

Honolulu, Hawaii

**APR 24 2014**

RE: S.B. No. 2729  
S.D. 2  
H.D. 1  
C.D. 1

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

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2729, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MOBILE ELECTRONIC DEVICES,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to:

- (1) Amend the fines relating to penalties for violation of the mobile electronic devices law by imposing a fine of not less than \$250 to be deposited into the state highway fund, and a fine of \$400 to be paid to the Director of Finance if the violation occurs in a school zone or construction area; and
- (2) Clarify that a violation is deemed to be a traffic infraction.



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 public complaints about the onerous burden of requiring violators to make a court appearance. Your Committee on Conference prefers not to force violators to appear in court. Particularly for 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. According to testimony of the Judiciary on this measure, "Since the inception of the current law there have been 7,184 mobile device cases statewide of which 4,171 cases have been adjudicated. However, in almost 900 of these cases a bench warrant has been issued for those defendants who did not make a court appearance. In some cases where the warrants have been served, defendants have also been convicted of contempt of court for failure to appear. For these cases, defendants have a criminal conviction record which is recorded in the Hawaii Criminal Justice Center's CJIS database."

Your Committee on Conference prefers to allow violators to mail in the fine without a court appearance for persons age eighteen and older, which greatly reduces crowded District Court calendars and avoids the possibility of having a criminal record. Your Committee on Conference finds that a traffic infraction does not require a court appearance under section 291D-3, Hawaii Revised Statutes, unless a violator requests a trial.

Your Committee on Conference has amended this measure by:

- (1) Adding an exemption for drivers of vehicles that are at a complete stop, while the engine is turned off, in a safe location by the side of the road out of the way of traffic;
- (2) Clarifying the definition of "operate" to mean to drive or assume actual physical control of the vehicle upon a public way, street, road, or highway, including operation while temporarily stationary because of traffic, a traffic light, or a stop sign;
- (3) Setting a flat fine of \$250 for a violation;
- (4) Reducing the fine from \$400 to \$300 for violations occurring in a school zone or construction area;



- (5) Specifying that any violation is deemed a traffic infraction, so as to negate the necessity of appearing in court to respond;
- (6) Changing the effective date to July 1, 2014; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.


Your Committee on Conference believes that the flat fine in the measure as amended, will increase revenues that are to be deposited into the state highway fund and the general fund. Thus, this amended measure represents a win-win compromise.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2729, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2729, S.D. 2, H.D. 1, C.D. 1.

Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE

  
\_\_\_\_\_  
RYAN I. YAMANE, Co-Chair

  
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J. KALANI ENGLISH, Chair

  
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KARL RHOADS, Co-Chair

  
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CLAYTON HEE, Co-Chair



