
A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1 SECTION 1. The legislature finds that questions and issues
2 have arisen regarding section 291C-137, Hawaii Revised Statutes,
3 relating to the use of mobile electronic devices while driving.
4 The purpose of this Act is to make clarifying amendments to
5 section 291C-137, Hawaii Revised Statutes.

6 SECTION 2. Section 291C-137, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsection (a) to read:

9 "(a) No person shall operate a motor vehicle while using a
10 mobile electronic device[-]:

11 (1) While held in the person's hand for the purpose of
12 making or receiving a non-emergency call, texting, or
13 receiving a text message; or

14 (2) To activate, deactivate, or initiate a function of the
15 mobile device."

16 2. By amending subsections (d) to (g) to read:

17 "(d) The following persons shall be exempt from subsection

18 (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, within the meaning of title 47 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[~~-~~]; or
- 13 (4) Drivers of vehicles that are at a complete stop,
14 whether or not the engine is running, in a safe
15 location by the side of the road out of the way of
16 traffic.
- 17 (e) As used in this section:
18 "Emergency responders" [~~include~~] includes firefighters,
19 emergency medical technicians, mobile intensive care
20 technicians, civil defense workers, police officers, and federal
21 and state law enforcement officers.



1 "Fleet vehicle" means any vehicle validly registered
2 pursuant to section 286-53.5.

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

14 "Operate" a motor vehicle means [~~the same as is defined in~~
15 ~~section 291E-1.~~] to drive or assume actual physical control of a
16 vehicle upon a public way, street, road, or highway.

17 "Texting" shall have the same meaning as in section
18 286-231.

19 "Use" or "using" means holding a mobile electronic device
20 while held in the driver's hand for the purpose of making or
21 receiving a non-emergency call, texting, or receiving a text
22 message, or to activate, deactivate, or initiate a function of



1 the mobile device while operating a motor vehicle. The term
2 excludes hands-free use of a mobile electronic device using
3 either a wired or wireless earpiece, or the speakerphone
4 function of the mobile telephone.

5 (f) Every person who violates this section shall be
6 subject to ~~[the following penalties:~~

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

10 ~~(2) For a violation that occurs within one year of a prior~~
11 ~~violation of this section, a fine of not less than~~
12 ~~\$200 and not more than \$300; and~~

13 ~~(3) For a violation that occurs within two years of two~~
14 ~~prior violations of this section, and for the fourth~~
15 ~~and each subsequent violation of this section,~~
16 ~~regardless of when committed, a fine of not less than~~
17 ~~\$300 and not more than \$500.] a fine of \$200; provided~~

18 that if a person is under the age of eighteen years
19 old at the time of the first offense and commits a

20 second offense while still under the age of eighteen
21 years old, the fine shall be \$300 for the second

22 offense, and \$400 for the third and subsequent offense



1 committed while still under the age of eighteen years
2 old, in accordance with title 23 Code of Federal
3 Regulations section 1200.24, relating to
4 qualifications for distracted driving grants.

5 If a person violates this section while operating a motor
6 vehicle in a school zone or construction area, as defined in
7 section 291C-104, the [~~finest imposed pursuant to this subsection~~
8 ~~shall be doubled.~~] fine shall be \$400. All fines imposed and
9 collected for violations under this section shall be deposited
10 into the state highway fund.

11 (g) Any violation as provided in subsections (a) and (c)
12 shall [~~not~~] be deemed to be a traffic infraction as defined in
13 section 291D-2."

14 SECTION 3. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

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

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



Report Title:

Highway Safety; Use of Mobile Electronic Devices

Description:

Specifies that operating a motor vehicle in the State while using a mobile device is deemed a traffic infraction. Specifies that the penalty for such an infraction shall be a fine of \$200, or \$400 if in a school zone or construction area. Specifies that if a person is under the age of eighteen years old at the time of a second offense, the fine shall be \$300, and \$400 for the third and subsequent offenses committed while under the age of eighteen years old. Requires collected fines to be deposited in the state highway fund. (SD1)

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