
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, while driving risks harm to the driver and others in the
13 vehicle or on the road. New research findings by the National
14 Highway Traffic Safety Administration show that accidents
15 involving a distracted driver or inattentive driver comprised
16 sixteen per cent of all fatal crashes in 2008; nearly six
17 thousand people died and more than five hundred thousand were
18 injured in these types of accidents in 2008.



1 A survey has shown that on any given day during 2008, more
2 than eight hundred thousand vehicles were driven by someone
3 using a hand-held cellular phone. Federal researchers have
4 observed drivers of all ages using a variety of hand-held
5 devices while driving, including cellular phones, iPods, video
6 games, Blackberrys, and GPS systems. In particular, cellular
7 phones used for talking and texting are more prevalent on our
8 nation's roadways. The Harvard Center of Risk Analysis reports
9 that cellular phone use contributes to an estimated six per cent
10 of all crashes. That equates to 636,000 crashes, 330,000
11 injuries, 12,000 serious injuries, and 2,600 deaths each year.
12 The annual cost of crashes caused by cellular phone use is
13 estimated at \$43,000,000,000. The Wireless Association reports
14 that there are more than 270,000,000 cellular phone subscribers
15 and that eighty-one per cent of the public admitted to talking
16 on a cellular phone while driving. In 2007, the Hawaii
17 department of transportation showed that, of the 8,770
18 collisions that occurred during that year, 2,871 (thirty-two per
19 cent) were attributed to inattention to driving.

20 On September 8, 2009, the United States House of
21 Representatives introduced H.R. No. 3535, the Avoiding Life-
22 Endangering and Reckless Texting by Drivers Act of 2009 (ALERT



1 Drivers Act), which was referred to the House Committee on
2 Transportation and Infrastructure. This bill would require
3 states to enact a law prohibiting, except in an emergency, an
4 operator of a moving motor vehicle from writing, sending, or
5 reading a text message using a hand-held mobile cellular
6 telephone and requires the imposition of graduated penalties
7 each time this law is violated. The failure of any state to
8 enact such a bill would require that the United States Secretary
9 of Transportation withhold twenty-five per cent of the state's
10 highway construction fund each year (that equates to \$40,000,000
11 in Hawaii) until a law is passed. This law would be effective
12 on October 1 of the second fiscal year beginning after the date
13 of the promulgation of the regulations.

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

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



1 "§291C- Mobile electronic devices. (a) No person shall
2 operate a motor vehicle while using a mobile electronic device.

3 (b) The use of a mobile electronic device for the sole
4 purpose of making a "911" emergency communication shall be an
5 affirmative defense under this section.

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

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

11 (2) Drivers using two-way radios while in the performance
12 and scope of their work-related duties, who:

13 (A) Are operating vehicles with a gross vehicle
14 weight rating of over 10,000 pounds that are
15 registered to a business;

16 (B) Possess a commercial vehicle license; or

17 (C) Are operating vehicles owned by a public utility;
18 and

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

22 (d) As used in this section:



1 "Emergency responders" includes firefighters, emergency
2 medical technicians, mobile intensive care technicians, civil
3 defense workers, and police officers, including federal and
4 state law enforcement officers.

5 "Mobile electronic device" means any handheld or other
6 portable electronic equipment capable of providing wireless
7 audio, video, or data communications between two or more persons
8 or of providing amusement, including but not limited to, a
9 cellular phone, text messaging device, paging device, personal
10 digital assistant, laptop computer, video game, or any
11 photographic device, but not including any equipment installed
12 in a motor vehicle for the purpose of providing audio,
13 navigation, emergency assistance to the operator of the motor
14 vehicle, or video entertainment to the passengers in the rear
15 seats of the motor vehicle.

16 "Operate" shall have the same meaning as in section 291E-1.

17 "Use" or "using" means handholding a mobile electronic
18 device while operating a motor vehicle.

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



- 1 (1) For a first infraction, or any infraction not preceded
2 within one year by a prior violation of this section,
3 a fine of not less than \$100 and not more than \$200;
- 4 (2) For an infraction that occurs within one year of a
5 prior violation of this section, a fine of not less
6 than \$200 and not more than \$300 and the suspension of
7 the person's driver's license and privilege to operate
8 a vehicle for a period of thirty days; and
- 9 (3) For an infraction that occurs within two years of two
10 prior violations of this section, and for the fourth
11 and each additional infraction of this section
12 regardless of when committed, a fine of not less than
13 \$300 and not more than \$500 and the suspension of the
14 person's driver's license and privilege to operate a
15 vehicle for a period of ninety days."

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

19 SECTION 4. New statutory material is underscored.

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



Report Title:

Highway; Safety; Distracted Driving; Motor Vehicle

Description:

Promotes safer roadways and fewer distractions while driving by prohibiting the use of mobile electronic devices while operating a motor vehicle, with certain exceptions. (SD2)

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