

Honolulu, Hawaii

FEB 29 2008

RE: S.B. No. 2366
S.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2366, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO STATEWIDE TRAFFIC CODE,"

begs leave to report as follows:

The purpose of this measure is to improve safety while driving on the State's roadways by prohibiting text messaging while driving.

Specifically, this measure would prohibit writing, reading, or sending text messages on an electronic wireless communications device while driving a motor vehicle. The measure makes exceptions for emergency vehicles, reporting emergencies, receiving emergency alerts, messages relating to the operation of the motor vehicle, or navigation system messages.

Late testimony in support of this measure was submitted by a concerned individual.

Your Committee finds that the practice of writing, sending, and reading text messages while driving creates a safety hazard. "Text messaging" distracts a driver and makes a driver dangerous to themselves and to other persons on the road. Your Committee believes that prohibiting the practice of "text messaging" while driving will improve driver safety in Hawaii.

Upon further consideration, your Committee finds that this measure should clarify that the prohibition will apply to e-mails



as well as text messages. Your Committee further finds that a violation should occur only if the driver is involved in an accident as a result of writing, sending, or reading a text message or e-mail, and the driver should have the burden of proving that the driver was not text messaging or emailing at the time of the accident.

To address issues raised that the law enforcement agency may have difficulty proving its case, your Committee has limited issuance of citation to situations where there is an accident and places the burden on the driver to prove that there was no text messaging or emailing.

Accordingly, your Committee has amended this measure as follows:

- (1) By clarifying that the prohibition applies to sending, writing, and receiving e-mails as well as text messages;
- (2) By clarifying that a violation occurs only if the driver is involved in an accident, and that the driver bears the burden of proving that the driver was not text messaging or e-mailing at the time of the accident;
- (3) By changing the effective date to January 1, 2050, to facilitate further discussion on this issue; and
- (4) By making technical nonsubstantive amendments to this measure for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2366, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2366, S.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



BRIAN T. TANIGUCHI, Chair



The Senate
 Twenty-Fourth Legislature
 State of Hawaii

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 2366 SD1	Committee Referral: TIA, JDL	Date: 2/25/08
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The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, BRIAN T. (C)	/			
HEE, Clayton (VC)				/
GABBARD, Mike	/			
KOKUBUN, Russell S.	/			
NISHIHARA, Clarence K.				/
SLOM, Sam			/	
TOTAL	3		1	2

Recommendation:
 Adopted
 Not Adopted

Chair's or Designee's Signature:
Russell S. Kokubun

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*Only one measure per Record of Votes