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## A BILL FOR AN ACT

RELATING TO THE USE OF MOBILE PHONES WHILE DRIVING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that over the span of a  
2 decade, the cellular phone has gone from novelty to convenience  
3 to a fixture of modern life. It is difficult to travel the  
4 state and not meet someone who is using or carrying a cellular  
5 phone. A great part of the allure of mobile phones,  
6 particularly cellular phones, is the convenience of using a  
7 phone nearly anywhere, including while driving.

8           The legislature also finds that driving with two hands on  
9 the steering wheel and full attention to traffic and road  
10 conditions increases driving safety. Mobile phone usage while  
11 driving reduces driving safety due to the need to use at least  
12 one hand to program the phone to make a call, receive a call, or  
13 any number of things. The legislature further finds that as a  
14 result of the safety hazard posed by mobile phone use when  
15 driving, mobile phone manufacturers have started to produce  
16 devices that allow drivers to use their mobile phones without  
17 the use of their hands. These "hands-free" devices have



1 obviated the present need to legislatively ban the use of mobile  
2 phones while driving.

3 The purpose of this Act is to allow mobile phone use while  
4 operating a motor vehicle only when equipped with a hands-free  
5 accessory.

6 SECTION 2. Chapter 291C, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9 "§291C- Mobile telephone use; prohibited. (a) No  
10 driver shall use a mobile telephone while operating a moving  
11 motor vehicle in the state unless the mobile telephone is  
12 equipped with a hands-free accessory and the mobile telephone is  
13 being used in the hands-free mode.

14 (b) No person shall use a mobile telephone, including  
15 those with hands-free accessories, while operating a moving  
16 school bus that is carrying passengers.

17 (c) It shall be an affirmative defense to an alleged  
18 violation of this section, that the person was using a mobile  
19 telephone:

20 (1) For the purpose of reporting a medical or safety  
21 emergency or to obtain assistance for a medical or  
22 safety emergency; or



1       (2) In the scope of the person's duties as law enforcement  
2       or emergency personnel, as a driver of an authorized  
3       emergency vehicle, or as a properly licensed operator  
4       of a commercial vehicle.

5       (d) Violation of this section shall be a violation, and  
6       courts shall impose a fine of not more than \$100 for each  
7       violation.

8       (e) Notwithstanding any other law to the contrary, no  
9       county shall enact ordinances or adopt any rules regulating the  
10      use of mobile telephones by an operator of a motor vehicle that  
11      is inconsistent with, or more restrictive than, the provisions  
12      of this section. Any ordinances or rules regulating the use of  
13      mobile telephones by an operator of a motor vehicle that are  
14      enacted or adopted by a county that are inconsistent or more  
15      restrictive than the provisions of this section shall be  
16      declared void.

17      (f) Enforcement of this section by law enforcement  
18      personnel may be accomplished only as a secondary action when a  
19      driver of a motor vehicle has been detained for a suspected  
20      violation of another traffic infraction.

21      (g) For the purposes of this section:



1       "Commercial vehicle" means a vehicle registered to a  
2 business that has a gross vehicle weight rating of ten thousand  
3 and one pounds or more.

4       "Hands-free accessory" means an attachment, add-on, built-  
5 in feature, or addition to a mobile telephone, whether or not  
6 permanently installed in a motor vehicle, that when used, allows  
7 the driver to maintain both hands on the steering wheel.

8       "Mobile telephone" means a cellular, analog, satellite,  
9 wireless, or digital telephone capable of sending or receiving  
10 telephone messages without an access line for service.

11       "Use" means talking, typing text messages, placing or  
12 receiving a call, or attempting to place or receive a call, on a  
13 mobile telephone."

14       SECTION 3. New statutory material is underscored.

15       SECTION 4. This Act shall take effect on July 1, 2007.

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INTRODUCED BY: \_\_\_\_\_

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OR 4.2-

JAN 18 2007



**Report Title:**

Mobile phones; safety

**Description:**

Prohibits the use of a mobile telephone while driving unless equipped with a hands-free accessory and being used in the hands-free mode. Exempts mobile radios.

