

JAN 17 2014

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# A BILL FOR AN ACT

RELATING TO MOBILE ELECTRONIC DEVICES.

**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 Act 74, Session Laws of Hawaii 2013,  
3 relating to the use of mobile electronic devices while driving.

4           The purpose of this Act is to make clarifying amendments to  
5 Act 74, Session Laws of Hawaii 2013.

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[-] held in the person's hand for the  
11 purpose of making or receiving a non-emergency call, texting, or  
12 receiving a text message."

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

14           "(d) The following persons shall be exempt from subsection  
15 (a):

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



1 (2) Drivers using a two-way radio or a private Land Mobile  
2 Radio System, within the meaning of title 47 Code of  
3 Federal Regulations part 90, while in the performance  
4 and scope of their work-related duties and who are  
5 operating fleet vehicles or who possess a commercial  
6 vehicle license; [~~or~~]

7 (3) Drivers holding a valid amateur radio operator license  
8 issued by the Federal Communications Commission and  
9 using a half-duplex two-way radio[~~+~~];

10 (4) Drivers searching for current traffic conditions,  
11 accidents, or alternative traffic routes; or

12 (5) Drivers of vehicles that are at a complete stop,  
13 whether or not the engine is running, in a safe  
14 location by the side of the road out of the way of  
15 traffic.

16 (e) As used in this section:

17 "Emergency responders" [~~include~~] includes firefighters,  
18 emergency medical technicians, mobile intensive care  
19 technicians, civil defense workers, police officers, and federal  
20 and state law enforcement officers.

21 "Fleet vehicle" means any vehicle validly registered  
22 pursuant to section 286-53.5.



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

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

15 "Texting" shall have the same meaning as in section 286-  
16 231."

17 "Use" or "using" means holding a mobile electronic device  
18 in the driver's hand for the purpose of making or receiving a  
19 non-emergency call, texting, or receiving a text message while  
20 operating a motor vehicle.

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



- 1       ~~(1) For a first violation, or any violation not preceded~~  
2           ~~within one year by a prior violation of this section,~~  
3           ~~a fine of not less than \$100 and not more than \$200,~~
- 4       ~~(2) For a violation that occurs within one year of a prior~~  
5           ~~violation of this section, a fine of not less than~~  
6           ~~\$200 and not more than \$300; and~~
- 7       ~~(3) For a violation that occurs within two years of two~~  
8           ~~prior violations of this section, and for the fourth~~  
9           ~~and each subsequent violation of this section,~~  
10          ~~regardless of when committed, a fine of not less than~~  
11          ~~\$300 and not more than \$500.] a fine of \$200.~~

12           If a person violates this section while operating a motor  
13 vehicle in a school zone or construction area, as defined in  
14 section 291C-104, the ~~[fines imposed pursuant to this subsection~~  
15 ~~shall be doubled.] fine shall be \$400.~~

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

19           SECTION 3. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



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

3 SECTION 5. This Act, upon its approval, shall take effect  
4 retroactive to May 20, 2013.

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# S.B. NO. 2729

**Report Title:**

Mobile Electronic Devices

**Description:**

Amends section 291C-137, HRS, to prohibit the operation of a motor vehicle while using a mobile electronic device held in a person's hand for making or receiving a non-emergency call, texting, or receiving a text message. Adds exemptions to prohibition. Amends the penalties for violations. Deems a violation to be a traffic infraction. Takes effect retroactive to 5/20/2013.

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

