A BILL FOR AN ACT

RELATING TO ENHANCED 911 SURCHARGES.

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

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

"§138- Prepaid wireless E911 surcharge. (a) A prepaid wireless E911 surcharge of __ cents shall be imposed on each retail transaction of prepaid wireless telecommunications service. The prepaid wireless E911 surcharge is the liability of the consumer and not of the seller or provider.

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

(c) A retail transaction that is transacted in person by a consumer at a seller's business location shall be treated as occurring within the State if the business location is within the State or for any retail transaction that is treated as occurring within the State if the business location is within the State."
occurring in the State for purposes of the tax imposed pursuant
to section 237-13.8; provided that if no tangible personal
property is shipped and the billing address of the consumer or
the consumer's payment instrument is not known, the transaction
shall be sourced to the State if the consumer's mobile telephone
is associated with an address within the State.

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

(e) The amount of the prepaid wireless E911 surcharge that
is collected by a seller from a consumer shall not be included
in the base for measuring any tax, fee, surcharge, or other
charge that is imposed by the State, any political subdivision
of the State, or any intergovernmental agency.
(f) If a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, non-itemized price, the seller shall not apply the surcharge imposed in subsection (a) to the transaction. For purposes of this subsection, a "minimal amount" means service of ten minutes or less or $5 or less.

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

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

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

(j) No provider or seller shall be liable for damages to any person resulting from or incurred in connection with the provision of any lawful assistance to any investigative or law enforcement officer of the United States or any political subdivision, in connection with any lawful investigation or other law enforcement activity by such law enforcement officer.
(k) The prepaid wireless E911 surcharge imposed by this section shall be the only funding obligation imposed on prepaid wireless telecommunications service in the State for enhanced 911 services. No other tax, fee, surcharge, or other charge for enhanced 911 services shall be imposed by the State, any political subdivision of the State, or any intergovernmental agency, upon any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service."

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

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

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

"Prepaid wireless telecommunications service" means a wireless telecommunications service that is sold in predetermined units or dollars that decline with use in a known
amount and allows a caller to dial 911 to access the 911 system, a service that shall be paid for in advance.

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

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

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

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

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

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

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

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. (SD2)

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