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LEGISLATURE  
STATE OF HAWAII



GOV. MSG. NO. 1174

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EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

May 20, 2013

The Honorable Donna Mercado Kim,  
President  
and Members of the Senate  
Twenty-Seventh State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Seventh State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on May 20, 2013, the following bill was signed into law:

HB980 HD2 SD2

RELATING TO HIGHWAY SAFETY  
ACT 074 (13)

*Neil Abercrombie*  
Signed  
*Neil Abercrombie*

NEIL ABERCROMBIE  
Governor, State of Hawaii

Approved by the Governor  
on MAY 20 2013

ORIGINAL

ACT 074

HOUSE OF REPRESENTATIVES  
TWENTY-SEVENTH LEGISLATURE, 2013  
STATE OF HAWAII

H.B. NO. 980  
H.D. 2  
S.D. 2

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# A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1           SECTION 1. Distracted driving is a problem of national  
2 concern. The legislature finds that the task of driving  
3 requires a driver's full attention in focusing on the roadway  
4 and driving maneuvers. Any distraction that diverts a driver's  
5 attention from the primary tasks of maneuvering the vehicle and  
6 responding to critical events increases the driver's risk of  
7 being involved in a motor vehicle crash. A distraction is  
8 anything that takes a driver's eyes off the road (visual  
9 distraction), mind off the road (cognitive distraction), or  
10 hands off the wheel (manual distraction).

11           The use of cellular phones or other mobile electronic  
12 devices during the task of driving constitutes a distraction and  
13 poses a risk of harm to the driver and others in the vehicle or  
14 on the road. New research findings by the National Highway  
15 Traffic Safety Administration show that nearly six thousand  
16 individuals, which is approximately sixteen per cent of all  
17 fatal crashes, died in 2008 in crashes involving a distracted or  
18 inattentive driver, and more than five hundred thousand



1 individuals were injured in such collisions. A survey has shown  
2 that on any given day during 2008, more than eight hundred  
3 thousand vehicles were driven by someone using a hand-held  
4 cellular phone. Federal researchers have observed drivers of  
5 all ages using a variety of hand-held devices while driving--  
6 cellular phones, iPods, video games, Blackberrys, and Global  
7 Positioning System receivers. In particular, the use of  
8 cellular phones for talking and texting while driving has become  
9 more prevalent on our nation's roadways.

10 The National Safety Council reported that the Harvard  
11 Center of Risk Analysis concluded that cellular-phone use  
12 contributes to an estimated six per cent of all crashes. That  
13 percentage equates to 636,000 crashes, three hundred thirty  
14 thousand injuries, twelve thousand serious injuries, and two  
15 thousand six hundred deaths each year. The annual cost of  
16 crashes caused by cellular-phone use is estimated at  
17 \$43,000,000,000. The Wireless Association reports that there  
18 are more than 270,000,000 cellular phone subscribers nationwide  
19 and that eighty-one per cent of the individuals surveyed  
20 admitted to talking on a cellular phone while driving.

21 In 2007, the Hawaii department of transportation showed  
22 that of the 8,770 collisions that happened during that year,



1 2,871, or thirty-two per cent, were attributed to inattention to  
2 driving. The new surface transportation bill, Moving Ahead for  
3 Progress in the 21st Century Act (MAP-21) (P.L. 112-141), passed  
4 by Congress in 2012, authorizes \$22,500,000 in federal fiscal  
5 year 2013 and \$23,100,000 in federal fiscal year 2014 to be  
6 distributed to the states that have a distracted driver state  
7 law. Unfortunately, Hawaii is not eligible for this funding due  
8 to the absence of a state distracted driving statute that  
9 prohibits the use of mobile electronic devices while driving.

10 The purpose of this Act is to prohibit the use of cellular  
11 phones and other mobile electronic devices while operating a  
12 vehicle, with certain exceptions, and to specifically prohibit  
13 activities such as texting, instant messaging, gaming, and e-  
14 mailing, which take a driver's eyes off the road, mind off the  
15 road, and hands off the wheel.

16 SECTION 2. Chapter 291C, Hawaii Revised Statutes, is  
17 amended by adding a new section to be appropriately designated  
18 and to read as follows:

19 "§291C- Mobile electronic devices. (a) No person shall  
20 operate a motor vehicle while using a mobile electronic device.

21 (b) The use of a mobile electronic device for the sole



1 purpose of making a "911" emergency communication shall be an  
2 affirmative defense to this law.

3 (c) No person under eighteen years of age shall operate a  
4 motor vehicle while utilizing a hands-free mobile electronic  
5 device, except for the sole purpose of making a "911" emergency  
6 communication.

7 (d) The following persons shall be exempt from subsection

8 (a):

9 (1) Emergency responders using a mobile electronic device  
10 while in the performance and scope of their official  
11 duties;

12 (2) Drivers using a two-way radio or a private Land Mobile  
13 Radio System, within the meaning of title 47 Code of  
14 Federal Regulations part 90, while in the performance  
15 and scope of their work-related duties and who are  
16 operating fleet vehicles or who possess a commercial  
17 vehicle license; or

18 (3) Drivers holding a valid amateur radio operator license  
19 issued by the Federal Communications Commission and  
20 using a half-duplex two-way radio.

21 (e) As used in this section:



1       "Emergency responders" include firefighters, emergency  
2 medical technicians, mobile intensive care technicians, civil  
3 defense workers, police officers, and federal and state law  
4 enforcement officers.

5       "Fleet vehicle" means any vehicle validly registered  
6 pursuant to section 286-53.5.

7       "Mobile electronic device" means any handheld or other  
8 portable electronic equipment capable of providing wireless or  
9 data communication between two or more persons or of providing  
10 amusement, including but not limited to a cellular phone, text  
11 messaging device, paging device, personal digital assistant,  
12 laptop computer, video game, or digital photographic device, but  
13 does not include any audio equipment or any equipment installed  
14 in a motor vehicle for the purpose of providing navigation,  
15 emergency assistance to the operator of the motor vehicle, or  
16 video entertainment to the passengers in the rear seats of the  
17 motor vehicle.

18       "Operate" a motor vehicle means the same as is defined in  
19 section 291E-1.

20       "Use" or "using" means holding a mobile electronic device  
21 while operating a motor vehicle.



1 (f) Every person who violates this section shall be

2 subject to the following penalties:

3 (1) For a first violation, or any violation not preceded  
4 within one year by a prior violation of this section,  
5 a fine of not less than \$100 and not more than \$200;

6 (2) For a violation that occurs within one year of a prior  
7 violation of this section, a fine of not less than  
8 \$200 and not more than \$300; and

9 (3) For a violation that occurs within two years of two  
10 prior violations of this section, and for the fourth  
11 and each subsequent violation of this section,  
12 regardless of when committed, a fine of not less than  
13 \$300 and not more than \$500.

14 If a person violates this section while operating a motor  
15 vehicle in a school zone or construction area, as defined in  
16 section 291C-104, the fines imposed pursuant to this subsection  
17 shall be doubled.

18 (g) Any violation as provided in subsections (a) and (c)  
19 shall not be deemed to be a traffic infraction as defined in  
20 section 291D-2.



1        (h) This section shall supersede any county ordinance  
2 regulating the use or utilization of mobile electronic devices  
3 while operating a motor vehicle."

4        SECTION 3. Section 286-108, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6        "(a) Except as provided in section 286-107.5(a), the  
7 examiner of drivers shall examine every applicant for a driver's  
8 license, except as otherwise provided in this part. The  
9 examination shall include a test of:

- 10        (1) The applicant's eyesight and any further physical
- 11                examination that the examiner of drivers finds
- 12                necessary to determine the applicant's fitness to
- 13                operate a motor vehicle safely upon the highways;
- 14        (2) The applicant's ability to understand highway signs
- 15                regulating, warning, and directing traffic;
- 16        (3) The applicant's knowledge of the rules of the road
- 17                based on the traffic laws of the State and the traffic
- 18                ordinances of the county where the applicant resides
- 19                or intends to operate a motor vehicle; provided that
- 20                the examination shall specifically test the
- 21                applicant's knowledge of the provisions of section
- 22                291C-121.5 [7] and section 291C-        ; and





1           (4) The actual demonstration of ability to exercise  
2           ordinary and reasonable control in the operation of a  
3           motor vehicle.

4 The examinations shall be appropriate to the operation of the  
5 category of motor vehicle for which the applicant seeks to be  
6 licensed and shall be conducted as required by the director.

7           The examiner of drivers shall require every applicant to  
8 comply with section 286-102.5.

9           The examiner of drivers may waive the actual demonstration  
10 of ability to operate a motorcycle or motor scooter for any  
11 person who furnishes evidence, to the satisfaction of the  
12 examiner of drivers, that the person has completed the  
13 motorcycle education course approved by the director in  
14 accordance with section 431:10G-104.

15           At the time of examination, an application for voter  
16 registration by mail shall be made available to every applicant  
17 for a driver's license.

18           For the purposes of this section, the term "applicant" does  
19 not include any person reactivating a license under section  
20 286-107.5(a)."



1 SECTION 4. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun, before its effective date.

4 SECTION 5. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect on July 1, 2013.

APPROVED this 20 day of MAY, 2013



GOVERNOR OF THE STATE OF HAWAII

