

ACT 175

S.B. NO. 2729

A Bill for an Act Relating to Mobile Electronic Devices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that questions and issues have arisen regarding section 291C-137, Hawaii Revised Statutes, relating to the use of mobile electronic devices while driving.

SECTION 2. Section 291C-137, Hawaii Revised Statutes, is amended by amending subsections (d) to (g) to read as follows:

“(d) The following persons shall be exempt from subsection (a):

- (1) Emergency responders using a mobile electronic device while in the performance and scope of their official duties;
- (2) Drivers using a two-way radio or a private Land Mobile Radio System, within the meaning of title 47 Code of Federal Regulations part 90, while in the performance and scope of their work-related duties and who are operating fleet vehicles or who possess a commercial vehicle license; ~~or~~
- (3) Drivers holding a valid amateur radio operator license issued by the Federal Communications Commission and using a half-duplex two-way radio~~[-]; or~~
- (4) 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.

(e) As used in this section:

“Emergency responders” ~~[include]~~ includes firefighters, emergency medical technicians, mobile intensive care technicians, civil defense workers, police officers, and federal and state law enforcement officers.

“Fleet vehicle” means any vehicle validly registered pursuant to section 286-53.5.

“Mobile electronic device” means any handheld or other portable electronic equipment capable of providing wireless or data communication between

two or more persons or of providing amusement, including but not limited to a cellular phone, text messaging device, paging device, personal digital assistant, laptop computer, video game, or digital photographic device, but does not include any audio equipment or any equipment installed in a motor vehicle for the purpose of providing navigation, emergency assistance to the operator of the motor vehicle, or video entertainment to the passengers in the rear seats of the motor vehicle.

"Operate" a motor vehicle means ~~[the same as is defined in section 291E-1-]~~ 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.

"Use" or "using" means holding a mobile electronic device while operating a motor vehicle.

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

(1) ~~For a first violation, or any violation not preceded within one year by a prior violation of this section, a fine of not less than \$100 and not more than \$200;~~

(2) ~~For a violation that occurs within one year of a prior violation of this section, a fine of not less than \$200 and not more than \$300; and~~

(3) ~~For a violation that occurs within two years of two prior violations of this section, and for the fourth and each subsequent violation of this section, regardless of when committed, a fine of not less than \$300 and not more than \$500. If a fine of \$250 that shall be deposited into the state highway fund; provided that if a person violates this section while operating a motor vehicle in a school zone or construction area, as defined in section 291C-104, the [fines imposed pursuant to this subsection shall be doubled.] fine shall be \$300, which shall be paid to the director of finance pursuant to section 291C-171.~~

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

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

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

SECTION 5. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)