

STAND. COM. REP. NO.

2994

Honolulu, Hawaii

MAR 21 2014

RE: H.B. No. 1509  
H.D. 1  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Madam:

Your Committee on Transportation and International Affairs,  
to which was referred H.B. No. 1509, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Repeal the current penalties for violating the law on mobile electronic devices and instead establish a minimum fine of \$250, to be deposited into the state highway fund; and
- (2) Repeal the provision that specifies a violation shall not be deemed a traffic violation, thereby making the violation eligible for expedited traffic violation adjudication procedures.

Your Committee received testimony in support of this measure from the Department of Transportation and ten individuals.

Your Committee finds that after the passage of Act 74, Session Laws of Hawaii 2013, which enacted the mobile electronic devices law (codified as section 291C-137, Hawaii Revised Statutes), the Legislature received numerous complaints from the public about the vagueness and ambiguity of the law and the onerous burden of violators having to make a court appearance. Particularly on the neighbor islands, a person is likely to have



to travel many miles to appear in court and wait for the case to be called, which consumes a whole day's worth of time.

Your Committee finds that it was never the intent of the Legislature that violators be forced to appear in court rather than mail in the fine without a court appearance, as allowed under chapter 291D, Hawaii Revised Statutes, relating to adjudication of traffic violations. Your Committee further finds that the existing law is fraught with traps for those who use mobile electronic devices in situations that are within the realm of safe driving to a reasonable person.

Your Committee wishes to make clear that it is not the intent of your Committee to jeopardize federal highway funds by way of distracted driving grants. More particularly, the Code of Federal Regulations require as a qualification for receiving grant monies that there be a system of increased fines for repeat violations by drivers younger than eighteen years of age. Your Committee believes that the federal rule makes sense in light of the prevalence of cell phone use by minors while driving. Furthermore, the federal rules are silent on requiring any court appearance for a violation.

Your Committee believes that monetary penalties must be a flat amount in order for violators to be able to mail in the fine in lieu of making a court appearance, as provided in section 291D-6, Hawaii Revised Statutes, relating to mail-in procedures for adjudication of traffic infractions.

Your Committee has amended this measure by deleting its contents and inserting the contents of its companion measure, S.B. No. 2729, S.D. 2, which:

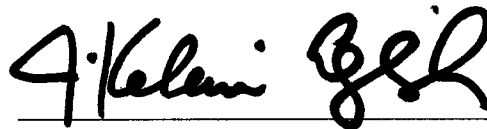
- (1) Prohibits any person from operating a motor vehicle while using a mobile electronic device by holding the device in the person's hand for the purpose of making or receiving a non-emergency call, texting, or receiving a text message, or to activate, deactivate, or initiate a function of the device;
- (2) Provides an exemption for drivers of vehicles that are at a complete stop, whether or not the engine is running, in a safe location by the side of the road out of the way of traffic;



- (3) Clarifies the definition of "operate";
- (4) Adds a definition of "texting";
- (5) Clarifies the definition of "use" or "using";
- (6) Establishes a fine of \$200, which applies to all persons but, for persons under the age of eighteen, increases to \$300 for a second offense and \$400 for a third and subsequent offense;
- (7) Establishes a fine of \$400 for a violation in a school zone or construction area; and
- (8) Specifies that a violation shall be deemed to be a traffic infraction, which allows for mail-in of the fine, rather than a court appearance.

As affirmed by the record of votes of the members of your Committee on Transportation and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1509, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1509, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on  
behalf of the members of the  
Committee on Transportation and  
International Affairs,



J. KALANI ENGLISH, Chair



The Senate  
Twenty-Seventh Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Transportation and International Affairs**  
**TIA**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 1509, HD1	TIA, JDL	03/18/14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
ENGLISH, J. Kalani (C)	/			
DELA CRUZ, Donovan M. (VC)	/			
ESPERO, Will	/			
GABBARD, Mike	/	/		
KAHELE, Gilbert	/			
KEITH-AGARAN, Gilbert S.C.	/			
KOUCHI, Ronald D.				/
SOLOMON, Malama	/			
SLOM, Sam				/
<b>TOTAL</b>	6	1		2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original    Yellow    Pink    Goldenrod File with Committee Report    Clerk's Office    Drafting Agency    Committee File Copy				

\*Only one measure per Record of Votes