

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO STATEWIDE TRAFFIC CODE.

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

1           SECTION 1. According to *The New York Times*, some one  
2 hundred fifty-eight billion mobile text messages were sent in  
3 the United States in 2006, an increase of almost two-fold from  
4 2005. A study conducted by the National Mutual Insurance  
5 Company was released in 2007, finding that nineteen per cent of  
6 all drivers, and thirty per cent of drivers between the ages of  
7 eighteen and twenty-seven text message while driving. According  
8 to a study from the Liberty Mutual Research Institute for Safety  
9 and Students Against Destructive Decisions, teenagers say that  
10 texting is their number one driving distraction.

11           A 2007 survey commissioned by the mobile messaging service  
12 Pinger, Inc., and conducted by Harris Interactive(R), revealed  
13 that nine out of ten or eighty-nine per cent of Americans  
14 believe that sending text messages or e-mails while driving is  
15 distracting, dangerous, and should be prohibited. The same  
16 survey found that:



1 (1) Ninety per cent of drivers believe that sending text  
2 messages or mobile e-mails were as dangerous as  
3 drivers who had two drinks before driving;

4 (2) Although the overwhelming majority of adults believe  
5 driving while texting is dangerous, two in three  
6 adults who drive a car and have used text messaging  
7 say they have read text messages or e-mails while they  
8 were driving; and fifty-seven per cent admitted to  
9 sending text messages or e-mails while driving.

10 The legislature finds that sending text messages or e-mails  
11 while driving is a distraction. Texting and e-mailing while  
12 driving necessarily means that the driver's full attention is  
13 not dedicated to the road. Research in 2006 by the National  
14 Highway Traffic Safety Administration found that nearly eight  
15 per cent of crashes and sixty-five per cent of near-crashes  
16 involved some form of driver inattention within three seconds  
17 prior to impact.

18 The purpose of this Act is to prohibit sending text  
19 messages and e-mails, or reading them, while driving.

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



1        "§291C-        Text messages and e-mails prohibited.        (a) No  
2 person shall compose, send, or read a text message or an e-mail  
3 on an electronic wireless communications device, including a  
4 cellular phone or similar device, while driving a motor vehicle.

5        (b) This section shall not apply to:

- 6        (1) Text messaging or e-mailing while driving an  
7 authorized emergency vehicle;  
8        (2) Text messaging or e-mailing to report illegal activity  
9 or to summon medical or other help in an emergency  
10 situation;  
11        (3) Text messaging or e-mailing emergency alert messages;  
12        (4) Text messages or e-mails related to the operation of a  
13 motor vehicle or an accessory component thereof; or  
14        (5) Text messaging or e-mailing through a global  
15 positioning or navigation system that is permanently  
16 affixed to the motor vehicle.

17        (c) No violation of this section shall be deemed to occur  
18 unless the person is involved in a motor vehicle accident;  
19 provided that if a citation is issued for a violation of this  
20 section, it shall be presumed that the person was composing,  
21 sending, or reading a text message or an e-mail while driving a

1 motor vehicle, and the burden of producing evidence sufficient  
2 to rebut the presumption shall be placed on the person."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect on January 1, 2010.

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INTRODUCED BY:

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**Report Title:**

Statewide Traffic Code; Text Messaging and E-mailing Prohibited

**Description:**

Prohibits text messaging or e-mailing using electronic wireless communication device while driving; provides that a violation occurs only if the driver is involved in an accident.

