

H .B. NO. 2602

A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1 SECTION 1. Distracted driving is a problem of national
2 concern. The legislature finds that the task of driving
3 requires the driver's full attention in focusing on the roadway
4 and driving maneuvers. Any distraction that diverts the
5 driver's attention from the primary tasks of maneuvering the
6 vehicle and responding to critical events increases the risk of
7 being involved in a motor vehicle crash. A distraction is
8 anything that takes the driver's eyes off the road (visual
9 distraction), the driver's mind off the road (cognitive
10 distraction), or the driver's hands off the wheel (manual
11 distraction). The use of electronic devices, such as cellular
12 phones, during the task of driving risks harm to the driver and
13 others in the vehicle or on the road. New research findings by
14 the National Highway Traffic Safety Administration show that
15 nearly 6,000 (16 per cent of all fatal crashes) people died in
16 2008 in crashes involving a distracted or inattentive driver,
17 and more than 500,000 were injured. A survey has shown that on
18 any given day during 2008, more than 800,000 vehicles were

1 driven by someone using a hand-held cellular phone. Federal
2 researchers have observed drivers of all ages using a variety of
3 hand-held devices while driving - cellular phones, iPods, video
4 games, Blackberrys, and GPS systems. In particular, cellular
5 phones used for talking and texting are more prevalent on our
6 nation's roadways. The Harvard Center of Risk Analysis reports
7 that cellular phone use contributes to an estimated 6 per cent
8 of all crashes. That equates to 636,000 crashes, 330,000
9 injuries, 12,000 serious injuries, and 2,600 deaths each year.
10 The annual cost of crashes caused by cellular phone use is
11 estimated at \$43,000,000,000. The Wireless Association reports
12 that there are more than 270,000,000 cellular phone subscribers
13 and that 81 per cent of the public admitted to talking on a
14 cellular phone while driving. In 2007, the Hawaii department of
15 transportation showed that, of the 8,770 collisions that
16 happened during that year, 2,871 (32 per cent) were attributed
17 to inattention to driving. On September 8, 2009, the United
18 States House of Representatives introduced H.R. 3535, Avoiding
19 Life-Endangering and Reckless Texting by Drivers Act of 2009
20 (ALERT Drivers Act), which was referred to the Committee on
21 Transportation and Infrastructure. This bill would require
22 states to enact a law prohibiting an operator of a moving motor

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1 vehicle from writing, sending, or reading a text message using a
2 hand-held mobile cellular telephone and requires the imposition
3 of graduated penalties each time this law is violated. The
4 failure of any state to enact such a bill would require that the
5 United States Secretary of Transportation withhold 25 per cent
6 of the state's highway construction fund each year (that equates
7 to \$40,000,000 in Hawaii) until a law is passed. This law would
8 be effective on October 1 of the second fiscal year beginning
9 after the date of the promulgation of the regulations.

10 The purpose of this Act is to prohibit the use of mobile
11 cellular phones or other electronic devices while operating a
12 vehicle, with certain exceptions, and to specifically prohibit
13 activities such as texting, instant messaging, gaming, and
14 emailing, activities that take the driver's eyes off the road,
15 mind off the road, and hands off of the wheel.

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

19 "§291C- Mobile electronic devices. (a) No person shall
20 operate a motor vehicle while using a mobile electronic device.

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1 (b) The use of a mobile electronic device for the sole
2 purpose of making a "911" emergency communication shall be an
3 affirmative defense to this law.

4 (c) The following persons shall be exempt from the
5 provisions of subsection (a):

6 (1) Emergency responders using a mobile electronic device
7 while in the performance and scope of their official
8 duties;

9 (2) Drivers using two-way radios while in the performance
10 and scope of their work-related duties and who are
11 operating fleet vehicles or who possess a commercial
12 vehicle license; and

13 (3) Drivers holding a valid amateur radio operator license
14 issued by the Federal Communications Commission and
15 using a half-duplex two-way radio.

16 (d) As used in this section:

17 "Emergency responders" include firefighters, emergency
18 medical technicians, mobile intensive care technicians, civil
19 defense workers, and police officers, including federal and
20 state law enforcement officers.

21 "Mobile electronic device" means any handheld or other
22 portable electronic equipment capable of providing wireless

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1 audio, video, or data communications between two or more persons
2 or of providing amusement, including but not limited to a
3 cellular phone, text messaging device, paging device, personal
4 digital assistant, laptop computer, video game, or any
5 photographic device, but does not include any equipment
6 installed in a motor vehicle for the purpose of providing audio,
7 navigation, emergency assistance to the operator of the motor
8 vehicle or video entertainment to the passengers in the rear
9 seats of the motor vehicle.

10 "Operate" a motor vehicle means the same as is defined in
11 section 291E-1.

12 "Use" or "using" means handholding a mobile electronic
13 device while operating a motor vehicle.

14 (e) Every person who violates this section shall be
15 subject to the following penalties:

16 (1) For a first infraction, or any infraction not preceded
17 within one year by a prior violation of this section,
18 a fine of not less than \$100 and not more than \$200;

19 (2) For an infraction that occurs within one year of a
20 prior violation of this section, a fine of not less
21 than \$200 and not more than \$300 and the suspension of

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1 the person's driver's license and privilege to operate
2 a vehicle for a period of thirty days; and

3 (3) For an infraction that occurs within two years of two
4 prior violations of this section, and for the fourth
5 and each additional infraction of this section,
6 regardless of when committed, a fine of not less than
7 \$300 and not more than \$500 and the suspension of the
8 person's driver's license and privilege to operate a
9 vehicle for a period of ninety days.

10 (f) Any violation as provided in subsection (a) shall not
11 be deemed to be a traffic infraction as defined by chapter
12 291D."

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

16 SECTION 4. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on July 1, 2010.

18
19 INTRODUCED BY: Calvin K. Ay
20 BY REQUEST
JAN 25 2010

Report Title:

Highway; Safety; Distracted Driving; Motor Vehicle

Description:

Create a new law for distracted driving for drivers who operate any mobile electronic devices while operating a motor vehicle on the highways within the State of Hawaii to further define the penalties for reckless drivers will be a deterrent and result in safer roadways.

JUSTIFICATION SHEET

DEPARTMENT: Transportation

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

PURPOSE: To create a new law for distracted driving for drivers who operate any mobile electronic devices while operating a motor vehicle on the highways within the State of Hawaii.

MEANS: Add a new section to chapter 291C, Hawaii Revised Statutes.

JUSTIFICATION: Over the years, distracted driving has become a major concern for motorists. Statistics show that distracted driving has contributed to an increase in motor vehicle collisions. On September 30, 2009, United States Transportation Secretary Ray LaHood met with and challenged over 250 safety experts, industry representatives, elected officials and members of the public to help put an end to distracted driving. It was concluded at this summit that the primary responsibility of a driver is to operate a motor vehicle safely. The task of driving requires the driver's full attention and focus on the roadway and driving maneuvers. Any distraction that diverts the driver's attention from the primary tasks of maneuvering the vehicle and responding to critical events increases the risk of being involved in a motor vehicle crash. The use of electronic devices, such as cellular phones, while driving risks harm to the driver and others in the vehicle or on the road.

New research findings by the National Highway Traffic Safety Administration (NHTSA) showed that nearly 6,000 people died in 2008 in crashes (this represents 16 percent of all fatal crashes) involving a distracted or inattentive driver and more than 500,000 were injured. On any given day during this year,

more than 800,000 vehicles were driven by someone using a hand-held cellular phone. Federal researchers who have observed drivers of all ages found that more and more people are using a variety of hand-held devices while driving - cellular phones, iPods, video games, Blackberrys, and GPS systems. In particular, cellular phone use for talking and texting is more prevalent on our nation's roadways. It has become the primary means of communication for many people, especially young adults. Research has shown that the worst offenders are the youngest drivers: men and women under 20 years of age.

The Harvard Center of Risk Analysis reported that cellular phone use contributes to an estimated 6 percent of all crashes. That equates to 636,000 crashes, 330,000 injuries, 12,000 serious injuries and 2,600 deaths each year. The annual cost of crashes caused by cellular phone use is estimated at \$43,000,000,000. The Wireless Association reports that there are more than 270,000,000 cellular phone subscribers and that 81 percent of the public admitted to talking on a cellular phone while driving.

On September 8, 2009, the United States House of Representatives introduced H.R. 3535, Avoiding Life-Endangering and Reckless Texting by Drivers Act of 2009 (ALERT Drivers Act), which was referred to the Committee on Transportation and Infrastructure. This bill would require states to enact a law prohibiting an operator of a moving motor vehicle from writing, sending, or reading a text message or using a hand-held mobile telephone, and requiring the imposition of graduated penalties each time this law is violated. The failure of any state to enact such a bill would require that the Secretary of Transportation withhold 25 percent of the state's highway construction fund each year until a law is passed. This law would be effective on October 1 of the second fiscal

year beginning after the date of the promulgation of the regulations.

Impact on the public: The proposed legislation to further define the penalties for reckless drivers will be a deterrent and result in safer roadways.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: TRN 595.

OTHER AFFECTED AGENCIES: County Police Departments and County Prosecutors.

EFFECTIVE DATE: July 1, 2010.