
A BILL FOR AN ACT

RELATING TO THE USE OF MOBILE PHONES AND ELECTRONIC DEVICES
WHILE DRIVING.

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

1 SECTION 1. The legislature finds that over the span of a
2 decade, the cellular phone has gone from novelty to convenience
3 to a fixture of modern life. It is difficult to travel the
4 state and not meet someone who is using or carrying a cellular
5 phone. A great part of the allure of mobile phones,
6 particularly cellular phones, is the convenience of using a
7 phone nearly anywhere, including while driving.

8 The legislature also finds that driving with two hands on
9 the steering wheel and full attention to traffic and road
10 conditions increases driving safety. Mobile phone usage while
11 driving reduces driving safety due to the need to use at least
12 one hand to program the phone to make a call, receive a call, or
13 any number of things. The legislature further finds that as a
14 result of the safety hazard posed by mobile phone use when
15 driving, mobile phone manufacturers have started to produce
16 devices that allow drivers to use their mobile phones without
17 the use of their hands. These "hands-free" devices have



1 obviated the present need to legislatively ban the use of mobile
2 phones while driving.

3 The purpose of this Act is to prohibit the use of a mobile
4 phone or other electronic device while operating a motor vehicle
5 except when a mobile phone is equipped with a hands-free
6 accessory and used in the hands-free mode.

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

10 **"§291C- _____ Mobile telephone and electronic device use;**

11 **prohibited.** (a) No driver shall use a mobile telephone or
12 other electronic device while operating a moving motor vehicle
13 in the state. A mobile telephone may be used while operating a
14 motor vehicle if it is equipped with a hands-free accessory and
15 the mobile telephone is being used in the hands-free mode.

16 (b) No person shall use a mobile telephone, including
17 those with hands-free accessories, or other electronic device
18 while operating a moving school bus that is carrying passengers.

19 (c) No person shall use a mobile telephone, including
20 those with hands-free accessories, or other electronic device
21 while operating a moving transit vehicle.



1 (d) It shall be an affirmative defense to an alleged
2 violation of this section that the person was using a mobile
3 telephone:

4 (1) For the purpose of reporting a medical or safety
5 emergency or to obtain assistance for a medical or
6 safety emergency; or

7 (2) In the scope of the person's duties as law enforcement
8 or emergency personnel, as a driver of an authorized
9 emergency vehicle, or as a licensed operator
10 of a commercial vehicle.

11 (e) Violation of this section is a violation subject to a
12 fine of not more than \$100.

13 (f) Notwithstanding any other law to the contrary, no
14 county shall enact an ordinance or adopt a rule regulating the
15 use of a mobile telephone or other electronic device by an
16 operator of a motor vehicle that is inconsistent with or more
17 restrictive than the provisions of this section. Any county
18 ordinance or rule that is inconsistent with or more restrictive
19 than the provisions of this section shall be void.

20 (g) Enforcement of this section by law enforcement
21 personnel may be accomplished only as a secondary action when a



1 driver of a motor vehicle has been detained for a suspected
2 violation of another traffic infraction.

3 (h) For the purposes of this section:

4 "Commercial vehicle" means a vehicle registered to a
5 business that has a gross vehicle weight rating of ten thousand
6 and one pounds or more.

7 "Electronic device" means handheld electronic video games,
8 music players, personal digital assistants, or any other device
9 requiring the use of a battery and at least one hand to operate
10 the device.

11 "Hands-free accessory" means an attachment, add-on, built-
12 in feature, or addition to a mobile telephone, whether or not
13 permanently installed in a motor vehicle, that when used, allows
14 the driver to maintain both hands on the steering wheel.

15 "Mobile telephone" means a cellular, analog, satellite,
16 wireless, or digital telephone capable of sending or receiving
17 telephone messages without an access line for service.

18 "Transit vehicle" means every motor vehicle designed to
19 carry more than ten passengers, other than a school bus or
20 taxicab, and used for the transportation of persons for
21 compensation."



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

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on July 1, 2009.

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INTRODUCED BY: *[Signature]*
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JAN 22 2009



Report Title:

Mobile Phones; Safety

Description:

Prohibits the use of a mobile telephone while driving unless equipped with a hands-free accessory and being used in the hands-free mode. Exempts mobile radios. Prohibits transit drivers from using cellular phones whenever their vehicle is in motion.

