

SB 193

RELATING TO ENHANCED 911 SURCHARGES

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; allows eHawaii.gov to retain up to 2 per cent of remitted surcharges to cover administrative costs; and requires the remaining amounts collected by eHawaii.gov to be placed in the enhanced 911 fund..

PSM/CPN, WAM

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Will Espero, Chair
and Members of the Senate Committee on Public Safety, Intergovernmental and
Military Affairs

The Honorable Rosalyn H. Baker, Chair
and Members of the Senate Committee on Commerce and Consumer Protection

Date: Friday, February 6, 2015
Time: 10:15 A.M.
Place: Conference Room 229, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 193, Relating to Enhanced 911 Surcharges

The Department of Taxation (Department) appreciates the intent of S.B. 193 and provides the following comments for your consideration.

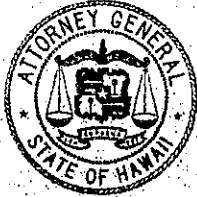
S.B. 193 imposes a surcharge on each retail transaction of prepaid wireless telecommunications service. The bill deems the consumer liable for the surcharge, but requires the seller or provider to collect the surcharge from the consumer. The surcharge seller or provider must pay over the surcharge to eHawaii.gov.

S.B. 193 excludes the proposed surcharge from any tax, fee, or surcharge imposed by the State if the surcharge is separately stated on a receipt or invoice to the customer. The current enhanced 911 surcharge is excluded from any tax, fee, or surcharge by the state but the exclusion does not depend on the fee being separately stated. The Department suggests amending the exclusion language to ensure consistency between the two surcharges.

The Department also recommends that subsection (g) be removed from the bill. Subsection (g) applies general excise tax (GET) audit and appeal procedures to the prepaid wireless surcharge. However, because the proposed surcharge is excluded from any tax, fee, or surcharge imposed by the State, the audit and appeal procedures under title 14 of the Hawaii Revised Statutes, cannot be applied.

For this reason, the Department suggests removal of subsection (g), and the inclusion of language to follow the current enhanced 911 surcharge procedures. The current enhanced 911 surcharge procedures contain audit and appeal procedures, allowing the Enhanced 911 Board to requests audits and handle disputes arising from the enhanced 911 surcharge.

Thank you for the opportunity to provide comments.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

S.B. NO. 193, RELATING TO ENHANCED 911 SURCHARGES.

BEFORE THE:

**SENATE COMMITTEES ON PUBLIC SAFETY, INTERGOVERNMENTAL AND
MILITARY AFFAIRS AND ON COMMERCE AND CONSUMER PROTECTION**

DATE: Friday, February 6, 2015

TIME: 10:15 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Russell A. Suzuki, Attorney General, or
Stella M.L. Kam, Deputy Attorney General

Chair Espero, Chair Baker and Members of the Committees:

The Department of the Attorney General provides the following comments.

This bill adds a new section to chapter 138, Hawaii Revised Statutes (HRS), to provide for the collection of the 911 surcharge from prepaid wireless consumers at the retail point of sale. However, the "department" responsible for collecting the prepaid wireless service surcharge is defined in section 2 of this bill as "eHawaii.gov," which is the State of Hawaii's official website, but is not a government agency. The "department" must be an entity that can establish procedures for the registration and payment of the surcharge as well as collect and deposit the surcharge amounts into the Enhanced 911 Fund. We recommend changing the definition of the term "department" in section 2 of this bill to "the Enhanced 911 Board." Alternatively, all references to "department" in this bill can be deleted and replaced with "the Enhanced 911 Board."

In addition, we note that subsections (g) and (h) on page 3, lines 11-18, in the proposed new section reference chapter 237, HRS, which is the General Excise Tax Law administered by the Department of Taxation. The Enhanced 911 Board ("Board") does not have the enforcement powers or the resources of the Department of Taxation sufficient to develop and administer the type of procedures set forth in chapter 237, HRS. Therefore, we recommend deleting subsection (g) in its entirety. We also recommend deleting the phrase "which procedures shall coincide with the procedures for documenting sale for resale transactions, pursuant to chapter 237" in subsection (h).

Finally, if the "department" responsible for collecting and depositing the prepaid wireless service surcharges into the Enhanced 911 Fund is defined as the "Enhanced 911 Board," we also recommend that the last phrase of subsection (i) on page 4, lines 1-4, ("provided that the department may retain up to 2 per cent of the remitted surcharges to cover the costs of administering the prepaid wireless E911 surcharges.") be deleted.

We respectfully ask the Committees to pass this bill with the recommended amendments.

TESTIMONY
OF
PAUL K. FERREIRA,
STATE OF HAWAII, ENHANCED 911 BOARD
TO THE
SENATE COMMITTEES
ON
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS
AND
ON
COMMERCE AND CONSUMER PROTECTION
ON
FEBRUARY 6, 2015
10:15 A.M.
STATE CAPITOL, CONFERENCE ROOM 229

IN SUPPORT WITH AMENDMENTS
OF
SENATE BILL 193
RELATING TO ENHANCED 911 SURCHARGES

Chair Espero, Chair Baker, Vice Chair Taniguchi, and members of the committees, thank you for the opportunity to testify on SB 193.

The Enhanced 911 Board (Board) supports SB 193 that seeks to collect the 911 surcharge from prepaid wireless consumers at the retail point of sale, however, would like to offer the following amendments to the current language in this measure. These amendments are necessary in that the Board lacks the powers and resources of the Department of Taxation, which is charged with administering chapter 237, Hawaii Revised Statutes ("General Excise Tax Law"; therefore, the references to chapter 237, Hawaii Revised Statutes, in the current version of SB 193, would not be appropriate. The amendments recommended by the Board are:

1. Delete in its entirety subsection (g), as it pertains to audit and appeal procedures cited in Chapter 237, Hawaii Revised Statutes.
2. Delete the second half of subsection (h) (i.e., delete "which procedures shall coincide with the procedures for documenting sale for resale transactions, pursuant to chapter 237.")
3. Delete the last phrase in subsection (i) "provided that the department may retain up to 2 per cent of the remitted surcharges to cover the costs of administering the prepaid wireless E911 surcharges".
4. In Section 2, redefine to read "Department" means "the Enhanced 911 Board." The reason being that "ehawaii.gov" is the State's website, not an agency, and therefore is not appropriate to be defined as the "department" with the noted responsibilities.

The collection on prepaid wireless 911 surcharge is very important in order to sustain adequate funding for enhanced 911 statewide. Our testimony is provided today on behalf of the thirteen-member Enhanced 911 Board that is comprised of representatives from each of the Public Safety Answering Points (PSAPs), representatives of the communications service providers, the public utility, and representatives from State agencies.

911 surcharges should be imposed in a fair and equitable manner with respect to prepaid mobile service like the 911 surcharge is collected today for postpaid wireless. The 911 surcharge should be imposed upon all consumers of telecommunication services that have the ability to access 911. This is an important funding mechanism to assist state and local governments in sustaining 911 systems and to provide for the deployment of new and emerging technologies. Prepaid wireless telecommunications services are an important segment of the telecommunications industry and have grown in use by consumers; however, today prepaid wireless consumers are exempt from the surcharge and yet have always had access to 911.

Today consumers of prepaid wireless are being subsidized by postpaid consumers who pay a monthly 911 surcharge. To be fair and equitable, prepaid wireless consumers should not be exempt from the 66 cent 911 surcharge and therefore should pay a 66 cents 911 surcharge per transaction at the point of sale.

The telecommunications industry association estimates prepaid wireless consumers represent approximately 20% of the consumer market in Hawaii. All states have experienced tremendous growth of prepaid which is why 36 states have now adopted legislation to collect a 911 surcharge from prepaid wireless consumers. The prepaid business model rather than postpaid contracts is the trend for the wireless industry today. While in the beginning prepaid was a good option for low income consumers, these are not the only consumers opting for prepaid rather than a contract today. Commercial ads by the carriers have made it evident that the prepaid consumer is a broad market in the competitive market of the wireless industry. Contracts will likely be non-existent in the near future. Without the collection of the 911 surcharge on prepaid wireless the State of Hawaii will be facing reductions in revenue to support our 911 system.

Wireless Enhanced 911 was established by the State of Hawaii in 2004. The 911 surcharge has to date been funded in the postpaid model. The 911 surcharge is service connections that are purchased by consumers at retail on a "pay as you go" basis with no contracts or monthly bills.

SB 193 as written does not remove the exemption on prepaid service connections for monthly charges, but does establish a one-time enhanced 911 surcharge to be imposed upon each

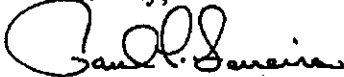
Testimony of Paul K. Ferreira, State Of Hawai'i, Enhanced 911 Board
Senate Committee on Public Safety, Intergovernmental and Military Affairs
Senate Committee on Commerce and Consumer Protection
February 6, 2015
Page 3

prepaid wireless telecommunication service. Given consumers of prepaid wireless are "pay as you go" a one-time fee for prepaid is not fair and equitable. What is fair and equitable would be to collect the 911 surcharge of 66 cents per transaction at the point of sale. This 911 surcharge would be collected at each sale at the time of purchase directly from the consumer. The surcharge on prepaid, like postpaid, would be remitted to the special fund established for enhanced 911 outside the State Treasury known as the Enhanced 911 fund that is administered by the Enhanced 911 Board. Moneys in the fund are expended exclusively by the Board for the purposes of ensuring adequate funding to deploy and sustain enhanced 911 services statewide.

The benefit to the public is a comprehensive, efficient, and coordinated statewide 911 system serving all citizens that is funded in a fair and equitable manner for all.

For these reasons, we urge the committees to support our amendments that we have provided with this testimony. Thank you for this opportunity to testify on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul K. Ferreira", written over a horizontal line.

PAUL K. FERREIRA
LEGISLATIVE COMMITTEE CHAIR
ENHANCED 911 BOARD

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 8:18 AM
To: PSMTestimony
Cc: tina@tfhawaii.org
Subject: Submitted testimony for SB193 on Feb 6, 2015 10:15AM
Attachments: s0193-15.pdf

SB193

Submitted on: 2/5/2015

Testimony for PSM/CPN on Feb 6, 2015 10:15AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Thomas Yamachika	Tax Foundation of Hawaii	Comments Only	Yes

Comments: Here is the Tax Foundation of Hawaii testimony on SB 193.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Impose enhanced 911 surcharge on prepaid phones

BILL NUMBER: SB 193

INTRODUCED BY: Espero and 2 Democrats

BRIEF SUMMARY: Adds a new section to HRS chapter 138 to provide that the enhanced 911 surcharge of ___ cents shall be imposed as a one-time charge on prepaid wireless telecommunications service. The surcharge shall be the liability of the consumer but collected by the seller. Allows the seller to retain 3% of the surcharge collected from consumers and remit the balance to eHawaii.gov. Prior to transmitting the funds to the enhanced 911 fund, eHawaii.gov may retain 2% of the revenue collected from the seller.

EFFECTIVE DATE: July 1, 2015

STAFF COMMENTS: The legislature by Act 159, SLH 1994, established a wireless enhanced 911 surcharge of 66 cents per month and a wireless enhanced 911 fund to allow deployment of phase 1 and phase 2 of the wireless enhanced 911 service and expenses of administering the fund. The wireless enhanced 911 program allows wireless phones to be located by public safety personnel in the event of an emergency. The fee is collected to reimburse facilities that provide Public Safety Answering Points (PSAP) which are set up to determine the location of a wireless 911 call for emergency services.

In Act 79, SLH 2009, the legislature determined that there was an excess \$16 million in the enhanced 911 fund. At the time, public safety officials complained that diversion of receipts in the fund could disqualify the state from participating in federal grant programs to enhance the technology of 911 systems. But the fund was raided anyway. It now may be a good time for lawmakers to investigate whether all the funding needs of the system have been made and if upgrades are still needed. Are there technologies still to be implemented to fully operate the system? Is the rate too high, bringing in revenues faster than they can be spent? If the latter is true, then lawmakers should consider reducing the rate so the monthly burden will not be as great on users.

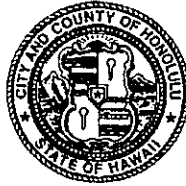
Currently, wireless phones are assessed a surcharge of 66 cents per month while landline phones are assessed 27 cents per month. Prepaid service connections or prepaid pay as you go cell phones are exempt from this surcharge. Because prepaid phones also have access to enhanced 911 services, it appears equitable to assess those phones a comparable amount.

In addition, prepaid phones may be recharged with minutes purchased online. Decisions also need to be made about how to treat recharges; the current language appears to allow recharges to be exempt because the intent appears to be to surcharge prepaid phones only once.

Digested 2/5/15

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET - HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 - INTERNET: www.honoluluupd.org



KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. MCCAULEY
DEPUTY CHIEFS

OUR REFERENCE **SN-AS**

February 6, 2015

The Honorable Will Espero, Chair
and Members
Committee on Public Safety,
Intergovernmental and Military Affairs
The Honorable Rosalyn H. Baker, Chair
and Members
Committee on Commerce and
Consumer Protection
State Senate
Hawaii State Capitol, Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Espero and Baker and Members:

SUBJECT: Senate Bill No. 193, Relating to Enhanced 911 Surcharges

I am Sean C. Naito, Major of the Communications Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 193, Relating to Enhanced 911 Surcharges, with the suggested amendment to set the unspecified prepaid wireless enhanced 911 surcharge at \$0.66.

This bill provides fair and equitable contribution to the funding of the 911 system. Currently, prepaid wireless consumers are exempt from paying the \$0.66 surcharge but have the same access to the 911 system. The collection and payment obligation of charges to support the 911 system should be in parity with other wireless consumers.

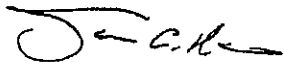
The HPD urges you to support Senate Bill No. 193 with the suggested amendment.

Serving and Protecting With Aloha

The Honorable Will Espero, Chair
and Members
Committee on Public Safety,
Intergovernmental and Military Affairs
The Honorable Rosalyn Baker, Chair
and Members
Committee on Commerce and
Consumer Protection
February 6, 2015
Page 2

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean C. Naito".

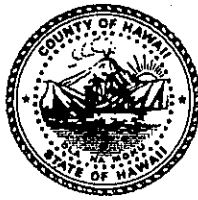
Sean C. Naito, Major
Communications Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoha".

Louis M. Kealoha
Chief of Police

William P. Kenoi
Mayor



Harry S. Kubojiri
Police Chief

Paul K. Ferreira
Deputy Police Chief

County of Hawai'i

POLICE DEPARTMENT

349 Kapi'olani Street • Hilo, Hawai'i 96720-3998
(808) 935-3311 • Fax (808) 961-2389

February 3, 2015

Senator Will Espero
Chairman and Committee Members
Committee on Public Safety, Intergovernmental and Military Affairs
415 South Beretania Street, Room 229
Honolulu, Hawai'i 96813

Re: SENATE BILL 193 RELATING TO ENHANCED 911 SURCHARGES

Dear Senator Espero:

The Hawai'i Police Department supports Senate Bill 193, with its purpose being to establish an unspecified prepaid wireless E911 surcharge per retail transaction of prepaid wireless telecommunications service at the point of sale, which basically eliminates the exemption for prepaid wireless connections.

Although we support this measure, we would also be in support of the following amendments as put forth by the E911 Board for consideration:

1. Delete in its entirety subsection (g), as it pertains to audit and appeal procedures cited in Chapter 237, Hawaii Revised Statutes.
2. Delete the second half of subsection (h) (i.e., delete "which procedures shall coincide with the procedures for documenting sale for resale transactions, pursuant to chapter 237.")
3. Delete the last phrase in subsection (i) "provided that the department may retain up to 2 percent of the remitted surcharges to cover the costs of administering the prepaid wireless E911 surcharges".
4. In Section 2, redefine to read "Department" means the Enhanced 911 Board. The reason being that "ehawaii.gov" is a private company that operates the State's web portal and is not appropriate to be defined as the "department" with the noted responsibilities.

We believe this legislation with the proposed amendments can serve to ensure an act of equity amongst consumers of wireless communications devices in terms of needed revenue for

SENATOR WILL ESPERO

Re: SENATE BILL 193 RELATING TO ENHANCED 911 SURCHARGES

Page 2

enhanced 911 (E911) services attendant to these devices. In essence, the wireless communications industry similar to the computer industry is constantly incorporating and deploying, newer, faster, and more efficient technology into the field.

In response, the Public Safety Answering Points (PSAPS) must also constantly upgrade their equipment in order to take advantage of the increasing capabilities of these devices as well as to meet public expectations for the technology. The recent movement towards the Next Generation 911 upgrading of PSAPS is a prime example. These upgrades will allow PSAPS to receive text messages, photos, and video from wireless phones.

In that the E911 funding is utilized for necessary upgrades, we believe the rise in use of prepaid wireless connections should be attendant with elimination of the exemption in the best interests of the communities served by the various PSAPS in the state of Hawai'i.

It is for these reasons, we urge this committee to approve this legislation.

Thank you for allowing the Hawai'i Police Department to provide comments relating to Senate Bill 193.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul K. Ferreira", with a long horizontal line extending to the right.

PAUL K. FERREIRA
ACTING POLICE CHIEF

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 3:02 PM
To: PSMTestimony
Cc: jeraul.pladera@mpd.net
Subject: *Submitted testimony for SB193 on Feb 6, 2015 10:15AM*

SB193

Submitted on: 2/5/2015

Testimony for PSM/CPN on Feb 6, 2015 10:15AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Lt. Jeraul S. Pladera	Maui Police Department	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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John R. Cmelak
Vice President
State Tax Policy-West Area

February 6, 2015

Honorable Will Espero
Chair, Senate Public Safety, Intergovernmental and Military Affairs Committee
Hawaii State Capitol
Room 206
Honolulu, HI 96813

Honorable Rosalyn H. Baker
Chair, Senate Commerce and Consumer Protection Committee
Hawaii State Capitol
Room 230
Honolulu, HI 96813

RE: Senate Bill 193, 9-1-1 Prepaid Surcharge – Support with Amendments

Verizon supports SB 193, legislation relating to the imposition of Hawaii's 9-1-1 surcharge on prepaid wireless services.

Although the bill deviates from the NCSL endorsed model bill by requiring retailers to remit to "eHawaii.gov" instead of the Department of Taxation, all other key components of the NCSL model have been captured. SB 193 is legislation similar to that which has already been adopted in 35 states, the District of Columbia and the Virgin Islands. It is the most appropriate method by which to accurately impose Hawaii's 9-1-1 surcharge on prepaid wireless services.

Verizon is a strong supporter of the public safety community and believes that an efficient and fair 9-1-1 system is in the best interest of the People of Hawaii.

Concerning implementation of this legislation, we recommend an effective date of January 1, 2017 to allow time for carriers and retailers to set up systems for 9-1-1 surcharge collection and remittance.

Verizon appreciates the opportunity to support SB 193.

Respectfully submitted,

John R. Cmelak



2785 Mitchell Drive, MS: 8-2
Walnut Creek, CA 94598

Phone 925 279-6789
Fax 925 279-6377
Mobile 510 468-4477
john.cmelak@verizonwireless.com

February 5th, 2015

Honorable Will Espero
Chair, Senate Public Safety, Intergovernmental and Military Affairs Committee
Hawaii State Capitol
Room 206
Honolulu, HI 96813

Honorable Rosalyn H. Baker
Chair, Senate Commerce and Consumer Protection Committee
Hawaii State Capitol
Room 230
Honolulu, HI 96813

RE: Senate Bill 193, 9-1-1 Prepaid Surcharge – Support with Amendments

Dear Chair Espero and Chair Baker:

On behalf of CTIA-The Wireless Association®, the trade association for the wireless communications industry, I am writing to express our support for Senate Bill 193, with amendments, related to the imposition of the 9-1-1 surcharge on prepaid wireless services.

CTIA and the wireless industry are strong supporters of the public safety community and also believe a fully-funded and efficient 9-1-1 system is in the best interest of the people of Hawaii. With the proliferation of 9-1-1 calls made from wireless devices, it is that much more imperative that those who benefit from access to the 9-1-1 system are also contributors. As such, CTIA supports the public policy that prepaid wireless consumers should be paying a 9-1-1 surcharge.

Due to the unique business model of prepaid wireless services, where the majority of transactions occur at national ‘big box’ stores and other general retailers, the only way to accurately capture the 9-1-1 surcharge is to collect the surcharge at the point-of-sale at the time of the retail transaction. The wireless industry believes that model legislation endorsed by the National Conference of State Legislatures (NCSL) in 2009 is the appropriate method in which to accurately capture this surcharge. This legislation has been adopted in 35 states and the District of Columbia.

CTIA does support the policy espoused by Senate Bill 193, but would respectfully suggest amendments, including:

- 1) The Department of Taxation is the appropriate agency in which the 9-1-1 surcharge should be remitted. As proposed, Senate Bill 193 would require the 9-1-1 surcharge to be remitted to eHawaii.gov. We would respectfully request the 9-1-1 surcharge be remitted to the Department of Taxation, the state agency that is familiar with administering other taxes and fees in Hawaii. Furthermore, this would streamline the remittance process for retailers who are already submitting Hawaii excise tax to the Department of Taxation. Requiring retailers to remit to two separate agencies creates administrative complexity and burdens. Furthermore, designating the Department of Taxation for 9-1-1 surcharge remittance is consistent with the NCSL model-endorsed legislation that 35 states and the District of Columbia have adopted.
- 2) We would also respectfully ask for a delayed effective date of January 2017. This will provide both the retailers and the Department of Taxation (see proposed amendment above) ample time to prepare for implementation of Senate Bill 193.

Thank you for the opportunity to submit testimony in favor of Senate Bill 193 with amendments.

Sincerely,



Bethanne Cooley
Director, State Legislative Affairs
CTIA-The Wireless Association ®





Executive Officers:

John Schilf, RSM Hawaii - Chairperson
Derek Kurisu, KTA Superstores - Vice Chair
Lisa DeCoito, Aloha Petroleum - Treasurer
John Erickson, Frito-Lay - Secretary
Lauren Zirbel, Executive Director

1050 Bishop St. PMB 235
Honolulu, HI 96813
Fax : 808-791-0702
Telephone : 808-533-1292

TO:

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS and
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Will Espero and Senator Rosalyn H. Baker, Chairs
Senator Rosalyn H. Baker and Senator Brian T. Taniguchi, Vice Chairs

FROM: HAWAII FOOD INDUSTRY ASSOCIATION

Lauren Zirbel, Executive Director

DATE: February 6, 2015
TIME: 10:15am
PLACE: Conference Room 229

RE: SB193

Position: Oppose

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

Here in Hawaii our retailers already pay several costly taxes and fees that are not only a financial burden, but an administrative burden as well. The state's system is complex and hard to navigate and adding an additional surcharge creates an unnecessary added expense for retailers and consumers.

We appreciate that the bill allots 3% of the fee to the retailer and has clarified some other aspects of this program. However, we believe that given the importance of 911 to all residents, and visitors, this program is precisely the type of thing that should be covered by an appropriation from the General Fund.

In addition to the negative impact on retailers this bill targets users of prepaid mobile devices, many of whom are from lower income brackets and have prepaid service as an alternative to more costly contract services. Technological literacy and access to mobile communication devices is more important than ever in this day and age. It seems that we should be taking steps to bridge the digital divide rather than creating additional financial barriers for lower income users to access mobile technology.

For these reasons we ask that this bill be held.

Thank you for the opportunity to testify.



RETAIL
MERCHANTS
OF HAWAII



**Testimony to the Senate Committee on Public Safety, Intergovernmental and
Military Affairs and Committee on Consumer Protection**

Senator Will Espero, Chair, Public Safety, Intergovernmental and Military Affairs
Senator Rosalyn H. Baker, Vice Chair, Public Safety, Intergovernmental and Military Affairs
Senator Rosalyn H. Baker, Chair, Consumer Protection
Senator Brian T. Taniguchi, Vice Chair, Consumer Protection

Friday, February 6, 2015 at 10:15 a.m.
Conference Room 229, State Capitol

RE: SENATE BILL 193 RELATED TO ENHANCED 911 SURCHARGES

Chair Espero, Chair Baker, Vice-Chair Taniguchi and Members of the Joint Committees:

Retail Merchants of Hawaii (RMH) opposes SB 193, which would require a seller to collect a surcharge from its consumer(s) for the State's E911 program.

As the single largest generator of general excise tax in the State of Hawaii; employing nearly 25% of Hawaii's workforce and representing over 3000 storefronts throughout the State, **RMH strongly opposes SB 193**. This bill would require sellers to deduct and retain 3 percent of prepaid wireless E911 surcharges from consumers and remit payment collected back to the State for the program. Hawaii already charges consumers for this service and an additional charge would be over the top. Retailers/Sellers/Businesses are already overburdened by the collection of regulated fees, adding this to the list would be another added burden to consumers and sellers. This overburden will cost business(s) time lost from direct profits.

Charging consumers additional fees and requiring retail businesses to do it, will increase cost to employers and significantly increase cost for consumers.

RMH appreciates the thought behind creation of this policy, however, respectfully ask each member to **OPPOSE SB 193**.

Thank you for the opportunity to provide testimony.

Retail Merchants of Hawaii
210 Ward Avenue, Suite 121
Honolulu, Hawaii 96814
(808) 592-4200



TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2015

ON THE FOLLOWING MEASURE:

S.B. NO. 193, RELATING TO ENHANCED 911 SURCHARGES.

BEFORE THE:

SENATE COMMITTEES ON PUBLIC SAFETY, INTERGOVERNMENTAL AND
MILITARY AFFAIRS AND ON COMMERCE AND CONSUMER PROTECTION

DATE: Friday, February 6, 2015

TIME: 10:15 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Russell A. Suzuki, Attorney General, or
Stella M.L. Kam, Deputy Attorney General

Chair Espero, Chair Baker and Members of the Committees:

The Department of the Attorney General provides the following comments.

This bill adds a new section to chapter 138, Hawaii Revised Statutes (HRS), to provide for the collection of the 911 surcharge from prepaid wireless consumers at the retail point of sale. However, the "department" responsible for collecting the prepaid wireless service surcharge is defined in section 2 of this bill as "eHawaii.gov," which is the State of Hawaii's official website, but is not a government agency. The "department" must be an entity that can establish procedures for the registration and payment of the surcharge as well as collect and deposit the surcharge amounts into the Enhanced 911 Fund. We recommend changing the definition of the term "department" in section 2 of this bill to "the Enhanced 911 Board." Alternatively, all references to "department" in this bill can be deleted and replaced with "the Enhanced 911 Board."

In addition, we note that subsections (g) and (h) in the proposed new section reference chapter 237, Hawaii Revised Statutes, which is the General Excise Tax Law administered by the Department of Taxation. The Enhanced 911 Board ("Board") does not have the enforcement powers or the resources of the Department of Taxation sufficient to develop and administer the type of procedures set forth in chapter 237, HRS. Therefore, we recommend deleting subsection (g) in its entirety. We also recommend deleting the phrase "... which procedures shall coincide with the procedures for documenting sale for resale transactions, pursuant to chapter 237" in subsection (h).

Finally, if the "department" responsible for collecting and depositing the prepaid wireless service surcharges into the Enhanced 911 Fund is defined as the "Enhanced 911 Board," we also recommend that the last phrase of subsection (i) ("... provided that the department may retain up to 2 per cent of the remitted surcharges to cover the costs of administering the prepaid wireless E911 surcharges.") be deleted.

We respectfully ask the Committees to pass this bill with the recommended amendments.