 communications service providers shall have no liability to
13 remit surcharges that have not been paid by customers. A
14 wireless communications service provider shall have no
15 obligation to take any legal action to enforce the collection of
16 the surcharge for which any customer is billed. However, the
17 department may initiate a collection action against the
18 customer. If the department prevails in the collection action,
19 reasonable attorney's fees and costs shall be awarded.

20 (i) At any time the department deems it necessary and
21 appropriate, the department may make recommendations to the



1 legislature as to whether the surcharge and fund should be
2 discontinued, continued as is, or amended.

3 (j) When considering whether to discontinue, continue as
4 is, or amend the fund or surcharge, the department's
5 recommendations shall be based on the latest available
6 information concerning costs associated with collecting and
7 disseminating wireless safety information."

8 SECTION 3. This Act shall take effect upon approval.
9

INTRODUCED BY: *N. D. W.*

By Request



S.B. NO. 3016

Report Title:

Department of Commerce and Consumer Affairs; Hawaii Public
Wireless Safety Act; Radio Frequencies; Special Fund; Surcharge

Description:

Establishes the Hawaii Public Wireless Safety Act to be
administered by the Department of Commerce and Consumer Affairs.

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

