

---

## A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1           SECTION 1. Section 286-102.6, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3           "(b) The provisional license shall entitle the provisional  
4 licensee to drive the class of motor vehicles specified in  
5 subsection (a) upon the roadways of the State; provided that:

6           (1) The provisional licensee shall have the provisional  
7 license in the provisional licensee's immediate  
8 possession while driving;

9           (2) All occupants of the motor vehicle shall be  
10 restrained by safety belts or a child passenger  
11 restraint system as required under sections 291-11.5  
12 and 291-11.6;

13           (3) The provisional licensee shall not transport more  
14 than one person under the age of eighteen, unless the  
15 person is, with respect to the provisional licensee:

16           (A) A household member; or

17           (B) A household member's foster or hanai child,

18 without being accompanied and supervised by a

1 licensed driver who is the provisional licensee's  
2 parent or guardian; ~~and~~  
3 (4) Except as provided in subsection (c), whenever the  
4 provisional licensee is driving between the hours of  
5 11:00 p.m. and 5:00 a.m., a licensed driver who is  
6 the provisional licensee's parent or guardian and is  
7 licensed to operate the same category of motor  
8 vehicle as the licensee, shall be in the motor  
9 vehicle and shall occupy the passenger seat beside  
10 the licensee ~~[-]~~; and

11 (5) The provisional licensee who is under the age of  
12 eighteen shall not operate a motor vehicle while  
13 using a wireless telephone, even if equipped with a  
14 hands-free device, or any other electronic  
15 communications device such as, but not limited to,  
16 text messengers, Palms, Treos, or Blackberries."

17 SECTION 2. Section 286-110, Hawaii Revised Statutes, is  
18 amended:

19 "**§286-110 Instruction permits.** (a) Any person aged  
20 fifteen years and six months or more who, except for the  
21 person's lack of instruction in operating a motor vehicle, would  
22 be qualified to obtain a driver's license issued under this part

1 may apply for a temporary instruction permit at the office of  
2 the examiner of drivers in the county in which the applicant  
3 resides; provided that the applicant complies with section 286-  
4 102.5.

5 (b) The examiner of drivers shall examine every applicant  
6 for an instruction permit. The examination shall include tests  
7 of the applicant's:

8 (1) Eyesight and other physical or mental capabilities to  
9 determine if the applicant is capable of operating a motor  
10 vehicle;

11 (2) Understanding of highway signs regulating, warning,  
12 and directing traffic; and

13 (3) Knowledge of the traffic laws, ordinances, or  
14 regulations of the State and the county where the applicant  
15 resides or intends to operate a motor vehicle.

16 (c) If the examiner of drivers is satisfied that the  
17 applicant is qualified to receive an instruction permit, the  
18 examiner of drivers shall issue the permit entitling the  
19 applicant, while having the permit in the applicant's immediate  
20 possession, to drive a motor vehicle upon the highways for a  
21 period of one year; provided that an applicant who is registered  
22 in a driver training course shall be issued a temporary

1 instruction permit for the duration of the course and the  
2 termination date of the course shall be entered on the permit.  
3 A person who is not licensed to operate the category of motor  
4 vehicles to which the driving training course applies shall not  
5 operate a motor vehicle in connection with the driving training  
6 course without a valid temporary instruction permit.

7 (d) Except when operating a motor scooter or motorcycle,  
8 the holder of an instruction permit shall be accompanied by a  
9 person who is twenty-one years of age or older and licensed to  
10 operate the category of motor vehicles in which the motor  
11 vehicle that is being operated belongs. The licensed person  
12 shall occupy a passenger seat beside the permit holder while the  
13 motor vehicle is being operated; provided that if the holder of  
14 the instruction permit is under the age of eighteen years and is  
15 driving between the hours of 11:00 p.m. and 5:00 a.m.:

16 (1) A licensed driver who is the permit holder's parent  
17 or guardian shall occupy a passenger seat beside the  
18 driver while the motor vehicle is operated, unless  
19 the permit holder is an emancipated minor;

20 (2) The licensed driver shall be licensed to operate the  
21 same category of motor vehicles as the motor vehicle

1 being operated by the holder of the instruction  
2 permit; and

3 (3) All occupants of the motor vehicle shall be  
4 restrained by a seat belt assembly or a child  
5 passenger safety restraint system as required under  
6 sections 291-11.5 and 291-11.6, notwithstanding any  
7 other law to the contrary.

8 (e) No holder of a temporary instruction permit aged  
9 fifteen years and six months but under eighteen years shall  
10 operate a motor vehicle while using a wireless telephone, even  
11 if equipped with a hands-free device, or any other electronic  
12 communication device such as but not limited to text messengers,  
13 Palms, Treos, or Blackberries.

14 [~~e~~] (f) No holder of a temporary instruction permit  
15 shall operate a motorcycle or a motor scooter during hours of  
16 darkness or carry any passengers.

17 [~~f~~] (g) No holder of a category 1 or 2 temporary  
18 instruction permit shall have the permit renewed, nor shall the  
19 holder be issued another temporary instruction permit for the  
20 same purpose, unless the holder has taken the examination for a  
21 category 1 or 2 license at least once prior to the expiration of  
22 the temporary instruction permit. If the holder of a temporary

1 instruction permit fails to meet the requirements of this  
2 section, the holder shall not be permitted to apply for another  
3 category 1 or 2 temporary instruction permit for a period of  
4 three months. Nothing in this subsection shall affect the right  
5 and privilege of any holder of a category 1 or 2 temporary  
6 instruction permit to obtain a temporary instruction permit or  
7 driver's license for the operation of any other type of motor  
8 vehicle.

9       ~~(g)~~ (h) The examiner of drivers may accept an  
10 application for renewal of an instruction permit no more than  
11 thirty days prior to or ninety days after the expiration date of  
12 the instruction permit, whereupon the applicant for renewal of  
13 an instruction permit shall be exempt from subsection (b) (2) and  
14 (3). If an application for renewal of an instruction permit is  
15 not made within ninety days after the expiration date of the  
16 permit, the applicant shall be treated as applying for a new  
17 instruction permit and examined in accordance with subsection  
18 (b).

19       ~~(h)~~ (i) Notwithstanding any other law to the contrary,  
20 the examiner of drivers may issue an instruction permit to an  
21 applicant with a disability who has completed a medical review  
22 with this State, and as a condition to licensure is required to

1 pass a road test, but has failed the road test on the  
2 applicant's first attempt. The instruction permit issued under  
3 this subsection may be renewed no more than thirty days prior to  
4 or ninety days after the expiration date of the instruction  
5 permit upon receiving an updated medical report. [~~Subsections~~]  
6 Subsection (b) (2) and (3) shall not apply to the issuance or  
7 renewal of an instruction permit issued under this subsection.

8 For the purposes of this subsection, "applicant with a  
9 disability" means an applicant who the examiner of drivers has  
10 reasonable cause to believe may have a mental or physical  
11 infirmity or disability that would make it unsafe to operate a  
12 motor vehicle pursuant to section 286-119 and has been medically  
13 evaluated by the medical advisory board established pursuant to  
14 section 286-4.1."

15 SECTION 3. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun, before its effective date.

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

20 SECTION 5. This Act shall take effect upon its approval.

21

22

H.B. NO. 3198

1

INTRODUCED BY:

Curtis H. Long

2

BY REQUEST

JAN 22 2008



**Report Title:**

Highway; safety; cell phones; motor vehicle

**Description:**

Prohibits the use of cell phones, including hands-free, or other electronic communications devices by persons aged fifteen years and six months but less than eighteen years while operating a motor vehicle under either a temporary instruction permit or a provisional license.

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY.

PURPOSE: To prohibit the use of all cell phones (including hands-free) or any other electronic communications devices by persons aged fifteen years and six months but less than eighteen years while operating a motor vehicle under either a temporary instruction permit or a provisional license.

MEANS: Amend sections 286-102.6(b) and 286-110, Hawaii Revised Statutes.

JUSTIFICATION: The lack of driving experience and immaturity make younger drivers more hazardous on the road. Cell phones and other electronic communications devices give those younger drivers more distractions that they may not be able to manage as easily as more experienced drivers.

Seventeen states and the District of Columbia have enacted restrictive cell phone driving laws for novice drivers. For example; Maryland restricts drivers under 18 years of age who hold either a learner's permit or an intermediate permit from using a wireless communication device while driving, except for contacting a 911 system. West Virginia prohibits young drivers within their Graduated Driver's Licensing Program (Learner and Intermediate stages) from using a cell phone while driving.

Additionally, effective January 2008, Nebraska shall prohibit teenagers with learner's, provisional and school permits from using a cell phone, sending text messages or using other interactive electronic devices while operating a motor vehicle.

The State of Hawaii crash data indicates that between the years of 2001 through 2005, there were a total of 31,515 motor vehicle crashes resulting in injuries. Of those 31,515 injury producing crashes, a total of 2,134 or 6.8 percent of those crashes involved a driver ages 15 through 17 years old. During the same time period, there were a total of 22,270 property damages only crashes, of which 1,400 or 6.3 percent of those crashes involved a driver ages 15 through 17 years old.

Additionally, the Fatality Analysis Reporting System (FARS) data reveals that between the years of 2002 to 2006, there were a total of 24 drivers, ages 15 through 17 years old who were involved in fatal motor vehicle traffic crashes and died from their injuries.

Impact on the public: With the cell phone and any other electronic communications devices prohibition, younger drivers ages 15½ through 17 years old, will have less distractions while operating a vehicle, thereby increasing their ability to concentrate on improving their driving skills. In turn, the roadway will be safer for all other roadway users (i.e., other drivers, pedestrians, bicyclists, etc.).

Impact on the department and other agencies:  
None.

- GENERAL FUND: None.
- OTHER FUNDS: None.
- PBS PROGRAM DESIGNATION: TRN 595.
- OTHER AFFECTED AGENCIES: County Police Departments.
- EFFECTIVE DATE: Upon approval.