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## A BILL FOR AN ACT

RELATING TO TRAFFIC SAFETY.

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

1           SECTION 1. The legislature finds that traffic safety is  
2 important to the people of Hawaii. For instance, every year in  
3 Hawaii, people die or are seriously injured while riding in the  
4 open beds of pickup trucks. These open beds are not designed for  
5 human transportation, and lack seat belts and other safety  
6 features. In 1996, the legislature enacted a law to prohibit  
7 children under 13 from riding in pickup beds. This law must be  
8 expanded to prohibit all persons, regardless of age, from riding  
9 in the back of pickup trucks.

10           We also saw the consequences of people riding mopeds and  
11 motorcycles without helmets. In 2003, University of Hawaii  
12 Men's Volleyball All-American Tony Ching was involved in a moped  
13 accident and was not wearing a safety helmet. He suffered  
14 serious head injuries that required surgery. In 2006, Ben  
15 Roethlisberger, the quarterback for the defending Super Bowl  
16 Champion Pittsburgh Steelers, was severely injured while riding  
17 a motorcycle without a helmet. This is a grim reminder of how



1 important a safety helmet is when riding not only motorcycles,  
2 but mopeds as well.

3 Riding without a helmet also has a social cost. Taxpayers  
4 and hospitals subsidize the health care costs of those  
5 unhelmeted accident victims through taxpayer dollars. Health  
6 care insurance for all is also increased because of the higher  
7 health care costs that unhelmeted accident victims incur.  
8 Taxpayers also have to bear additional costs of programs  
9 intended to help brain-injured accident survivors such as the  
10 neurotrauma special fund established by Act 160, Session Laws of  
11 Hawaii 2002. Businesses, taxpayers, and the State as a whole,  
12 suffer when traffic is shut down due to a traffic fatality,  
13 which is a statistically higher probability when the accident  
14 involves an unhelmeted rider.

15 Last, and most important of all, is the grief caused to the  
16 loved ones of an unhelmeted accident victim when the inevitable  
17 thought of whether a safety helmet would have saved their loved  
18 one enters their minds. Mandating the wearing of helmets when  
19 riding or operating these vehicles is a relatively small  
20 sacrifice of personal freedom to help prevent tragedies to  
21 families and our community.



1           The legislature also finds that technology could have a  
2 negative impact on the public safety and welfare of the people  
3 of Hawaii. Video screens, cell phones, and mobile media devices  
4 have been distracting drivers and has been a cause of many  
5 accidents.

6           SECTION 2. Chapter 286, Hawaii Revised Statutes, is  
7 amended by adding a new part to be appropriately designated and  
8 to read as follows:

9                           **"PART           .           ALL-TERRAIN VEHICLES**

10           §286-A Definitions. As used in this part, unless the  
11 context otherwise requires:

12           "All-terrain vehicle" means a motor vehicle which is all of  
13 the following:

- 14           (1) Designed for operation off of the highway by an  
15           operator with no more than one passenger;
- 16           (2) Fifty inches or less in width;
- 17           (3) Nine hundred pounds or less unladen weight;
- 18           (4) Suspended on three or more tires;
- 19           (5) Has a single seat designed to be straddled by the  
20           operator, or a single seat designed to be straddled by  
21           the operator and a seat for not more than one  
22           passenger; and



1       (6) Has handlebars for steering control.

2       "Minor" means a person under the age of eighteen.

3       "Wear a safety helmet" means having a safety helmet meeting  
4 the requirements under section 286-C on the person's head that  
5 is fastened with helmet straps and that is of a size that fits  
6 the person's head securely without excessive lateral or vertical  
7 movement.

8       **§286-B Prohibition; operation without a safety helmet.**

9       (a) No person shall operate, ride, or be otherwise propelled on  
10 an all-terrain vehicle unless the person wears a safety helmet.

11       (b) No person shall lease, rent, loan, or sell an all-  
12 terrain vehicle unless the person furnishes a safety helmet for  
13 the operator and passenger.

14       **§286-C Prohibition; minors; operation.**       (a) No minor  
15 shall operate, ride, or be otherwise propelled on an all-terrain  
16 vehicle.

17       **§286-D Penalty.** A violation of this section is  
18 punishable by a fine of not more than \$50. The parent or legal  
19 guardian having control or custody of an unemancipated minor  
20 whose conduct violates this section shall be liable for the  
21 amount of the fine imposed pursuant to this section.

22 Notwithstanding any law to the contrary, the fines collected for



1 a violation of this section shall be paid into the state  
2 treasury to the credit of the state general fund."

3 §286-E Safety helmets; rules. The director shall adopt  
4 rules, subject to the requirements of chapter 91, establishing  
5 specifications and standards for safety helmets offered for  
6 sale, or sold, for use by drivers, operators, and passengers of  
7 all-terrain vehicles, as the director determines are necessary  
8 for the safety of those drivers, operators, and passengers."

9 SECTION 3. Chapter 286, Hawaii Revised Statutes, is  
10 amended by adding a new section to part IV to be appropriately  
11 designated and to read as follows:

12 "§286-A Safety helmets; rules. The director shall adopt  
13 rules, subject to the requirements of chapter 91, establishing  
14 specifications and standards for safety helmets offered for  
15 sale, or sold, for use by drivers and passengers of motorcycles,  
16 motor scooters, mopeds, and bicycles, as the director determines  
17 are necessary for the safety of those drivers and passengers.  
18 The rules shall include, but are not limited to, the  
19 requirements imposed by Federal Motor Vehicle Safety Standard  
20 No. 218 (49 C.F.R. Sec. 571.218) and may include compliance with  
21 that federal standard by incorporation of its requirements by  
22 reference. Each helmet sold or offered for sale for use by



1 drivers and passengers of motorcycles , motor scooters, mopeds,  
2 and bicycles, shall be conspicuously labeled in accordance with  
3 the federal standard which shall constitute the manufacturer's  
4 certification that the helmet conforms to the applicable federal  
5 motor vehicle safety standards."

6 SECTION 4. Chapter 291, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9 **"§291-A LCD panels and video monitors; prohibition and**  
10 **exceptions.** (a) No person shall operate a motor vehicle upon  
11 any public highway that is equipped with an LCD panel or video  
12 monitor that is located at any point forward of the back of the  
13 driver's seat.

14 (b) A person who violates this section shall be subject to  
15 a fine of \$100 for each violation.

16 (c) The following shall be affirmative defenses to a  
17 violation of this section:

18 (1) The LCD panel or video monitor installed at a  
19 point forward of the back of the driver's seat  
20 can only be used for vehicle information, system  
21 control, rear or side observation or navigation;  
22 or



1           (2) An LCD panel or video monitor installed at a  
2           point forward of the back of the driver's seat  
3           which can be used for television reception or  
4           video or DVD play is capable of doing so only if  
5           the gear is in park and the parking brake is  
6           engaged."

7           SECTION 5. 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-A Mobile telephone use and electronic wireless  
11 communications device use; prohibited. (a) No person shall use  
12 a mobile telephone while operating a moving motor vehicle in the  
13 State unless the mobile telephone is equipped with a hands-free  
14 accessory.

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

18           (c) No person shall use an electronic wireless  
19 communications device, other than a voice-activated global  
20 positioning or navigation system, while operating a motor  
21 vehicle in the State.



1        (d) The provisions of this section shall not apply to the  
2 following:

3            (1) Emergency use of a mobile telephone or electronic  
4            wireless communications device, including calls  
5            to 911, a hospital, an ambulance service  
6            provider, a fire department, or a law enforcement  
7            agency;

8            (2) Use of a mobile telephone or electronic wireless  
9            communications device by law enforcement or  
10           emergency personnel or by a driver of an  
11           authorized emergency vehicle, acting within the  
12           scope of official duties; or

13           (3) Initiating or terminating a telephone call, or  
14           turning the telephone or electronic wireless  
15           communications device on or off.

16        (e) Violation of this section shall be a violation, and  
17 courts shall impose a fine of not more than \$100 for each  
18 violation.

19        For purposes of this section:

20        "Electronic wireless communications device" means any  
21 device that provides to users the ability to send or receive  
22 electronic communications, but excluding a voice-activated





1 global positioning or navigation system that is affixed to the  
2 vehicle.

3 "Hands-free accessory" means an attachment, add-on, built-  
4 in feature, or addition to a mobile telephone, whether or not  
5 permanently installed in a motor vehicle, that when used, allows  
6 the vehicle operator to maintain both hands on the steering  
7 wheel.

8 "Mobile telephone" means a cellular, analog, wireless, or  
9 digital telephone capable of sending or receiving telephone  
10 messages without an access line for service.

11 "Use" means talking, placing, or receiving a call, or  
12 attempting to place or receive a call, or sending, reading, or  
13 writing a text message, instant message, or electronic mail, or  
14 playing a video game on an electronic wireless communication  
15 device or a mobile telephone.

16 "Video game" means any game that may be played by use of a  
17 mobile telephone or electronic wireless communications device."

18 SECTION 6. Section 286-81, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 **"PART IV. SAFETY EQUIPMENT**

21 **§286-81 Motorcycle, motor scooter, moped, etc.; protective**  
22 **devices.** (a) No person shall:



1 (1) Operate a motorcycle [~~or~~], motor scooter, or moped on  
2 any highway in the State unless the person and any  
3 passenger the person carries on the motorcycle [~~or~~],  
4 motor scooter, or moped wears:

5 (A) Safety glasses, goggles, or a face shield, in the  
6 case of a motorcycle or motor scooter that is not  
7 equipped with windscreens or windshields; [~~and~~]

8 (B) A safety helmet; and

9 [~~(B)~~] (C) Any other protective devices [~~, other than a~~  
10 ~~safety helmet,~~] required by rules adopted by the  
11 director.

12 For the purpose of meeting the requirements of this  
13 paragraph, a required device shall meet the  
14 specifications and requirements established by rules  
15 adopted by the director;

16 (2) Lease or rent a motorcycle [~~or~~], motor scooter, or  
17 moped to another person unless the person furnishes:

18 (A) Safety glasses, goggles, or a face shield, in the  
19 case of a motorcycle [~~or~~], motor scooter, or  
20 moped that is not equipped with windscreens or  
21 windshields; [~~and~~]



1            (B) A safety helmet for the operator and for any  
 2            passenger the operator carries on the motorcycle,  
 3            motor scooter, or moped; and

4        [~~(B)~~] (C) Any other protective devices required by the  
 5            rules adopted by the director for the use of the  
 6            person or persons intending to operate or ride as  
 7            a passenger on the motorcycle or motor scooter;  
 8            provided that any person to whom a motorcycle or  
 9            motor scooter is leased or rented may furnish for  
 10           the person's own use the protective devices  
 11           required by this part.

12           For the purposes of meeting the requirements of this  
 13           paragraph, a required device shall meet the  
 14           specifications and requirements established by rules  
 15           adopted by the director; [~~or~~]

16        (3) Sell or offer for sale for use by a driver or  
 17           passenger of a motorcycle, motor scooter, or moped,  
 18           any safety helmet which is not of a type meeting  
 19           requirements established by the rules adopted by the  
 20           director; or

21        (4) Sell or offer for sale or furnish any [~~safety helmet,~~]  
 22           safety glasses, goggles, face shield, windscreen,



1 windshield, or other protective devices represented to  
2 meet the requirements of this part unless the device  
3 meets the specifications and requirements established  
4 by rules adopted by the director.

5 ~~[(b) No person less than eighteen years of age shall  
6 operate or ride as a passenger on a motorcycle or motor scooter  
7 on any highway in the State unless the person wears a safety  
8 helmet securely fastened with a chin strap.]~~

9 ~~(c) A safety helmet shall not be required for any person  
10 who operates or rides as a passenger on a motorcycle or motor  
11 scooter; provided that the motorcycle or motor scooter:~~

- 12 ~~(1) Has three wheels;~~
- 13 ~~(2) Is powered by an electric motor;~~
- 14 ~~(3) Has a full body enclosed cab; and~~
- 15 ~~(4) Has a seat belt assembly or a child restraint system  
16 for the driver and passenger;~~

17 ~~and the operator and passenger uses the seat belt or child  
18 restraint system pursuant to sections 291-11.5 and 291-11.6.]~~

19 (b) For the purposes of this section, "wear a safety  
20 helmet" means having a safety helmet meeting the requirements of  
21 section 286- on the person's head that is fastened with the



1 helmet straps and that is of a size that fits the person's head  
2 securely without excessive lateral or vertical movement.

3 (c) This section does not apply to a person operating, or  
4 riding as a passenger in, a fully enclosed three-wheeled motor  
5 vehicle that is not less than seven feet in length and not less  
6 than four feet in width, and has an unladen weight of 900 pounds  
7 or more, if the vehicle meets or exceeds all of the requirements  
8 of the Federal Motor Vehicle Safety Standards, and the rules and  
9 regulations adopted by the United States Department of  
10 Transportation and the National Highway Traffic Safety  
11 Administration, and if the vehicle has a seat belt assembly or a  
12 child restraint system for the driver and passenger, and the  
13 operator and any passengers use the seat belt or child restraint  
14 system pursuant to sections 291-11.5 and 291-11.6. "

15 SECTION 7. Section 291-14, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§291-14 Pickup trucks; passenger restrictions.** (a) No  
18 person shall stand in the bed or load-carrying area of any motor  
19 vehicle commonly known as a pickup truck while the vehicle is in  
20 operation. No operator of any pickup truck shall operate the  
21 vehicle with a passenger seated in the bed or load-carrying area  
22 of the vehicle [~~unless:~~



- 1       ~~(1) There is no seating available in the cab of the~~
- 2           ~~vehicle;~~
- 3       ~~(2) The side racks of the vehicle are securely attached~~
- 4           ~~and the tailboard or tailgate is securely closed;~~
- 5       ~~(3) Every passenger in the bed or load-carrying area of~~
- 6           ~~the vehicle is seated on the floor and does not~~
- 7           ~~attempt to control unlashd cargo.~~

8       ~~(b) This section shall not apply to persons or~~

9       ~~corporations operating a business or businesses that serve the~~

10       ~~public, who or which are subject to the jurisdiction,~~

11       ~~supervision, and regulations prescribed by state agencies or~~

12       ~~departments nor to their agents or employees when engaged in the~~

13       ~~business of such persons or corporations.~~

14       ~~(c) No operator of any pickup truck may operate the~~

15       ~~vehicle with any passenger twelve years of age or under in the~~

16       ~~bed or load-carrying area of the vehicle,] unless one of the~~

17       following applies:

- 18           (1) An emergency exists that threatens the life of the
- 19                 passenger being transported in the bed or load-
- 20                 carrying area of the vehicle; or



1           (2) The vehicle is being operated in parades, caravans, or  
2           exhibitions which are officially authorized or  
3           otherwise permitted by law.

4           ~~[(d)]~~ (b) Any person who violates this section shall be  
5           subject to a fine of ~~[\$25]~~ \$100 for each ~~[violation; provided~~  
6           ~~that any person who violates subsection (c) shall be subject to~~  
7           ~~a fine of \$50 for each separate]~~ violation.

8           ~~[(e)]~~ (c) As used in this section, "pickup truck" means a  
9           light truck that has a cab on the front part of the vehicle  
10          covering the driver's seat and an open bed behind the cab  
11          designed primarily to transport property or cargo, with sides  
12          and a tailgate to retain the contents within the confines of the  
13          bed, and has a maximum gross vehicle weight rating (GVWR) of  
14          11,000 pounds or less.

15          (d) This section shall be applicable to counties with  
16          populations of 500,000 or greater."

17          SECTION 8. Section 291C-150, Hawaii Revised Statutes, is  
18          amended to read as follows:

19          "~~[\$291C-150]~~ **Bicycle helmets.** (a) No person ~~[under~~  
20          ~~sixteen years of age]~~ shall operate a bicycle upon a street,  
21          bikeway, highway, or any other public property unless that  
22          person is wearing a properly fitted and fastened bicycle helmet



1 that has been tested by a nationally recognized agency such as  
2 the National Highway Traffic Safety Administration, the National  
3 Safety Council, or the Children's Safety Network, and is  
4 designed to fit the user and protect against head trauma. This  
5 requirement also applies to a person who rides upon a bicycle  
6 while in a restraining seat that is attached to the bicycle or  
7 who rides in a trailer towed by the bicycle.

8 (b) A person who provides bicycles for hire shall not rent  
9 a bicycle to any person unless every person [~~who is under age~~  
10 ~~sixteen~~] is wearing a bicycle helmet, as required in subsection  
11 (a), while operating the rented bicycle, occupying a restraining  
12 seat that is attached to the rented bicycle, or riding in a  
13 trailer towed by the rented bicycle.

14 (c) A violation of this section is punishable by a fine of  
15 not more than \$25. The parent or legal guardian having control  
16 or custody of an unemancipated minor whose conduct violates this  
17 section shall be liable for the amount of the fine imposed  
18 pursuant to this section.

19 (d) Notwithstanding any law to the contrary, the fines  
20 collected for a violation of this section shall be paid into the  
21 state treasury to the credit of the state general fund."





# H.B. NO. 14

1           SECTION 9. In codifying the new sections added by sections  
2 2, 3, 4, and 5 of this Act, the revisor of statutes shall  
3 substitute appropriate section numbers for the letters used in  
4 designating the new sections in this Act.

5           SECTION 10. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7           SECTION 11. This Act shall take effect upon its approval.  
8  
9

INTRODUCED BY: *Sabrina Marumoto*

JAN 21 2009



**Report Title:**

Omnibus traffic safety bill

**Description:**

Bans minors from using ATV's; provides a ban on riding in truck beds; mandatory helmet law for all two-wheeled vehicles and ATV's; mandate video screens be behind driver; prohibits cell phone operation except for hands free; prohibits the use of electronic wireless communication devices while operating a motor vehicle. Prohibits text messaging, gaming, and e-mailing while operating a motor vehicle.

