

SB2755

SD1

LINDA LINGLE
GOVERNOR



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

IN REPLY REFER TO:

February 23, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL NO. 2755 S.D. 1

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senate Bill 2755 SD 1 was proposed by the Administration and the Department of Transportation strongly supports its passage.

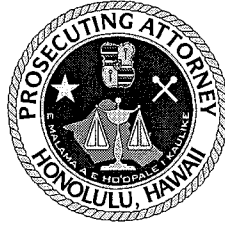
Distracted driving has become a national problem. The National Highway Traffic Safety Administration and the Governors Highway Safety Association agree that mobile electronic devices pose a safety problem while driving a motor vehicle. Six states have prohibited the use of any handheld cell phones and 21 states have prohibited novice drivers from using it. Seventeen states have also prohibited school bus drivers from the use of cell phones when passengers are present and 19 states, the District of Columbia and Guam have prohibited texting. Hawaii is one of 16 states that does not have any state law governing the use of cell phones or texting while driving.

We would like to make a technical non-substantive change on page 5, line 18 by changing the word "handholding" to holding for clarity.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET, HONOLULU, HAWAII 96813
AREA CODE 808 • 768-7486

PETER B. CARLISLE
PROSECUTING ATTORNEY



DOUGLAS S. CHIN
FIRST DEPUTY
PROSECUTING ATTORNEY

THE HONORABLE BRIAN TANIGUCHI, CHAIR
SENATE JUDICIARY AND GOVERNMENT OPERATIONS

Twenty-fifth State Legislature
Regular Session of 2010
State of Hawai'i

February 23, 2010

RE: S.B. 2755, S.D. 1; RELATING TO HIGHWAY SAFETY.

Chair Taniguchi and members of the Senate Committee on Judiciary and Government Operations, the Department of the Prosecuting Attorney submits the following testimony in support of S.B. 2755 S.D. 1.

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 certain drivers using two-way radios while in the performance and scope of their work-related duties or who have 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 generally follows language of Ordinance 09-6 of the Revised Ordinances of Honolulu with a few clarifications and an enhanced penalty provision. Ordinance 09-6 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, S.B. 2755 S.D. 1 would supersede Ordinance 09-6 and we would expect to be able to enforce S.B. 2755 S.D. 1 without significant enforcement issues.

Thank you for this opportunity to testify.

Council Chair
Danny A. Mateo

Vice-Chair
Michael J. Molina

Council Members
Gladys C. Baisa
Jo Anne Johnson
Sol P. Kaho'ohalahala
Bill Kauakea Medeiros
Wayne K. Nishiki
Joseph Pontanilla
Michael P. Victorino

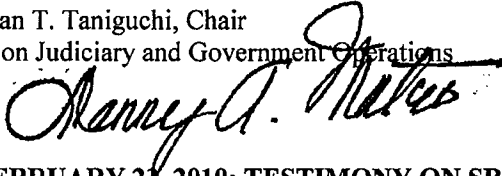


Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

February 22, 2010

TO: The Honorable Brian T. Taniguchi, Chair
Senate Committee on Judiciary and Government Operations

FROM: Danny A. Mateo
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 23, 2010; TESTIMONY ON SB 2755, SD1, RELATING TO HIGHWAY SAFETY**

Thank you for the opportunity to provide comments on this important measure. The purpose of this measure is to prohibit the use of mobile electronic devices while operating a motor vehicle.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I offer the following comments:

1. There is an urgency for a measure to address the public-safety concerns raised with the prolific use of mobile electronic devices while driving. As such, the County of Maui is currently considering a proposed bill prohibiting the use of mobile electronic devices while driving. Lawmakers should keep in mind the unintended consequences on local businesses that may result with the passage of this measure, and make appropriate amendments.
2. The measure exempts drivers using two-way radios while in the performance and scope of their official duties. However, the measure limits this exemption to drivers operating vehicles with a gross vehicle weight rating of over 10,000 pounds and registered to a business, or drivers who possess a commercial vehicle license. Many businesses use vehicles that do not meet these limitations and may employ drivers that do not have a commercial vehicle license. These employees and businesses may, nevertheless, rely on the use of their cell phones or two-way radios for their livelihood. These types of businesses may include taxi-cab drivers, delivery businesses, etc.
3. The dangers caused by the use of mobile electronic devices while driving must be addressed through appropriate legislation that considers the needs of local businesses who rely on driving for their livelihood and who need to communicate while on the road in order to conduct their business.

Thank you for the opportunity to provide testimony on this measure.

COUNTY COUNCIL
Bill "Kaipo" Asing, Chair
Jay Furfaro, Vice Chair
Tim Bynum
Dickie Chang
Daryl W. Kaneshiro
Lani T. Kawahara
Derek S. K. Kawakami



OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
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Council Services Division
4396 Rice Street, Room 206
Līhu'e, Kaua'i, Hawai'i 96766-1371

February 22, 2010

TESTIMONY OF DEREK S. K. KAWAKAMI
KAUAI COUNTY COUNCIL

ON

S.B. NO. 2755 S.D. 1, RELATING TO HIGHWAY SAFETY
Senate Committee on Judiciary and Government Operations

February 23, 2010

10:00 a.m.

Conference Room 016

Dear Chair Taniguchi and Members:

Thank you for the opportunity to submit testimony in support of S.B. No. 2755 S.D. 1 relating to highway safety, as an individual member of the Kaua'i County Council.

The Kaua'i County Council recently approved Bill No. 2336, Draft 4, which is a bill to prohibit the use of mobile electronic devices while operating a motor vehicle. The Council unanimously supported this bill because using a cell phone while driving, among the use of other mobile electronic devices, has been found to be a significant distraction for drivers and creates highly dangerous traffic situations for motorists and their passengers.


Please consider the following statistics:

- Using a cell phone while driving, delays a driver's reactions as much as having a blood alcohol concentration at the legal limit of .08 percent.
- 80 percent of all crashes and 65 percent of near crashes involve some type of distraction.
- Nearly 6,000 people died in 2008 in crashes involving a distracted or inattentive driver, and more than half a million were injured.
- Drivers who use hand-held devices are four times as likely to get into crashes serious enough to injure themselves.

I would request that the Committee consider amending S.B. 2755 S.D. 1 to double the fines for motorists that are cited in a school zone or construction area. These areas require extra caution by drivers as there may be children crossing the street or workers on the road.

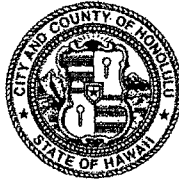
For the reasons stated above, I wholeheartedly support S.B. No. 2755 S.D. 1 and humbly request your favorable consideration of this measure.

Sincerely,


DEREK S. K. KAWAKAMI
Councilmember

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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MUFU HANNEMANN
MAYOR

LOUIS M. KEALOHA
CHIEF

DELBERT T. TATSUYAMA
RANDAL K. MACADANGDANG
DEPUTY CHIEFS

OUR REFERENCE TTN-LC

February 23, 2010

The Honorable Brian T. Taniguchi, Chair
and Members
Committee on Judiciary and Government Operations
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Senator Taniguchi and Members:

Subject: Senate Bill No. 2755, S.D. 1, Relating to Highway Safety

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

The HPD strongly supports Senate Bill No. 2755, Relating to Highway Safety. 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 this bill is a positive approach to the growing trend of society wanting to be connected or entertained. 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.

A Harvard Center of Risk Analysis study has estimated that six percent of all crashes are caused by cell phone usage, equating to 636,000 crashes, 330,000 injuries, 12,000 serious injuries, and 2,600 deaths each year. Currently, an estimated 100 million people use cell phones while driving. It is reasonable to assume that driver distraction, which accounts for 80 percent of collisions, will rise with the growing trend of using electronic devices for various purposes.

The Honorable Brian T. Taniguchi, Chair
and Members

Page 2

February 23, 2010

In July 2009, the City and County of Honolulu enacted Ordinance 15-24.23, relating to the use of mobile electronic devices while operating a motor vehicle, following the City and County of Honolulu, the County of Hawaii's ordinance became effective in January 2010, with the County of Maui considering passing a similar ordinance.

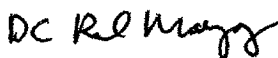
At present, no state in the United States of America has a total ban on the use of cellular phones while operating a motor vehicle. It is reported that talking on a cellular phone and talking on a hands-free phone has approximately the same amount of cognitive distraction. The intent of this bill in its current form is to address the prolific use of mobile electronic devices while operating a motor vehicle, and not to address all forms of driver distraction, nor to totally prohibit and ban the use of every form of electronic devices while operating a motor vehicle. The bill before this committee is practical, reasonable, and enforceable. It addresses safety and driver distraction, as opposed to the narrowly proposed ban on text messaging and video games, which was not enforceable and is addressed in the current bill.

Thank you for this opportunity to testify.

Sincerely,


THOMAS T. NITTA, Major
Traffic Division

APPROVED:


for LOUIS M. KEALOHA
Chief of Police



February 23, 2010

**TESTIMONY BEFORE THE SENATE COMMITTEE ON
JUDICIARY & GOVERNMENT OPERATIONS
ON SB 2755 SD 1 RELATING TO HIGHWAY SAFETY**

Thank you Chair Taniguchi 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.

We support exempting “drivers using two-way radios while in the performance and scope of their work-related duties.” We feel 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.

Thank you.

Testimony before the Senate Judiciary and Government Operations Committee

By Jim B. Beavers
Manager, Safety – Security – Facilities
Hawaiian Electric Company, Inc.

Senate Bill 2755, SD 1 - Relating to Highway Safety

February 23, 2010
10:00 am

Chair Taniguchi, Vice Chair Takamine, and Members of the Committee:

My name is Jim Beavers and I am testifying on behalf of Hawaiian Electric Company, Inc. (HECO) and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company.

We support the intent of SB 2755, SD 1. There is, however, a single provision that will have a serious and negative impact to our field Trouble-shooters and Supervisors' ability to properly and quickly communicate with the Dispatchers during time of electrical emergencies and outages.

As currently worded, only drivers whose vehicles are above 10,000 pounds or who have a commercial drivers license would be exempted from the prohibition of using two-way radios while in the performance of their work related duties. All of HECO's Trouble-shooter and Supervisor's vehicles are less than 10,000 pounds (GVW). Two-way radios are a long-time, essential and reliable communication tool used safely during electrical emergencies and outages.

We therefore propose an amendment to the bill by inserting language on Page 4, line 20 to read as follows:

(C) Are operating vehicles owned by a public utility.

Thank you for the opportunity to offer these comments and amendment.

Chair Senator Brian Taniguchi
Vice Chair Senator Dwight Takamine
Senate Committee on Judiciary and Government Operations

Testimony of Ron Hashiro

Tuesday, February 23, 2010 10:00 am
Capitol Conference Room 016

in Support, WITH AMENDMENT
of
Senate Bill 2755 SD1 - Relating to Highway Safety

Chair Brian Taniguchi and members of the Judiciary and Government Operations Committee.

My name is Ron Hashiro and I testify as an individual supporting Senate Bill 2755 Senate Draft 1 **WITH AMENDMENTS**.

I very much support the purpose of promoting traffic safety by controlling cell phone use and texting by drivers. However, I FEEL STRONGLY THAT two-way radio operations be exempt and continue unaffected, as there has been no documented problem with radio operations while driving. The proposed restriction in SB 2755 SD1 affects small businesses (especially service companies) that use passenger vehicles, light trucks and vans. In this tight economy, businesses cannot afford to spend additional money to address a problem that does not exist, and consumers cannot afford to absorb the cost.

A plumber recently told me that had I cancelled my appointment, he would not have known until he arrived at my apartment and retrieved his cell phone messages due to the existing Honolulu ordinance on mobile cell phone use. This is in contrast to his previous employer who used two-way radios and he would have been notified immediately and routed to the next appointment.

I request an amendment on the use of two-way radio in Section 2 (2) to read:

"(2) Drivers using two-way radios while in the performance and scope of their work-related duties; and"

and eliminate the restriction by vehicle weight and/or commercial vehicle licenses.

I ask that you amend the exemption for two-way radios as noted above. Thank you for your support of amateur radio and two-way mobile radio for small businesses.

Ron Hashiro
Amateur Radio Operator AH6RH
Makiki

From: Gary Fuchikami [wh6c@yahoo.com]
Sent: Saturday, February 20, 2010 4:33 PM
To: JGO Testimony
Subject: SB2755 Testimony

I was told that I needed to send this to this email as a testimony, although I sent it previously to members of the JGO. I'm writing in support of SB2755 and also to ask that the language in Section 2-2 of SB2755 SD1 which seemingly exempts only commercial truckers from using their radios while driving be expanded to the use of any two-way half-duplex radio system. The reason I'm requesting this is that there are many small businesses, etc. that use commercial vhf/uhf radio (such as taxis, farmers, etc.) and do not operate CDL-type vehicles. I believe it will be a detriment to the operations of their businesses and would like to see them have the capability to continue operating normally. I believe that studies by NHTSA and other groups have found that use of half-duplex two-way radios don't usually contribute to inattention and resulting accidents, not in the way that use of cellular phones and video games do.

I would also like to thank you for having the subsection allowing FCC-licensed Amateur Radio operators to continue operating their half-duplex radios as well for they do provide a valuable resource to our state.

Sincerely,
Gary Fuchikami
91-1038 Niolo St.
Ewa Beach, HI 96706

From: Susan [kipc@hawaiiantel.net]
Sent: Monday, February 22, 2010 12:13 PM
To: JGO Testimony
Subject: SB2755/2.23

TESTIMONY FOR SB2755

Hearing: February 23, 2010, 10 a.m.

The Keiki Injury Prevention Coalition is a highly regarded organization that promotes the safety of Hawaii children by reducing injuries, the overall leading cause of death and disability for children. All community and government agency representatives, and the Board of Directors, of this community organization avidly support legislation that bans all forms of mobile technology while driving a vehicle. This legislation enacts what is common sense and for the common good. All the evidence nationally, conducted by the National Highway Traffic Safety Administration and the Harvard University School of Public Health, demonstrates unequivocally that use of hand held technology and driving is an extreme hazard which led to the deaths of 6,000 people last year alone on the roads nationally. And, it was responsible for half a million emergency room admissions. A driver is distracted on all levels – physically, cognitively and visually – when driving while operating mobile technology. This not only puts the drivers and the passengers at great risk of dying but it also causes unnecessary deaths of other motorists on the roads. Last year, 16% of all deaths nationally were documented to occur as the result of distracted driving due to hand held forms of technology and 6% of all deaths on the national roadways were due just to cell phones. All of one's attention is required to navigate the roads and driving maneuvers demanded of a safe driver. Driving a vehicle was never intended to be coupled with such demanding tasks. It is a recipe for disaster and must be addressed by the legislature and law enforcement agencies.

Chair Senator Brian Taniguchi
Vice Chair Senator Dwight Takamine
Senate Committee on Judiciary and Government Operations

Testimony of Ernest Murphy

Tuesday, February 23, 2010 10:00 am
Capitol Conference Room 016

in Support, WITH AMENDMENT
of
Senate Bill 2755 SD1 - Relating to Highway Safety

Chair Brian Taniguchi and members of the Judiciary and Government Operations Committee:

I am Ernest Murphy, a longtime resident of Honolulu, and I testify as an individual supporting Senate Bill 2755 Senate Draft 1 **WITH AMENDMENTS**.

While halting cell phone use and texting by drivers is a worthwhile endeavor, it is critical that two-way radio use be exempted from this legislation.

Two-way radio is an essential part of doing business for many Hawaii companies, and has remained so despite the universal use of cell phones in recent years.

Businesses that operate fleets of vehicles still use two-way radios because they make it possible to easily and quickly communicate with the entire fleet of drivers with one transmission.

In addition, recent restrictions on using cell phones while driving on Oahu have added to the usefulness of two-way radio communication for businesses with employees in the field using motor vehicles.

Given the present economic environment, Hawaii businesses need all the help they can get, not expensive, unnecessary and troublesome complications of their ways of doing business.

There is no history of two-way radio use causing traffic accidents. Two-way radio has been in worldwide use by drivers, pilots, mariners and amateur radio operators for many years because it is relatively inexpensive, very effective and safe.

I suggest an amendment on the use of two-way radio in Section 2 (2) to read:

"(2) Drivers using two-way radios while in the performance and scope of their work-related duties; and"

and eliminate the restriction by vehicle weight and/or commercial vehicle licenses.