

**LATE**

NEIL ABERCROMBIE  
GOVERNOR



**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

Testimony of  
GLENN M. OKIMOTO  
DIRECTOR

Deputy Directors  
FORD N. FUCHIGAMI  
RANDY GRUNE  
AUDREY HIDANO  
JADINE URASAKI

IN REPLY REFER TO:

January 29, 2014  
10:00 AM  
State Capitol, Room 309

**H.B. 1509**  
**RELATING TO HIGHWAY SAFETY**

House Committee on Transportation

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The Department of Transportation (DOT) **opposes** House Bill 1509, Relating to Highway Safety. This bill will delete the penalty provisions and convert the violation into a traffic infraction.

The State receives federal highway safety grants to help deter and prevent driving behavior that cause motor vehicle crashes and deaths. These grants are provided under Title 23 United States Code, Sections 402 and 405 which are designed to change driving behavior through enforcement, education and engineering. However, to receive these grants, the federal government mandates that the requirements must be included in the state's laws or statutes.

Hawaii has just recently received notification from the National Highway Traffic Safety Administration that it does not qualify for the distracted driving grant. The basis for the rejection is the technical non-substantive reading of our current law. The first item is the requirement that it imposed increased fines for repeat offenders. The second item is the state's definition of "operate" in accordance with section 291E-1, Hawaii Revised Statutes (HRS). By the federal definition, driving is defined as the operation of a motor vehicle on a public road that includes being temporarily stationary because of traffic, a traffic light or stop sign, or otherwise; but does not include operating a motor vehicle when the vehicle is pulled over to the side of or off an active roadway and has stopped in a location where it can safely remain stationary.

The DOT recommends making technical non-substantive amendments to section

291C-137, HRS as follows:

- (f)(2): “ ..., a fine of not less than [~~\$200~~] \$201 and not more than \$300;”
- (f)(3): “ ..., a fine of not less than [~~\$300~~] \$301 and not more than \$500.”

Thank you for the opportunity to testify.

**takayama2 -Brandon**

**LATE**

**From:** David.J.Rodriguez@hawaii.gov  
**Sent:** Tuesday, January 28, 2014 3:13 PM  
**To:** TRNtestimony  
**Subject:** Fw: TRN Jan 29 @ 10am  
**Attachments:** HB1509 Mobile Device.pdf

The DOT would like to revise its testimony for HB1509 which edits the sentence in the 3rd paragraph. Thank you for the considering changes to our testimony. Aloha/David

----- Forwarded by David J Rodriguez/ADMIN/HIDOT on 01/28/2014 03:10 PM -----

**From:** David J Rodriguez/ADMIN/HIDOT  
**To:** TRNTestimony@capitol.hawaii.gov,  
**Cc:** Janice F Arakaki/ADMIN/HIDOT@HIDOT, Coleen F Yoshina/ADMIN/HIDOT@HIDOT, Charlene Ito/AIR/HIDOT@HIDOT, Sheri S Yoshizawa/AIR/HIDOT@HIDOT, Lynette H Marushige/HAR/HIDOT@HIDOT, Veronica AM Cheong/HWY/HIDOT@HIDOT, Galen Wong/HWY/HIDOT@HIDOT, Jean Oshita/HAR/HIDOT@HIDOT, Jon K Matsuo/AIR/HIDOT@HIDOT, Cheryl Ann A Cantere/ADMIN/HIDOT@HIDOT, Dean Nakagawa/ADMIN/HIDOT@HIDOT  
**Date:** 01/28/2014 01:11 PM  
**Subject:** TRN Jan 29 @ 10am

The DOT submits testimony for the following agenda:

[http://www.capitol.hawaii.gov/session2014/hearingnotices/HEARING\\_TRN\\_01-29-14\\_.HTM](http://www.capitol.hawaii.gov/session2014/hearingnotices/HEARING_TRN_01-29-14_.HTM)

Thank you for the opportunity to provide testimony.

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Department of Transportation  
869 Punchbowl Street, Suite 504  
Honolulu, Hawaii 96813  
(808) 587-2165

[attachment "HB1586 SMA.pdf" deleted by David J Rodriguez/ADMIN/HIDOT] [attachment "HB1811 ACT46.pdf" deleted by David J Rodriguez/ADMIN/HIDOT]  
[attachment "HB2147 Concessions.pdf" deleted by David J Rodriguez/ADMIN/HIDOT] [attachment "HB1702 Kapalama.pdf" deleted by David J Rodriguez/ADMIN/HIDOT] [attachment "HB1610 2014 Roads in Limbo.pdf" deleted by David J Rodriguez/ADMIN/HIDOT] [attachment "HB1509 Mobile Device.pdf" deleted by David J Rodriguez/ADMIN/HIDOT] [attachment "HB1706 Bikeways.pdf" deleted by David J Rodriguez/ADMIN/HIDOT] [attachment "HB1771 Civil Air Patrol.pdf" deleted by David J Rodriguez/ADMIN/HIDOT] [attachment "HB1667 Veterans Exemption.pdf" deleted by David J Rodriguez/ADMIN/HIDOT]

**LATE**



*The Judiciary, State of Hawaii*

**Testimony to the House Committee on Transportation**

Representative Ryan I. Yamane, Chair  
Representative Gregg Takayama, Vice Chair

Wednesday, January 29, 2014, 10:00 a.m.  
State Capitol, Conference Room 309

By

**WRITTEN TESTIMONY ONLY**

Calvin Ching  
Deputy Chief Court Administrator  
First Circuit

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**Bill No. and Title:** House Bill No. 1509, Relating to Highway Safety.

**Purpose:** Specifies that operating a motor vehicle in the State while utilizing a mobile device is a traffic infraction. Specifies that the penalty for such an infraction shall be a fine of not less than \$150.

**Judiciary's Position:**

The Judiciary takes not position on the merits of House Bill No. 1509, but notes that the conversion of the violation of operating a motor vehicle while using a mobile electronic device to an infraction would have several benefits for the public and the administration of justice.

Under the current law, which treats operating a motor vehicle while using a mobile electronic device as a violation, the person receiving the citation is required to appear in court, face arraignment, enter a plea of guilty, no contest or not guilty, and, if the person enters a plea of not guilty, return to court for a trial. The trial would be the only opportunity for the defendant to present his or her side of the circumstances giving rise to the citation. If the defendant fails to make any court appearance, a bench warrant would be issued and the defendant would face possible arrest.



House Bill No. 1509, Relating to Highway Safety  
House Committee on Transportation  
Wednesday, January 29, 2014  
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If the offense is treated as an infraction, the process is greatly simplified. If the defendant did not contest the citation, that defendant could simply make payment online or mail payment to the court for the fines and fees without a court appearance. If the defendant contested the infraction, the defendant could submit a written statement or request a court hearing. The defendant would be given an opportunity to explain his or her version of the circumstances giving rise to the citation or present mitigating circumstances in the written statement or the initial court hearing. This would minimize court appearances for members of the public and allow them to be heard at the earliest opportunity.

If a defendant failed to submit a timely written statement or to appear at a scheduled court hearing, the appropriate fines and fees would be imposed. No bench warrant would be issued.

As a violation, the current law requires the presence of the prosecuting attorney at all proceedings and for the prosecuting attorney to abide by all the requirements of a criminal prosecution. As an infraction, the prosecuting attorney would not be present at the initial appearance or involved in the written statement.

Thank you for the opportunity to testify on House Bill No. 1509.

**takayama2 -Brandon**

**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 28, 2014 7:16 PM  
**To:** TRNtestimony  
**Cc:** lco@courts.hawaii.gov  
**Subject:** Submitted testimony for HB1509 on Jan 29, 2014 10:00AM  
**Attachments:** HB1509\_TRN\_1-29-14.pdf

**HB1509**

Submitted on: 1/28/2014

Testimony for TRN on Jan 29, 2014 10:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
LCO	Judiciary, State of Hawaii	Comments Only	No

Comments: Testimony attached.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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