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## A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1           SECTION 1. The legislature finds that traffic safety is  
2 important to the people of Hawaii. For instance, every year in  
3 Hawaii, people die or are seriously injured while riding in the  
4 open beds of pickup trucks. These open beds are not designed for  
5 human transportation, and lack seat belts and other safety  
6 features. In 1996, the legislature enacted a law to prohibit  
7 children under 13 from riding in pickup beds. This law must be  
8 expanded to prohibit all persons, regardless of age, from riding  
9 in the back of pickup trucks.

10           Last year, we also saw the consequences of people riding  
11 motorcycles without helmets. Ben Roethlisberger, the  
12 quarterback for the defending Super Bowl Champion Pittsburgh  
13 Steelers, was severely injured while riding a motorcycle without  
14 a helmet. This is a grim reminder of how important a helmet is  
15 when riding a motorcycle.

16           Riding without a helmet also has a social cost. Taxpayers  
17 and hospitals subsidize the health care costs of those  
18 unhelmeted accident victims through taxpayer dollars. Health



1 care insurance for all is also increased because of the higher  
2 health care costs that unhelmeted accident victims incur.  
3 Taxpayers also have to bear additional costs of programs  
4 intended to help brain-injured accident survivors such as the  
5 neurotrauma special fund established by Act 160, Session Laws of  
6 Hawaii 2002. Businesses, taxpayers, and the State as a whole,  
7 suffer when traffic is shut down due to a traffic fatality,  
8 which is a statistically higher probability when the accident  
9 involves an unhelmeted rider.

10 Last, and most important of all, is the grief caused to the  
11 loved ones of an unhelmeted accident victim when the inevitable  
12 thought of whether a safety helmet would have saved their loved  
13 one enters their minds. Mandating the wearing of helmets when  
14 riding or operating these vehicles is a relatively small  
15 sacrifice of personal freedom to help prevent tragedies to  
16 families and our community.

17 The legislature also finds that technology could have a  
18 negative impact on the public safety and welfare of the people  
19 of Hawaii. Video screens, cell phones, and mobile media devices  
20 have been distracting drivers and has been a cause of many  
21 accidents.



1 SECTION 2. Section 291-14, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§291-14 Pickup trucks; passenger restrictions. (a) No  
4 person shall stand in the bed or load-carrying area of any motor  
5 vehicle commonly known as a pickup truck while the vehicle is in  
6 operation. No operator of any pickup truck shall operate the  
7 vehicle with a passenger seated in the bed or load-carrying area  
8 of the vehicle [~~unless:~~

9 ~~(1) There is no seating available in the cab of the~~  
10 ~~vehicle;~~

11 ~~(2) The side racks of the vehicle are securely~~  
12 ~~attached and the tailboard or tailgate is securely~~  
13 ~~closed;~~

14 ~~(3) Every passenger in the bed or load carrying area~~  
15 ~~of the vehicle is seated on the floor and does not~~  
16 ~~attempt to control unlashd cargo.~~

17 ~~(b) This section shall not apply to persons or~~  
18 ~~corporations operating a business or businesses that serve the~~  
19 ~~public, who or which are subject to the jurisdiction,~~  
20 ~~supervision, and regulations prescribed by state agencies or~~  
21 ~~departments nor to their agents or employees when engaged in the~~  
22 ~~business of such persons or corporations.~~



1       ~~(c) No operator of any pickup truck may operate the~~  
2 ~~vehicle with any passenger twelve years of age or under in the~~  
3 ~~bed or load-carrying area of the vehicle,]~~ unless one of the  
4 following applies:

5           (1) An emergency exists that threatens the life of  
6                 the passenger being transported in the bed or  
7                 load-carrying area of the vehicle; or

8           (2) The vehicle is being operated in parades,  
9                 caravans, or exhibitions which are officially  
10                authorized or otherwise permitted by law.

11 ~~[-(d)]~~ (b) Any person who violates this section shall be subject  
12 to a fine of [~~\$25~~] \$100 for each [~~violation, provided that any~~  
13 ~~person who violates subsection (c) shall be subject to a fine of~~  
14 ~~\$50 for each separate]~~ violation.

15 ~~[-(e)]~~ (c) As used in this section, "pickup truck" means a light  
16 truck that has a cab on the front part of the vehicle covering  
17 the driver's seat and an open bed behind the cab designed  
18 primarily to transport property or cargo, with sides and a  
19 tailgate to retain the contents within the confines of the bed,  
20 and has a maximum gross vehicle weight rating (GVWR) of 11,000  
21 pounds or less."



1 SECTION 3. Chapter 286, Hawaii Revised Statutes, is amended  
2 by adding a new section to part IV to be appropriately  
3 designated and to read as follows:

4 "§286-A Safety helmets; rules. The director shall adopt  
5 rules, subject to the requirements of chapter 91, establishing  
6 specifications and standards for safety helmets offered for  
7 sale, or sold, for use by drivers and passengers of motorcycles  
8 and motor scooters, as the director determines are necessary for  
9 the safety of those drivers and passengers. The rules shall  
10 include, but are not limited to, the requirements imposed by  
11 Federal Motor Vehicle Safety Standard No. 218 (49 C.F.R. Sec.  
12 571.218) and may include compliance with that federal standard  
13 by incorporation of its requirements by reference. Each helmet  
14 sold or offered for sale for use by drivers and passengers of  
15 motorcycles and motor scooters shall be conspicuously labeled in  
16 accordance with the federal standard which shall constitute the  
17 manufacturer's certification that the helmet conforms to the  
18 applicable federal motor vehicle safety standards."

19 SECTION 4. Section 286-81, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "PART IV. SAFETY EQUIPMENT



1           §286-81 Motorcycle, motor scooter, moped, etc.; protective  
2 devices. (a) No person shall:

3           (1) Operate a motorcycle, ~~[or]~~ motor scooter, or  
4           moped on any highway in the State unless the  
5           person and any passenger the person carries on  
6           the motorcycle, ~~[or]~~ motor scooter, or moped  
7           wears:

8           (A) Safety glasses, goggles, or a face shield,  
9           in the case of a motorcycle or motor scooter  
10          that is not equipped with windscreens or  
11          windshields; ~~[and]~~

12          (B) A safety helmet; and

13          (C) Any other protective devices ~~[, other than a~~  
14          ~~safety helmet,~~] required by rules adopted by  
15          the director.

16           For the purpose of meeting the requirements of this  
17           paragraph, a required device shall meet the  
18           specifications and requirements established by rules  
19           adopted by the director;

20          (2) Lease or rent a motorcycle or motor scooter to  
21          another person unless the person furnishes:



- 1 (A) Safety glasses, goggles, or a face shield,  
2 in the case of a motorcycle or motor scooter  
3 that is not equipped with windscreens or  
4 windshields; [~~and~~]
- 5 (B) A safety helmet for the operator and for any  
6 passenger the operator carries on the  
7 motorcycle, motor scooter, or any other two-  
8 wheeled vehicle; and
- 9 (C) Any other protective devices required by the  
10 rules adopted by the director for the use of  
11 the person or persons intending to operate  
12 or ride as a passenger on the motorcycle or  
13 motor scooter; provided that any person to  
14 whom a motorcycle or motor scooter is leased  
15 or rented may furnish for the person's own  
16 use the protective devices required by this  
17 part.

18 For the purposes of meeting the requirements of this  
19 paragraph, a required device shall meet the  
20 specifications and requirements established by rules  
21 adopted by the director; [~~or~~]



1           (3) Sell or offer for sale for use by a driver or  
2                     passenger of a motorcycle or motor scooter, any  
3                     safety helmet which is not of a type meeting  
4                     requirements established by the rules adopted by  
5                     the director; or

6           (4) Sell or offer for sale or furnish any [safety  
7                     helmet,] safety glasses, goggles, face shield,  
8                     windscreen, windshield, or other protective  
9                     devices represented to meet the requirements of  
10                    this part unless the device meets the  
11                    specifications and requirements established by  
12                    rules adopted by the director.

13           ~~[(b) No person less than eighteen years of age shall~~  
14           ~~operate or ride as a passenger on a motorcycle or motor scooter~~  
15           ~~on any highway in the State unless the person wears a safety~~  
16           ~~helmet securely fastened with a chin strap.~~

17           ~~(c) A safety helmet shall not be required for any person~~  
18           ~~who operates or rides as a passenger on a motorcycle or motor~~  
19           ~~scooter; provided that the motorcycle or motor scooter:~~

- 20                   ~~(1) Has three wheels;~~
- 21                   ~~(2) Is powered by an electric motor;~~
- 22                   ~~(3) Has a full body enclosed cab; and~~



1           ~~(4) Has a seat belt assembly or a child restraint~~  
2           ~~system for the driver and passenger,~~  
3           ~~and the operator and passenger uses the seat belt or child~~  
4           ~~restraint system pursuant to sections 291-11.5 and 291-~~  
5           ~~11.6.]~~

6           (b) For the purposes of this section, "wear a safety  
7           helmet" means having a safety helmet meeting the requirements of  
8           section 286- on the person's head that is fastened with the  
9           helmet straps and that is of a size that fits the person's head  
10           securely without excessive lateral or vertical movement.

11           (c) This section does not apply to a person operating, or  
12           riding as a passenger in, a fully enclosed three-wheeled motor  
13           vehicle that is not less than seven feet in length and not less  
14           than four feet in width, and has an unladen weight of 900 pounds  
15           or more, if the vehicle meets or exceeds all of the requirements  
16           of the Federal Motor Vehicle Safety Standards, and the rules and  
17           regulations adopted by the United States Department of  
18           Transportation and the National Highway Traffic Safety  
19           Administration, and if the vehicle has a seat belt assembly or a  
20           child restraint system for the driver and passenger, and the  
21           operator and any passengers use the seat belt or child restraint  
22           system pursuant to sections 291-11.5 and 291-11.6."



1 SECTION 5. Section 291C-150, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "(a) No person [~~under sixteen years of age~~] shall operate a  
4 bicycle upon a street, bikeway, highway, or any other public  
5 property unless that person is wearing a properly fitted and  
6 fastened bicycle helmet that has been tested by a nationally  
7 recognized agency such as the National Highway Traffic Safety  
8 Administration, the National Safety Council, or the Children's  
9 Safety Network, and is designed to fit the user and protect  
10 against head trauma. This requirement also applies to a person  
11 who rides upon a bicycle while in a restraining seat that is  
12 attached to the bicycle or who rides in a trailer towed by the  
13 bicycle.

14 (b) A person who provides bicycles for hire shall not rent  
15 a bicycle to any person unless every person [~~who is under age~~  
16 ~~sixteen~~] is wearing a bicycle helmet, as required in subsection  
17 (a), while operating the rented bicycle, occupying a restraining  
18 seat that is attached to the rented bicycle, or riding in a  
19 trailer towed by the rented bicycle.

20 (c) A violation of this section is punishable by a fine of  
21 not more than \$25. The parent or legal guardian having control  
22 or custody of an unemancipated minor whose conduct violates this



1 section shall be liable for the amount of the fine imposed  
2 pursuant to this section.

3 SECTION 6. Chapter 291, Hawaii Revised Statutes, is amended  
4 by adding a new section to be appropriately designated and to  
5 read as follows:

6 "§291-A LCD panels and video monitors; prohibition and  
7 exceptions. (a) No person shall operate a motor vehicle upon  
8 any public highway that is equipped with an LCD panel or video  
9 monitor that is located at any point forward of the back of the  
10 driver's seat.

11 (b) A person who violates this section shall be subject to  
12 a fine of \$100 for each violation.

13 (c) The following shall be affirmative defenses to a  
14 violation of this section:

15 (1) The LCD panel or video monitor installed at a  
16 point forward of the back of the driver's seat  
17 can only be used for vehicle information, system  
18 control, rear or side observation or navigation;  
19 or

20 (2) An LCD panel or video monitor installed at a  
21 point forward of the back of the driver's seat  
22 which can be used for television reception or



1                   video or DVD play is capable of doing so only if  
 2                   the gear is in park and the parking brake is  
 3                   engaged."

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

7           "§291C-A Mobile telephone use; prohibited. (a) No person  
 8 shall use a mobile telephone while operating a moving motor  
 9 vehicle in the State unless the mobile telephone is equipped  
 10 with a hands-free accessory.

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

14           (c) The provisions of this section shall not apply to the  
 15 following:

16           (1) Emergency use of a mobile telephone, including  
 17 calls to 911, a hospital, an ambulance service  
 18 provider, a fire department, or a law enforcement  
 19 agency;

20           (2) Use of a mobile telephone by law enforcement or  
 21 emergency personnel or by a driver of an



1 authorized emergency vehicle, acting within the  
2 scope of official duties; or

3 (3) Initiating or terminating a telephone call, or  
4 turning the telephone on or off.

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 For purposes of this section:

9 "Hands-free accessory" means an attachment, add-on, built-  
10 in feature, or addition to a mobile telephone, whether or not  
11 permanently installed in a motor vehicle, that when used, allows  
12 the vehicle operator to maintain both hands on the steering  
13 wheel.

14 "Mobile telephone" means a cellular, analog, wireless, or  
15 digital telephone capable of sending or receiving telephone  
16 messages without an access line for service.

17 "Use" means talking, placing, or receiving a call, or  
18 attempting to place or receive a call, on a mobile telephone."

19 SECTION 8. Chapter 291C, The Hawaii Revised Statutes is  
20 amended by adding a new section to be appropriately designated  
21 and to read as follows:



1        "§291C-A Mobile Media Devices; prohibited. (a) No person  
2 shall use a mobile media device that is not integrated into the  
3 vehicle's in dash entertainment system, while the motor vehicle  
4 is in motion.

5        (b) 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        For purposes of this section:

9        "In Dash Entertainment System" means a factory or  
10 aftermarket device that provides entertainment through the  
11 vehicles speaker system and is located in the dash of the  
12 vehicle.

13        "Integrated" means attached to or connected by wires or  
14 some other technology, including but not limited to, wireless or  
15 Bluetooth.

16        "Mobile Media Device" means any portable electronic device  
17 that provides entertainment through music, video, or games.

18 Devices include, but are not limited to, ipods, archos, zens,  
19 zunes, and mp3 players."

20        SECTION 9. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22        SECTION 10. This Act shall take effect upon its approval.



# H.B. NO. 57

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INTRODUCED BY:

*Barbara Manumets*

JAN 17 2007



**Report Title:**

Omnibus traffic bill.

**Description:**

Provides for a ban, for all ages, on riding in truck beds; mandatory helmet law for all two-wheeled vehicles; mandate video screens be behind driver; prohibits cell phone operation except for hands free; prohibit operation of portable media players while driving.

