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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 the driver's full attention in focusing on the roadway  
4 and driving maneuvers. Any distraction that diverts the  
5 driver's attention from the primary tasks of maneuvering the  
6 vehicle and responding to critical events increases the 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 risks harm to the driver and  
13 others in the vehicle or on the road. New research findings by  
14 the National Highway Traffic Safety Administration show that  
15 nearly 6,000 (sixteen per cent of all fatal crashes) people died  
16 in 2008 in crashes involving a distracted or inattentive driver,  
17 and more than 500,000 were injured. A survey has shown that on  
18 any given day during 2008, more than 800,000 vehicles were

1 driven by someone using a hand-held cellular phone. Federal  
2 researchers have observed drivers of all ages using a variety of  
3 hand-held devices while driving - cellular phones, iPods, video  
4 games, Blackberrys, and Global Positioning System receivers. In  
5 particular, the use of cellular phones for talking and texting  
6 while driving is more prevalent on our nation's roadways.

7 The National Safety Council reported that the Harvard  
8 Center of Risk Analysis concluded that cellular phone use  
9 contributes to an estimated six per cent of all crashes. That  
10 equates to 636,000 crashes, 330,000 injuries, 12,000 serious  
11 injuries, and 2,600 deaths each year. The annual cost of  
12 crashes caused by cellular phone use is estimated at  
13 \$43,000,000,000. The Wireless Association reports that there  
14 are more than 270,000,000 cellular phone subscribers and that  
15 eighty-one per cent of the public admitted to talking on a  
16 cellular phone while driving.

17 In 2007, the Hawaii department of transportation showed  
18 that of the 8,770 collisions that happened during that year,  
19 2,871 (thirty-two per cent) were attributed to inattention to  
20 driving. The new surface transportation bill, Moving Ahead for  
21 Progress in the 21ST Century Act (MAP-21) (Pub. L. 112-141),  
22 passed by Congress in 2012, authorizes \$22,500,000 in federal

1 fiscal year 2013 and \$23,100,000 in federal fiscal year 2014 to  
2 be distributed to the states that have a distracted driver state  
3 law. Unfortunately, Hawaii is not eligible for this funding due  
4 to the absence of a distracted driving statute that prohibits the  
5 use of mobile electronic devices while driving.

6 The purpose of this Act is to prohibit the use of cellular  
7 phones and other mobile electronic devices while operating a  
8 vehicle, with certain exceptions, and to specifically prohibit  
9 activities such as texting, instant messaging, gaming, and  
10 emailing activities that take a driver's eyes off the road, mind  
11 off the road, and hands off the wheel.

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

15 "§291C- Mobile electronic devices. (a) No person shall  
16 operate a motor vehicle while using a mobile electronic device.

17 (b) The use of a mobile electronic device for the sole  
18 purpose of making a "911" emergency communication shall be an  
19 affirmative defense to this law.

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

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

4       (2) Drivers using a two-way radio or a Private Land Mobile  
5       Radio System as defined by title 47 of the Code of  
6       Federal Regulations part 90, while in the performance  
7       and scope of their work-related duties and who are  
8       operating fleet vehicles or who possess a commercial  
9       vehicle license; or

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

13       (d) As used in this section:

14       "Emergency responders" include firefighters, emergency  
15       medical technicians, mobile intensive care technicians, civil  
16       defense workers, police officers, and federal and state law  
17       enforcement officers.

18       "Fleet vehicle" means any vehicle validly registered  
19       pursuant to section 286-53.5.

20       "Mobile electronic device" means any handheld or other  
21       portable electronic equipment capable of providing wireless data  
22       communications between two or more persons or of providing

1 amusement, including but not limited to a cellular phone, text  
2 messaging device, paging device, personal digital assistant,  
3 laptop computer, video game, or digital photographic device, but  
4 does not include any equipment installed in a motor vehicle for  
5 the purpose of providing audio, navigation, or emergency  
6 assistance to the operator of the motor vehicle or video  
7 entertainment to the passengers in the rear seats of the motor  
8 vehicle.

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

11 "Use" or "using" means holding a mobile electronic device  
12 while operating a motor vehicle.

13 (e) Every person who violates this section shall be  
14 subject to the following penalties:

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

18 (2) For a violation that occurs within one year of a prior  
19 violation of this section, a fine of not less than  
20 \$200 and not more than \$300 and the suspension of the  
21 person's driver's license and privilege to operate a  
22 vehicle for a period of thirty days; and

1        (3) For a violation that occurs within two years of two  
2        prior violations of this section, and for the fourth  
3        and each additional violation of this section,  
4        regardless of when committed, a fine of not less than  
5        \$300 and not more than \$500 and the suspension of the  
6        person's driver's license and privilege to operate a  
7        vehicle for a period of ninety days.

8        (f) Any violation as provided in subsection (a) shall not  
9        be deemed to be a traffic infraction as defined by chapter  
10       291D."

11       SECTION 3. This Act does not affect rights and duties that  
12       matured, penalties that were incurred, and proceedings that were  
13       begun, before its effective date.

14       SECTION 4. New statutory material is underscored.

15       SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



BY REQUEST

JAN 22 2013

H.B. NO. 980

**Report Title:**

Highway Safety; Use of Mobile Electronic Devices

**Description:**

Creates a new law prohibiting the use of mobile electronic devices while operating a motor vehicle within the State of Hawaii. Establishes penalties.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

HB 980

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY.

PURPOSE: To create a new law prohibiting the use of any mobile electronic device while operating a motor vehicle within the State of Hawaii.

MEANS: Adding a new section to chapter 291C, Hawaii Revised Statutes.

JUSTIFICATION: Over the years, distracted driving has become a national concern. Statistics show that distracted driving has contributed to an increase in motor vehicle collisions over the years. On September 30, 2009, United States Transportation Secretary Ray LaHood met with and challenged over 250 safety experts, industry representatives, elected officials, and members of the public to help put an end to distracted driving. It was concluded at this summit that the primary responsibility of a driver is to operate a motor vehicle safely. The task of driving requires the driver's full attention and focus on the roadway and driving maneuvers. Any distraction that diverts the driver's attention from the primary tasks of maneuvering the vehicle and responding to critical events increases the risk of being involved in a motor vehicle crash. To put it in another way, a distraction is anything that takes a driver's eyes off the road (visual distraction), mind off the road (cognitive distraction), or hands off the wheel (manual distraction). The use of electronic devices, such as cellular phones, during the task of driving risks harm to the driver and others in the vehicle or on the road.



New research findings by the National Highway Traffic Safety Administration (NHTSA) showed that nearly 6,000 people died in 2008 in crashes (this represents 16 per cent of all fatal crashes) involving a distracted or inattentive driver, and more than 500,000 were injured. On any given day during this year, more than 800,000 vehicles were driven by someone using a hand-held cellular phone. Federal researchers who have observed drivers of all ages found that more and more people are using a variety of hand-held devices while driving - cellular phones, iPods, video games, Blackberrys, and Global Positioning System receivers. In particular, cellular phone use for talking and texting is more prevalent on our nation's roadways. It has become the primary means of communication for many people, especially young adults. Research has shown that the worst offenders are the youngest drivers: men and women less than 20 years of age.

The National Safety Council reported that the Harvard Center of Risk Analysis concluded that cellular phone use contributes to an estimated 6 per cent of all crashes. That equates to 636,000 crashes, 330,000 injuries, 12,000 serious injuries and 2,600 deaths each year. The annual cost of crashes caused by cellular phone use is estimated at \$43,000,000,000. The Wireless Association reports that there are more than 270,000,000 cellular phone subscribers and that 81 per cent of the public admitted to talking on a cellular phone while driving.

In 2012, Congress passed a new 2-year re-authorization highway safety bill H.R. 4348-328, entitled Moving Ahead for Progress in the 21ST Century Act (Pub.L. 112-141) referred as "MAP-". MAP-21 authorized \$265,000,000 for federal fiscal year 2013 and \$272,000,000 for federal fiscal year 2014 to be distributed to states that have a distracted driving state law. Because Hawaii does not have a distracted driving statute, it will not

qualify to receive any of this money for its distracted driving program. Currently, there are 10 states, D.C., Guam, and the Virgin Islands that prohibit all drivers from using handheld cellular phones while driving. There are 39 states, D.C., Guam, and the Virgin Islands that ban text messaging for all drivers.

Impact on the public: The proposed legislation prohibits using any mobile electronic devices while driving, which will be a deterrent and result in safer roadways.

Impact on the department and other agencies:  
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: TRN 595

OTHER AFFECTED  
AGENCIES: All county police departments and county prosecuting attorney offices.

EFFECTIVE DATE: Upon approval.