

Testimony by:
JADE T. BUTAY
INTERIM DIRECTOR

Deputy Directors
ROY CATALANI
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

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

February 8, 2018
9:00 A.M.
State Capitol, Room 225

S.B. 2119
RELATING TO MOBILE ELECTRONIC DEVICES

Senate Committee on Transportation and Energy
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

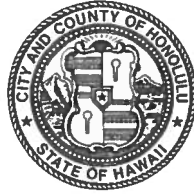
The Department of Transportation (DOT) **supports** S.B. 2119 relating to mobile electronic devices. This bill will require the driver of a motor vehicle involved in a collision and in possession of a mobile electronic device at or near the time of the collision to, at the request of a police officer, submit the mobile electronic device to police for field testing of the device. This bill establishes procedures to allow police to field test the mobile electronic device and also imposes penalties for refusing to submit the mobile electronic device for testing.

The DOT supports the use of crash data to establish distracted driving statistics to determine the problem of mobile electronic devices as factors in a collision. The data can be used in determining the seriousness of crashes involving these devices and to promote enhanced laws from using mobile electronic devices while driving a motor vehicle.

Thank you for the opportunity to provide testimony.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

SUSAN BALLARD
CHIEF

JOHN D. MCCARTHY
JONATHAN GREMS
DEPUTY CHIEFS

OUR REFERENCE RN-GR

February 8, 2018

The Honorable Lorraine R. Inouye, Chair
and Members
Committee on Transportation and
Energy
The Honorable Clarence K. Nishihara, Chair
and Members
Committee on Public Safety,
Intergovernmental, and Military Affairs
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 225
Honolulu, Hawaii 96813

Dear Chairs Inouye and Nishihara and Members:

SUBJECT: Senate Bill No. 2119, Relating to Mobile Electronic Devices

I am Ryan Nishibun, Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes the passage of Senate Bill No. 2119, Relating to Mobile Electronic Devices, in its current form.

The language in Senate Bill No. 2119 appears to violate a person's Fourth Amendment rights by having a person involved in a motor vehicle collision submit their electronic mobile device for testing if death, serious bodily injury, substantial bodily injury, bodily injury, or damage to a vehicle or property occurred. With no probable cause or reasonable suspicion to believe that the operator of a vehicle was using a mobile electronic device illegally, obtaining the electronic device or having the person submit the mobile electronic device without first obtaining a search warrant would appear to violate the person's Fourth Amendment rights.

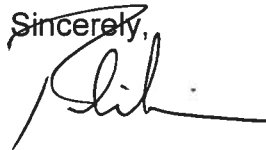
The Honorable Lorraine R. Inouye, Chair
and Members
The Honorable Clarence K. Nishihara, Chair
and Members

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The HPD urges you to oppose Senate Bill No. 2119, Relating to Mobile Electronic Devices.

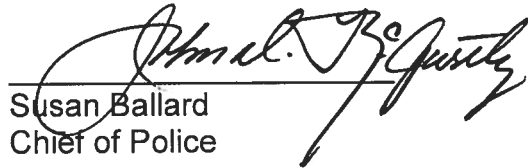
Thank you for the opportunity to testify.

Sincerely,



Ryan Nishibun, Major
Traffic Division

APPROVED:



Susan Ballard
Chief of Police

SB-2119

Submitted on: 2/2/2018 3:11:01 PM

Testimony for TRE on 2/8/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Maui Police Department	Support	No

Comments:

Hawaii State Legislature
Senate Committee on Transportation and Energy
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

February 7, 2018

Filed via email to committees

RE: SB 2119, Motor Vehicle; Mobile Electronic Devices - NAMIC's Written Testimony IN SUPPORT

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committees for the February 8, 2018, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation. NAMIC's written comments need not be read into the record, so long as they are referenced as a formal submission and are provided to the committee for consideration.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 84 members who write property/casualty/workers' compensation in the State of Hawaii, which represents 28% of the insurance marketplace.

NAMIC is pleased to support the proposed legislation, because it is logical pro-motorist safety and pro-legal accountability bill. Requiring a motorist involved in an accident to demonstrate that he/she was not a distracted driver at time of accident makes sense and is akin to requiring a motorist to consent to a breathalyzer after an auto accident to make sure that the driver was not operating a motor vehicle under the influence of alcohol. Since the proposed legislation provides reasonable motorist privacy protection for substantive information contained on the driver's mobile device, the proposed legislation balances the needs of the motorist and the needs of society to discourage and punish distracted driving.

The National Safety Council has reported that mobile electronic device/cell phone use while driving leads to 1.6 million crashes each year. According to the National Highway Traffic Safety Administration (NHTSA), in 2015, there were 3,477 people killed in crashes involving a distracted driver. In effect, there were approximately 9 deadly text messages per day by motorists.

The proposed legislation will, in effect, improve the effectiveness of the current prohibition on the use of mobile devices while driving. NAMIC supports this reasonable and progressive expansion of the law, because nearly 330,000 injuries occur each year from accidents caused by texting while driving. In fact, 1 out of every 4 car accidents in the United States is caused by texting and driving. (National Center for Statistics and Analysis. *Distracted Driving: 2015*). Between 2010 and 2015, distracted driving took the life of 19,461 people (NHTSA, 2016 data).

Texting while driving is one of the most dangerous forms of distracted driving. The data is quite compelling and terrifying in regard to the dangers posed by texting while driving. Drivers who are texting while behind the wheel have a 23% higher chance of causing a crash, which is equivalent to drinking four beers and then getting behind the wheel with an approximate BAC of .08%. (Advocates for Highway and Auto Safety citing Brain Injury Society study).

Further, answering a text message takes away one's attention from the roadway for approximately 5 seconds, which means that, if one is driving at 55 MPH, the driver is distracted from the roadway for the length of an entire football



field. Additionally, texting causes a 400% increase in time spent with eyes off the road. (Virginia Tech Transportation Institute).

The wealth of data on the dangers associated with texting and driving is so compelling that the Federal Government issued a number of clear prohibitions against texting and driving:

- On September 30, 2009, President Obama issued an executive order prohibiting federal employees from texting while driving on government business or with government equipment. (*Federal Leadership on Reducing Text Messaging while Driving (Executive Order 13513)*, 2009: 3 CFR. p. 3.).
- On September 17, 2010, the Federal Railroad Administration banned cell phone and electronic device use of employees on the job. (Federal Railroad Administration. *Restrictions on Railroad Operating Employees: Use of Cellular Telephones and Other Electronic Devices*. 2010).
- On October 27, 2010, the Federal Motor Carrier Safety Administration enacted a ban that prohibits commercial vehicle drivers from texting while driving. (Federal Motor Carrier Safety Administration. *Limiting the Use of Wireless Communication Devices*. 2010).
- In 2011, the Federal Motor Carrier Safety Administration and the Pipeline and Hazardous Materials Safety Administration banned all hand-held cell phone use by commercial drivers and drivers carrying hazardous materials. (Pipeline and Hazardous Materials Safety Administration. *Commercial Motor Vehicle Drivers: Restricting the Use of Cellular Phones*. 2011).

In addition to the very important public safety objective of the bill, NAMIC also supports the proposed legislation, because distracted driving automobile accidents cause injuries to drivers and passengers that result in significant medical costs, rehabilitative care expenses, and lost wages, which are insurance rate cost-drivers that ultimately impact the cost of auto insurance for consumers. According to the NHTSA, distracted driving accidents impose a societal economic cost of \$40 billion per year.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC's written testimony.

Respectfully,

Christian John Rataj, Esq.
NAMIC Senior Regional Vice President
State Government Affairs, Western Region

SB-2119

Submitted on: 2/7/2018 12:15:49 PM

Testimony for TRE on 2/8/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Margaret Maupin		Support	No

Comments: