



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

February 23, 2012

**HOUSE BILL NO. 2609, HD1  
RELATING TO COMMERCIAL DRIVER'S LICENSE**

**HOUSE COMMITTEE ON JUDICIARY**

The Department of Transportation strongly supports this Administration bill with recommendations for amendments, because the bill will make Hawaii laws parallel the federal regulations. Federal Motor Carrier Safety Regulation 383.51 (c) (7) lists driving without a commercial driver's license in possession as a serious traffic violation. The amendment proposed by this bill will make this violation enforceable by State law and allow law enforcement officers to cite drivers for this violation instead of 286-102 (no driver's license) which is not counted as a serious violation. Beginning on August 1, 2011, a new AAMVAnet Code Dictionary (ACD) code, B57, Driving a CMV (commercial motor vehicle) without a CDL in the driver's possession was added to a list of ACD codes used by all jurisdictions in the Commercial Driver License Information System (CDLIS), a United States-wide system about CDL holders and their driver histories, and in the Problem Driver Pointer Systems (PDPS), the United States-wide system identifying drivers who have been convicted and/or withdrawn for federally specified offenses. Giving this violation a specific HRS number or reference will make it possible to use the B57 code without confusing the violation with any similar violation.

FMCSR Section 383.51 (c) (9) lists texting while driving a commercial motor vehicle as a serious traffic violation. When serious violations are accumulated, the CDL disqualification penalties become progressively longer. The intent of this bill is to put Hawaii law in harmony with the federal regulations and make the violation a serious one and also make the violation easy to align with ACD code B85, texting while driving a commercial motor vehicle.

We would like to propose some amendments to the bill. The first is to change the 291-section number in Section 1 of the bill to 286. This will make the section more intuitive, because all the section references in the bill are 286. Along with this change we would like to modify subsection (a) as follows:

"(a) No person shall operate a commercial motor vehicle as defined in 286-2 while using a mobile electronic device, including using the mobile electronic device for

texting as defined under section 286-231~~], while operating a commercial motor vehicle, as defined under section 286-2].~~”

The second amendment we request is to change the definition of “operate a commercial motor vehicle” to “...means to drive or assume actual physical control of a commercial motor vehicle upon a public way, street, road, or highway in the State with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Operating does not include operating a commercial motor vehicle with or without the motor running when the driver has moved the vehicle to the side of, or off, a public highway, street, road, or highway and has halted in a location where the vehicle can safely remain stationary.”

We recommend considering the elimination of subsection (c)(1) from Section 1 of the bill. The bill relates only to vehicles in excess of a GVWR of 26,000 pounds. Emergency vehicles this large and responding to an emergency will have more occupants than the driver. An occupant other than the driver could use the mobile electronic device in these situations.

Our final recommendation is to remove the financial penalty from subsection (d) of Section 1 so it reads as follows:

“(d) Any person who is convicted of violating subsection (a) shall be ~~[fined not more than \$2,750 in addition]~~ penalized in accordance with subsection 286-240(e).”

A state must come in substantial compliance with the requirements in this bill as soon as practical but not later than October 28, 2013. Failure to enact the changes could result in the loss of approximately \$5,500,000 (or 5% of \$109,016,036 federal-aid highway funds (based on FY 2011 funding) for the first year of non-compliance and \$10,900,000 (or 10%) per year thereafter.

Thank you for the opportunity to provide testimony.





February 23, 2012

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON JUDICIARY  
ON HB 2609 HD1 RELATING TO COMMERCIAL DRIVER'S LICENSE**

Thank you Chair Keith-Agaran 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.

The texting prohibition is already contained in the federal motor carrier safety regulations and this measure brings Hawaii's commercial drivers closer to those requirements.

Thank you.

**HOUSE COMMITTEE ON  
JUDICIARY**

February 23, 2012

House Bill 2609, HD1 Relating to Commercial Driver's License

Chair Keith-Agaran and members of the House Committee on Judiciary, I am Rick Tsujimura, representing General Motors, LLC (General Motors).

General Motors requests amendments to House Bill 2609, HD1 Relating to Commercial Driver's License.

We request that the following new subsection be added to the definition of "mobile electronic device" on page 3, line 11 which would state: "This section does not apply to the use of hands-free or voice operated technology including the pressing of a button to initiate or terminate the operation of any such technology."

We also request adding to the definition of "mobile electronic device" on page 3, line 7 the following: "and does not include a device that is physically or electronically integrated into the motor vehicle."

Thank you for the opportunity to present this testimony.