

STAND. COM. REP. NO. 1183

Honolulu, Hawaii

March 25, 2009

RE: S.B. No. 1054  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred S.B. No. 1054, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY,"

begs leave to report as follows:

The purpose of this bill is to increase motor vehicle safety by prohibiting provisional licensees under the age of 18 and holders of a temporary driving permit who are at least 15 years and 6 months old but under the age of 18 from operating a motor vehicle while engaging in various tasks not associated with driving including:

- (1) Using a wireless telephone, including a wireless telephone equipped with a hands-free device, or any other electronic device, including but not limited to portable video games, portable DVD players, text messengers, Palms, Treos, or Blackberries;
- (2) Consuming food or beverages;
- (3) Engaging in personal grooming that requires the use of a comb, brush, or other personal grooming device; or
- (4) Attempting to reach for any other object or device not related to or necessary for driving.



The Department of Transportation, MADD-Hawaii, and State Farm Mutual Automobile Insurance Company testified in support of this bill. The Office of the Public Defender testified in opposition to this measure.

While the use of a hand-held cellular device or other electronic devices such as video games while operating a motor vehicle can be a distraction leading to a motor vehicle collision, any activity that distracts a driver from focusing on their primary action of driving, such as eating and grooming oneself while driving, can have similar negative impacts on traffic safety. Collisions due to these activities could be avoided and personal injury and property damage eliminated through regulations that restrict certain distracting activities while operating a motor vehicle.

However, while this bill seeks to restrict these types of activities to provisional licensees and permit holders within a particular age group, your Committee finds that all drivers, regardless of age, should face the same restrictions. Your Committee also finds that while the safety of using mobile phones in the hands-free mode while driving is still being debated, allowing the use of these devices warrants further discussion. Accordingly, your Committee has amended this bill by deleting its contents and replacing it with language that prohibits all drivers from operating a motor vehicle while performing certain activities, including:

- (1) The use of a mobile phone unless the phone is equipped with a hands-free device and used in a hands-free mode;
- (2) The use of a mobile phone or other electronic device, including those equipped with a hands-free device, if the motor vehicle is a moving school bus or transit vehicle;
- (3) The use of other electronic devices including music players, video games, personal digital assistants, and similar devices requiring the use of a battery and at least one hand to operate the device;
- (4) The consumption of food or beverages;
- (5) Engaging in personal grooming that requires the use of a comb, brush, or other personal grooming device; and



- (6) Attempting to reach for any other object or device not related to or necessary for driving.

This bill has been further amended to:

- (1) Impose a fine of not more than \$100 for violations;
- (2) Stipulate that enforcement of the prohibition of these activities shall only be accomplished as a secondary action when a driver or operator has been detained for a suspected violation of another traffic infraction; and
- (3) Provide an affirmative defense for a person using the mobile phone for emergency purposes.

Technical, nonsubstantive amendments have also been made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1054, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1054, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Transportation,

  
\_\_\_\_\_  
JOSEPH M. SOUKI, Chair



State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

**HSCR 1123**

**Record of Votes of the Committee on Transportation**

|  |  |                            |             |                |
|--|--|----------------------------|-------------|----------------|
| <b>Bill/Resolution No.:</b><br>SB 1054, SD2  | <b>Committee Referral:</b><br>TRN, JUD | <b>Date:</b><br>03/16/2009 |             |                |
| <input type="checkbox"/> The committee is reconsidering its previous decision on the measure.  |  |                            |             |                |
| <b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold<br><input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit) |  |                            |             |                |
| <b>TRN Members</b>   | <b>Ayes</b>                            | <b>Ayes (WR)</b>           | <b>Nays</b> | <b>Excused</b> |
| 1. SOUKI, Joseph M. (C)  | /                                      |                            |             |                |
| 2. AWANA, Karen Leinani (VC)   | /                                      |                            |             |                |
| 3. AQUINO, Henry J.C.  | /                                      |                            |             |                |
| 4. HANOHANO, Faye P.   | /                                      |                            |             |                |
| 5. KEITH-AGARAN, Gilbert S.C.  |  |                            |             | /              |
| 6. LEE, Marilyn B.   | /                                      |                            |             |                |
| 7. NAKASHIMA, Mark M.  | /                                      |                            |             |                |
| 8. RHOADS, Karl  | /                                      |                            |             |                |
| 9. SAIKI, Scott K.   |  |                            |             | /              |
| 10. TAKUMI, Roy M.   |  |                            |             | /              |
| 11. YAMASHITA, Kyle T.   | /                                      |                            |             |                |
| 12. PINE, Kymberly Marcos  |  |                            |             | /              |
| <b>TOTAL (12)</b>  | <b>8</b>                               | <b>0</b>                   | <b>0</b>    | <b>4</b>       |
| <b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted<br>If joint referral, _____ committee acronym(s) did not support recommendation.  |  |                            |             |                |
| <b>Vice Chair's or designee's signature:</b>   |  |                            |             |                |
| <b>Distribution:</b> Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO  |  |                            |             |                |