

Honolulu, Hawaii

Feb 16, 2006

RE: H.B. No. 1805

H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Third State Legislature  
Regular Session of 2006  
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred H.B. No. 1805 entitled:

"A BILL FOR AN ACT RELATING TO THE USE OF MOBILE PHONES WHILE DRIVING,"

begs leave to report as follows:

The purpose of this bill is to increase motor vehicle safety by:

- (1) Prohibiting the use of a hand-held cellular phone while operating a motor vehicle upon a public highway, unless equipped with a hands free device;
- (2) Prohibiting the use of a hand-held cellular phone, including those equipped with hands free devices while operating a moving school bus that is carrying passengers;
- (3) Allowing exemptions for emergency use or use by law enforcement or emergency personnel; and
- (4) Imposing fines for using a hand-held cellular phone while operating a motor vehicle.

Verizon Wireless testified in support of this bill. The Hawaii Association of Realtors supported the intent of this measure. Sprint testified in opposition to this bill. The



Department of the Prosecuting Attorney of the City and County of Honolulu, Hawaii Transportation Association, and Cingular Wireless submitted comments.

The use of a hand-held cellular device while operating a motor vehicle can be a distraction that may lead to a motor vehicle collision often being compared to the risk of driving while intoxicated. Your Committee finds that collisions due to the use of a hand-held cellular device could be avoided and personal injury and property damage eliminated if regulations exist to restrict the use of a hand-held cellular device while operating a motor vehicle.

However, your Committee finds that questions remain as to whether drivers of commercial motor vehicles who use two-way radios or "walkie-talkie" type cell phones as a means of communication with their place of business would be prohibited from using these devices during working hours on the road. Your Committee was also informed that police or prosecutors may need to subpoena billing or work records to rebut a claim that an individual was using a mobile telephone for emergency purposes and that permitting the use of mobile telephones equipped with hands-free devices need to be clarified to ensure that the mobile telephone was also being used in the hands-free mode. Moreover, it was requested that your Committee work to keep regulations on the use of mobile telephones uniform throughout the state by prohibiting counties from enacting more stringent ordinances affecting the use of mobile telephones by drivers.

Accordingly, your Committee has amended this measure by:


- (1) Clarifying that the use of a mobile telephone while operating a vehicle on a public highway equipped with a hands-free accessory is allowed if the mobile phone is used in the hands-free mode;
- (2) Adding an exemption for properly licensed drivers of a commercial vehicle with a Gross Vehicle Weight Rating of 10,001 pounds or more;
- (3) Providing an affirmative defense by a preponderance of evidence that the driver was making an emergency call, was using the mobile telephone in an official capacity as a law enforcement or emergency personnel, or using the mobile telephone as a properly licensed operator of a commercial vehicle;



- (4) Prohibiting the counties from enacting laws inconsistent with, or more restrictive than, the provisions of this bill and declaring void any such laws or rules, if enacted;
- (5) Clarifying that the provisions of this bill may only be enforced as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another traffic infraction; and
- (6) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1805, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1805, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Transportation,



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JOSEPH M. SOUKI, Chair



