

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 1, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 2225

COMMITTEE ON TRANSPORTATION

The Department of Transportation supports all efforts to reduce distracted driving to make Hawaii's roads safer for all roadway users. We support this bill with the following recommendations to include graduating penalties for violators:

- Page 1, lines 15-16, (c)(2) to read: Drivers using two-way radios while in the performance and scope of their work-related duties and who are operating fleet vehicles or who possess a commercial vehicle license; and
- Page 2, line 11, to read: Wireless audio, video, or data communications between two or more persons; or
- Page 3, line 6, add (e), the following penalties:
 - (e) Every person who violates this section shall be subject to the following penalties:
 - (1) For a first infraction, or any infraction not preceded within one year by a prior violation of this section, a \$100-\$200 fine;
 - (2) For an infraction that occurs within one year of a prior violation of this section, a \$200-\$300 fine and the suspension of the person's driver's license and privilege to operate a vehicle for a period of 30 days; and
 - (3) For an infraction that occurs within two years of two prior violations of this section, and for the fourth and each additional infraction of this section, regardless of when committed, a \$300-\$500 fine and the suspension of the person's driver's license and privilege to operate a vehicle for a period of 90 days.
- Page 3, line 7, SECTION 3 changing the effective date to July 1, 2010 to allow for educating drivers.

Recent findings by Carnegie Mellon researchers showed that merely listening to a person over the cell phone, even with hands-free devices, can hamper a person's driving ability. The USDOT has come out strongly against distracted driving and there are efforts in Congress to require states to implement some form of cell phone and texting bans while driving. In addition, the National Highway Traffic Safety Administration discovered that distracted drivers were 50 percent more likely to be seriously injured or killed in their crashes, compared to attentive drivers. We believe drivers who take road safety and the lives of others for granted, should be held accountable.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET, HONOLULU, HAWAII 96813
AREA CODE 808 • 527-6494

PETER B. CARLISLE
PROSECUTING ATTORNEY



DOUGLAS S. CHIN
FIRST DEPUTY
PROSECUTING ATTORNEY

**THE HONORABLE JOSEPH SOUKI, CHAIR
HOUSE TRANSPORTATION COMMITTEE**
Twenty-fifth State Legislature
Regular Session of 2010
State of Hawai'i

February 1, 2010

RE: H.B. 2225; RELATING TO MOBILE COMMUNICATIONS.

Chair Souki and members of the House Committee on Transportation, the Department of the Prosecuting Attorney submits the following comments on H.B. 2225.

The purpose of this bill is to create a new traffic infraction for using a mobile communication device while operating a motor vehicle. Use of a mobile device for the sole purpose of calling 911 is an affirmative defense and use of a mobile device by emergency responders and drivers using two-way radios while in the performance and scope of their work-related duties or with a valid FCC radio operator licenses are exempted.

Distracted driving is major contributor to vehicular crashes and near misses. The data regarding distracted driving is sobering. Eighty percent of all crashes and sixty-five percent of near crashes involve some type of driver distraction. In 2008, sixteen percent of the total traffic fatalities involved distracted drivers; this equals 5,870 deaths nationally. Furthermore, drivers using hand-held devices are four times as likely to get into crashes serious enough to injure themselves. And observation studies have shown an increase in the use of hand-held devices nationally from a rate of 0.7 in 2007 to 1.0 percent in 2008. We fully expect that as more and more devices are available are created to improve portable access to communication and amusement that the temptation for drivers to use these devices while driving will increase. For

this reason, we believe that a law specifically banning the use of hand held devices while driving is advisable.

This bill follows the language of Ordinance 09-6 of the Revised Ordinances of Honolulu which is applicable to the City and County of Honolulu and has been in effect since July 1, 2009; it has not posed any significant enforcement issues for our office. If passed, H.B. 2225 would supersede Ordinance 09-6. We would not object to H.B. 2225 superseding Ordinance 09-6 as long as the provisions of the state law were as enforceable as Ordinance 09-6 and the penalties provided are not reduced.

If the committee should pass H.B. 2225, we would recommend changing one area where we believe the language of Ordinance 09-6 could be clarified. We would suggest that page 2 lines 17 to 19 be rewritten as follows to clarify that only audio equipment installed in the motor vehicle is exempt from the definition of "mobile electronic device":

provided that "mobile electronic device" does not include any [~~audio equipment or~~] any equipment installed in a motor vehicle for the purpose of providing audio, navigation, emergency assistance....

Thank you for this opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulupd.org



MUFI HANNEMANN
MAYOR

LOUIS M. KEALOHA
CHIEF

DELBERT T. TATSUYAMA
RANDAL K. MACADANGDANG
DEPUTY CHIEFS

OUR REFERENCE TTN-LC

February 1, 2010

The Honorable Joseph M. Souki, Chair
and Members
Committee on Transportation
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Souki and Members:

Subject: House Bill No. 2225, Relating to Mobile Communications

I am Major Thomas Nitta of the Traffic Division, Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 2225, Relating to Mobile Communications. This bill addresses the safety issue of dividing the driver's attention while operating a motor vehicle with the use of electronic devices such as cellular phones, personal data assistants, video games, texting devices, and the myriad uses of these devices.

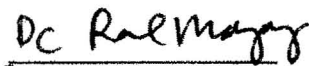
The HPD feels that while this bill is a positive approach to the growing trend of society wanting to be connected or entertained, the language contained in Senate Bill No. 2755, is more proper and concise to address the problem of distracted driving. The safe operation of a motor vehicle is the primary duty of the driver, who should not be distracted or have his attention divided by these devices. This is a safety issue for all users of our roadways, drivers, passengers, pedestrians, and bicyclists.

Thank you for this opportunity to testify.

Sincerely,


THOMAS T. NITTA, Major
Traffic Division

APPROVED:


FOR LOUIS M. KEALOHA
Chief of Police



February 1, 2010

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION
ON HB 2225 RELATING TO MOBILE COMMUNICATIONS**

Thank you Chair Souki and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

Hawaii Transportation Association supports this bill as written. Our interest lies primarily with the exemption provided in (c)(2).

It is imperative that motor carrier communications be maintained since there is no direct supervision over drivers. Many carriers still utilize two-way radios which do not have hands free features or blue tooth technology like cell phones do.

While the driver of an automobile has many opportunities to park or pull off the road to receive communications, a driver of a bus, truck, truck tractor, or combination of vehicles has extremely limited safe and legal parking opportunities.

Thank you.

February 1, 2010

The Honorable Rep. Joseph Souki, Chair
House Committee on Transportation
State of Hawaii

Re: Concerns about House Bill 2225 and Suggested Amendments

Dear Representative Souki and Members of the Committee:

AT&T generally supports reasonable restrictions on the use of electronic devices while driving. We certainly agree that drivers should not text while driving, and it makes sense to restrict the use of wireless devices for young people under the age of 18. We also do not oppose requiring hands-free devices when using a cell phone.

Unfortunately, we find the language in House Bill 2225 to be confusing. Because the bill makes an exception to the restrictions on electronic devices that include "audio equipment," we are not sure whether this would include cell phones or not. Since cell phones have microphones and speakers, they could be considered "audio equipment."

We suggest clarifying this point by allowing the use of cell phones, but only in a hands-free mode. Here is the language that would accomplish this:

The following persons shall be exempt from the provisions of subsection (a):

- (1) Emergency responders using a mobile electronic device while in the performance and scope of their official duties;
- (2) Drivers using two-way radios while in the performance and scope of their work-related duties; ~~and~~
- (3) Drivers holding a valid amateur radio operator license issued by the Federal Communications Commission and using a half-duplex two-way radio; and
- (4) Drivers operating a moving motor vehicle while using a mobile electronic device in hands-free mode.

For purposes of this section, "hands-free mode" means the use of a mobile electronic device with a speaker phone, headset, or earpiece.

AT&T also suggests that electronic devices be used to generally make emergency calls, not just calls to 911. For example, the bill could allow use of electronic devices for: reporting illegal activity, summoning medical or other emergency help, and preventing injury or damage to a person or property.

Thank you for considering these changes to House Bill 2225.

Respectfully Submitted,

Dan Youmans
AT&T

Testimony of Bart Aronoff *In Support* of HB 2225,
Relating to Mobile Communication

House Committee on Transportation
February 1, 2010

Rep. Joseph M. Souki, Chair
Rep. Karen Leinani Awana, Vice Chair

I wish to testify in support of HB 2225, which would regulate communication practices which have been shown to be dangerous, such as use of a handheld cell phone, texting, use of a PDA, and use of handheld electronic games while driving.

I strongly support the provisions of subsection (c) (3), which exempts use of a half-duplex two-way radio by a federally licensed amateur radio operator, or HAM.

HAMs play critical roles in support of emergency and disaster response, including location and reporting of lost hikers, reporting of disaster weather events, support of civilian authorities following power outages, hurricanes, earthquakes, and tsunamis, and logistical support of Red Cross and other shelters. Being able to install and operate mobile HAM radios is critical to these functions.

Recognition of the importance of these functions as well as the safety record of mobile HAM radio is implicit in this bill, and as a community volunteer for several emergency and disaster response organizations I appreciate this recognition.

Thank you for the opportunity to testify, and for all of the time and energy you legislators will be devoting to this long and critically important session.

awana1-Enoka

From: chinjung@aol.com
Sent: Sunday, January 31, 2010 12:07 AM
To: TRNtestimony
Cc: Rep. Pono Chong; rhashiro@hawaiiantel.net
Subject: House Bill 2225 Testimony, Relating to Mobile Communicaitons

Testimony of Clement Jung
House Committee on Transportation (TRN) Monday, February 1, 2010, 9:00 a.m.
Capitol Conference Room 309
House Bill 2225, Relating to Mobile Communications
5 copies

Chair Joseph Souki and members of the Committee on Transportation
Testimony of Clement Jung
February 1, 2010, 9:00 a.m., Capitol Conference Room 309
House Bill 2225, Relating to Mobile Communications

My name is Clement Jung and am a licensed amateur radio operator and I am involved in amateur radio emergency communications. I SUPPORT the intent of this bill to regulate the use of cell phones in vehicles. However, I feel strongly that drivers holding a valid amateur radio operator license issued by the Federal Communications Commission and using a half-duplex two-way radio be permitted to operate their amateur radios while driving. Amateur radio operators play a major role in emergency communications in a disaster "when all else fail". Also amateur radios are half-duplex two-way radios which one either transmit or listen. They are not cell phones where one can listen as well as transmit at the same time. Also there is no record of any amateur radio operators being involved in a traffic accident using their amateur radios. Amateur radio operators are trained not to transmit when there is a dangerous driving situation. Most of the time amateur radio operators are listening versus those who use a cell phone.

I also support this bill because it is similar to the City & County of Honolulu and in the County of Hawaii that is now in effective concerning the use of cell phones and permit the use of amateur radio operations for drivers holding a valid amateur radio operator license issued by the Federal Communications Commission.

Thank you for your support of amateur radio and two-way mobile radio.

Aloha, Clement Jung (KH7HO)

awana1-Enoka

From: Ernest Murphy [ernestmurphyiii@gmail.com]
Sent: Saturday, January 30, 2010 12:38 AM
To: TRNtestimony
Cc: Rep. Gene Ward; Sen. Sam Slom
Subject: Testimony for HB 2225, Mobile Electronic Devices

Testimony of Ernest Murphy
House Committee on Transportation (TRN) Monday, February 1, 2010 9:00 am Capitol Conference Room 309 House Bill 2225, Mobile Electronic Devices
5 copies
As public testimony, the testimony will be part of the public record published on the web.

Chair Joseph Souki and members of the Committee on Transportation Testimony of Ernest Murphy February 1, 2010, 9:00 am, Capitol Conference Room 309 House Bill 2225, Mobile Electronic Devices

My name is Ernest Murphy and I SUPPORT legislation to regulate the use of cell phones in automobiles/cars/vehicles.

[However, it is crucial, for the health and safety of everyone in Hawaii, that the Legislature preserve the right of FCC-licensed amateur radio operators and commercial vehicle operators to use two-way mobile radios in their motor vehicles.

1. For commercial vehicle operators, these radios are still in widespread use. Unlike cell phones and other recently developed electronic devices, these radios allow all employees of a business's driving fleet to hear all communications between the business and individual employees. They also make it easy for the business to communicate with all of its mobile employees instantly. Such radios also are designed for safe use by drivers.

For these reasons, these radios are of tremendous economic value to many Hawaii businesses, and loss of that communication ability would be a major economic hardship for businesses that already are struggling to survive the worst economic downturn since the Great Depression, a downturn that is not going to go away anytime soon.

2. Amateur radio operators commonly maintain, at their own expense, mobile two-way radios in their privately owned vehicles. These operators, licensed by the federal government, receive training in emergency communications. When a civil emergency such as a hurricane destroys all other means of communication and shuts down the supply of electricity, these people remain on the air, because they are not dependent on electrical power mains.

When Hurricane Iniki devastated Kauai in 1992, it was these low-powered amateur radio transmitters that became the ONLY means of communication between Kauai and Oahu for some days.

In the case of both commercial operators and amateur radio operators, the radios they use in vehicles are designed for operation by a driver. They require no tuning or fiddling around with controls. The driver merely picks up a microphone, pushes a button on it, and talks. They are not a road hazard, and that is why they have been in use for many decades by radio amateurs, private businesses, marine and aircraft operators, government agencies and military organizations.

FCC-licensed amateur radio operators should not be confused with Citizen's Band, also called CB, radio operators. CB was a nationwide fad several decades ago and remains in use on the mainland, mostly by long-haul truck drivers. There is next to no CB radio operation going on in Hawaii these days. CB radio is notorious for anarchic on-the-air behavior because it is not licensed or otherwise regulated by any government agency. Amateur radio operators, on the other hand, are licensed by the Federal Communications Commission only after stringent testing, and they lose their licenses if they violate FCC operating rules. Providing an essential public service in the event of emergencies is one of the main reasons the federal government reserves substantial amounts of radio frequency spectrum for amateur use. Amateur radio operators receive emergency service training both from their own national organizations and from local government and medical agencies. In general, amateurs equip themselves to get on the air under any circumstances, with or without a reliable electrical supply. They are a vital public resource when every other means of communications fails. In an island environment like Hawaii, maintaining that resource is even more essential.

Thank you for your support of amateur radio and two-way commercial radio in Hawaii.

Ernest Murphy
Amateur radio license NH7L
Hawaii Kai

NH7L@arrl.net
(808) 382-9329

House Committee on Transportation Chair Joseph Souki and members of the Committee
Testimony of Ron Hashiro, Amateur Radio Operator AH6RH
HB 2602, Mobile Electronic Devices
February 3, 2010 9:00 am, Conference Room 309

My name is Ron Hashiro and I SUPPORT the intent of HB 2602 to regulate the use of cellular phones in vehicles and promote traffic safety.

I also STRONGLY SUPPORT the exemptions for two-way radio use by workers and amateur radio operators.

As testified at the Honolulu City Council, two-way radio operations are safe while driving because most of the time is spent listening or awaiting a radio call, and very little time is spent actually transmitting a message. To place a call, one picks up the microphone, presses a button, and speaks the message. There are no distractions caused by dialing, keyboarding, or reading a screen as with other means of wireless communications.

The safety factor is evidenced by the lack of any data or documents indicating that there are problems using two-way radios while driving.

Two-way radios Two-way radios are an important part of the workplace for a number of workers. Examples include:

- Private: Taxis, tour companies, utilities (electric, phone, gas), construction
- County: Water works, roads, public works
- State and Federal: Airport and Harbors operations, Highway, Public Works, Military, National Guard

These workers use their two-way radios safely with no adverse impact to the driving public. Retrofitting their vehicles with changes to the radio systems is an unnecessary cost in these times of economic challenge and the burden would only be passed on to the consumers and tax payers.

Amateur Radio In his written communications, former Honolulu Councilman Duke Bainum found the case for the public service performed by amateur radio operators "very compelling". He wrote:

"I found the testifiers comment very compelling and in order to accommodate their service to the community I would support this exemption from the ban on the operation of mobile electronic devices while operating a motor vehicle."

Amateur radio operators, otherwise known as ham radio operators, provide a contingency radio service in times of emergencies. These radio operators created a radio and telephone link between Mayor of Kauai and the Governor during the peak of Hurricane Iniki when commercial telephone service was lost during the storm. What is

not well known is that the critical radio-telephone patch between the Mayor and the Governor conducted by key amateur radio operators was supplemented by additional amateur radio operators on Oahu simultaneously operating from their automobiles. Amateur operators continued to provide communications in support of the recovery from Hurricane Iniki from homes, offices, vehicles and even aircraft and helicopters.

Again, I ask for your support for the exemptions allowing for the use of two-way radios and amateur radio in vehicles.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Hashiro".

Ron Hashiro
Amateur Radio Operator AH6RH
Attachments

awana1-Enoka

From: Richard Hardy [rrhaloha@hawaiiintel.net]
Sent: Friday, January 29, 2010 11:14 AM
To: TRNtestimony
Subject: House Bill 2225 TESTIMONY

HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2010

COMMITTEE ON TRANSPORTATION
Rep. Joseph M. Souki, Chair
Rep. Karen Leinani Awana, Vice Chair

NOTICE OF HEARING

DATE:

Monday, February 1, 2010

TIME:

9:00 am

PLACE:

Conference Room 309
State Capitol
415 South Beretania Street

Aloha Rep. Joseph M. Souki, Chair

Regarding; House Bill 2225:

Amatuer Radio, with which I am actively involved and am a member of the Board of Directors of the EARC, Emergency Amatuer Radio Club. We have provided emergency service for and to the State of Hawaii for a great deal of time.

When a disaster strikes this state, amateur radio often is the ONLY means of communications remaining. During a hurricane, when wind forces collapse ALL transmitting towers for many and sometimes most or all of the emergency personnel, Amatuer Radio still remains intact. We are operators who are trained and capable and remain prepared to dispatch and/or communicate emergency traffic both locally, interisland, and to the mainland. We have the capability of being able to operate because we maintain emergency, portable, battery power plus have the capability of erecting antennae's that allow us this unique ability.

There are over 2,000 FCC licensed Amatuer HAM operators in the State of Hawaii who could be negatively affected without proper wording in this bill, which in turn would have a major impact on ANY civil communication necessary during a disaster or other local or statewide issue.

Safety, especially while driving is of utmost importance to all Amateur Radio Operators.

To obtain a license we are required to receive in depth education, and we have to maintain qualifications to hold our FCC licenses.

The Honolulu City Council has adopted favorable wording to exempt Amateur Radio Operators. Hopefully the State can do likewise. Hopefully you can readily see the advantage of proposing the addition of similar wording, to the House Bill 2225.

I would be happy to discuss this issue in more detail with you. My Cel number is 808-782-3434. Please call me at anytime.

Thank you very much for this opportunity to create a successful outcome, and maintain the integrity and ability of our amatuer radio community statewide.

Mahalo & Aloha,

Richard

Richard R Hardy
4300 Waialae Ave
Suite A 804
Honolulu, HI 96816
808-782-3434
Fax 808-440-1379

January 29, 2010

To: Joseph M. Souki, Chair and
Committee on Transportation
House of Representatives

From: Melvin Fukunaga
2011 Kahekili Highway
Wailuku, HI 96793
kh6h@arrrl.net

Testimony in Support of
House Bill 2225 - Relating to Mobile Communications
Monday, February 1, 2010 9:00 am
Capitol Conference Room 309

I support House Bill 2225 relating to mobile communications. Regulating the use of mobile electronic devices such as cell phones, computers, digital cameras, etc. while driving will improve safety on our highways.

I feel that the exemption for FCC licensed Amateur Radio operators is an important one and should be retained in HB 2225.

I have been an Amateur Radio operator for about 30 years. Operation of a two-way radio while driving is an essential part of the service that we can provide to government agencies such as Civil Defense or the National Weather Service during disasters. Amateur Radio operators can also provide communications support for public service agencies like the American Red Cross and VOAD (Voluntary Organizations Active in Disasters).

Thank you for your support of Amateur Radio and two-way mobile radio.

HB 2225 represents an excellent approach in standardizing a law governing the entire State of Hawaii, where the counties have already enacted ordinances or are in the process of establishing ordinances to limit the use of electronic devices while operating motor vehicles on roadways. Such a law should be enacted to provide for the general motoring safety of all its citizens.

As such, I support the bill as presently written.

As an amateur radio operator I strongly support the existing exclusion of two way half duplex radio systems by amateur radio operators as is presently written into the bill. We operators are licensed by the Federal Communications Commission and are expected to support/provide emergency communications in the event of any emergency or disaster situation.

In utilizing our radio systems while operating motor vehicles, amateur radio operators maintain their proficiency in doing so while driving, much as other emergency responders do on a day-to-day basis. Further, doing so, allows us to be continually assured that our mobile radio equipment is maintained in a constant state of readiness, so as to be prepared for a disaster or other situation.

As has been demonstrated many times, both in Hawaii and across the Country, amateur radio has frequently been the initial and only communication capability available immediately after a major disaster, where telephone landlines and cell sites, as well as government communication capabilities were out of service.

This was demonstrated during Hurricane Iniki with amateur radio providing the first communications between Kauai and Oahu. I personally handled initial "health and welfare" communications between Hawaii Kai and an amateur radio operator in North Kauai. He was a repairman with the telephone company who had his company truck at home but had no other working means of communication. He drove around in his community, determining specific needs and using his amateur radio to communicate with me and two other amateur radio operators on Oahu.

Again, I support the bill as presently written.

Thank you.