

---

---

## A BILL FOR AN ACT

RELATING TO THE USE OF MOBILE PHONES 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 all use of mobile  
2 phones while driving.

3 The purpose of this Act is to allow mobile phone use by a  
4 minor while operating a motor vehicle only when equipped with a  
5 hands-free accessory.

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

9 "§291C- Mobile telephone use; prohibitions. (a) No  
10 driver under the age of eighteen shall use a mobile telephone  
11 while operating a moving motor vehicle in the state unless the  
12 mobile telephone is equipped with a hands-free accessory and the  
13 mobile telephone is being used in the hands-free mode.

14 (b) It shall be an affirmative defense to an alleged  
15 violation of this section, that the person was using a mobile  
16 telephone:

17 (1) To report a medical or safety emergency or to obtain  
18 assistance for a medical or safety emergency; or

19 (2) In the scope of the person's duties as law enforcement  
20 or emergency personnel or as a driver of an authorized  
21 emergency vehicle.



1        (c) Violation of this section shall be a violation, and  
2 courts shall impose a fine of not more than \$100 for each  
3 violation.

4        (d) Notwithstanding any other law to the contrary, no  
5 county shall enact ordinances or adopt any rule regulating the  
6 use of mobile telephones by an operator of a motor vehicle that  
7 is inconsistent with, or more restrictive than, the provisions  
8 of this section. Any ordinances or rules regulating the use of  
9 mobile telephones by an operator of a motor vehicle that are  
10 enacted or adopted by a county that are inconsistent or more  
11 restrictive than the provisions of this section are void.

12        (e) This section may only be enforced only as a secondary  
13 action when a driver of a motor vehicle has been detained for a  
14 suspected violation of another traffic infraction.

15        (f) For the purposes of this section:

16        "Commercial vehicle" means a vehicle registered to a  
17 business that has a gross vehicle weight rating of more than ten  
18 thousand pounds.

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



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

4        "Transit vehicle" means every motor vehicle designed for  
5 carrying more than ten passengers, other than a school bus or  
6 taxicab, and used for the transportation of persons for  
7 compensation.

8        "Use" means talking, typing text messages, placing or  
9 receiving a call, or attempting to place or receive a call."

10        SECTION 3. New statutory material is underscored.

11        SECTION 4. This Act shall take effect on upon its  
12 approval.

13

INTRODUCED BY:

*John M. Higgins*  
*Kal Abrah*  
*Paul:*  
*Tom Brown*  
*Mike Canole*  
*[Signature]*

JAN 21 2009



**Report Title:**

Mobile Phones; Minors; Safety

**Description:**

Prohibits the use of a mobile telephone by a minor 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.

