
A BILL FOR AN ACT

RELATING TO THE USE OF MOBILE PHONES WHILE DRIVING.

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

1 SECTION 1. The legislature finds that over the span of a
2 decade, the cellular phone has gone from novelty to convenience
3 to a fixture of modern life. It is difficult to travel the
4 state and not meet someone who is using or carrying a cellular
5 phone. A great part of the allure of mobile phones,
6 particularly cellular phones, is the convenience of using a
7 phone nearly anywhere, including while driving.

8 The legislature also finds that driving with two hands on
9 the steering wheel and full attention to traffic and road
10 conditions increases driving safety. Mobile phone usage while
11 driving takes away from driving safety due to the need to use at
12 least one hand to program the phone to make a call, receive a
13 call, or any number of things. The legislature further finds
14 that as a result of the safety hazard posed by mobile phone use
15 when driving, mobile phone manufacturers have started to
16 manufacture devices that allow drivers to use their mobile
17 phones without the use of hands. The creation of these "hands-



1 free" devices have obviated the present need to legislatively
2 ban the use of mobile phones while driving.

3 The purpose of this Act is to allow mobile phone use while
4 operating a motor vehicle only when equipped with a hands-free
5 accessory.

6 SECTION 2. Chapter 291C, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§291C- Mobile telephone use; prohibited. (a) No
10 driver shall use a mobile telephone while operating a moving
11 motor vehicle in the state unless the mobile telephone is
12 equipped with a hands-free accessory and the mobile telephone is
13 being used in the hands-free mode.

14 (b) No person shall use a mobile telephone, including
15 those with hands-free accessories, while operating a moving
16 school bus that is carrying passengers.

17 (c) The provisions of this section shall not apply to the
18 following:

19 (1) Emergency use of a mobile telephone, including calls
20 to the public safety answering point, as defined in
21 section 138-1, that receives incoming 911 calls, a



1 hospital, an ambulance service provider, a fire
2 department, or a law enforcement agency;

3 (2) Use of a mobile telephone by law enforcement or
4 emergency personnel or by a driver of an authorized
5 emergency vehicle, acting within the scope of official
6 duties; or

7 (3) Use of a mobile telephone by a properly licensed
8 operator of a commercial vehicle.

9 (d) It shall be an affirmative defense that a person was
10 using a mobile telephone:

11 (1) For the purpose of reporting a medical or safety
12 emergency or to obtain assistance for a medical
13 or safety emergency; or

14 (2) In the scope of their duties as law enforcement or
15 emergency personnel, by a driver of an authorized
16 emergency vehicle, or by a properly licensed
17 operator of a commercial vehicle.

18 (e) Violation of this section shall be a violation, and
19 courts shall impose a fine of not more than \$100 for each
20 violation.

21 (f) Notwithstanding any other law to the contrary, no
22 county shall enact ordinances or adopt any rules regulating the



1 use of mobile telephones by an operator of a motor vehicle that
2 is inconsistent with, or more restrictive than, the provisions
3 of this section. Any ordinances or rules regulating the use of
4 mobile telephones by an operator of a motor vehicle that are
5 enacted or adopted by a county that are inconsistent or more
6 restrictive than the provisions of this section shall be
7 declared void.

8 (g) Enforcement of this section by law enforcement
9 personnel may be accomplished only as a secondary action when a
10 driver of a motor vehicle has been detained for a suspected
11 violation of another traffic infraction.

12 (h) For the purposes of this section:

13 "Commercial vehicle" means a vehicle registered to a
14 business that has a Gross Vehicle Weight Rating of 10,001 pounds
15 or more.

16 "Hands-free accessory" means an attachment, add-on, built-
17 in feature, or addition to a mobile telephone, whether or not
18 permanently installed in a motor vehicle, that when used, allows
19 the driver to maintain both hands on the steering wheel.

20 "Mobile telephone" means a cellular, analog, satellite,
21 wireless, or digital telephone capable of sending or receiving
22 telephone messages without an access line for service.



1 "Use" means talking, typing text messages, placing or
2 receiving a call, or attempting to place or receive a call, on a
3 mobile telephone."

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on September 1,
6 2006.



Report Title:

Mobile phones; safety

Description:

Prohibits the use of a mobile telephone while driving unless equipped with a hands-free accessory and being used in the hands free mode. Exempts mobile radios. (HB1805 HD1)

HB1805 HD1 HMS 2006-1978

