
A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1 SECTION 1. Section 286-102.6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§286-102.6 Provisional license for persons under the age**
4 **of eighteen.** [*Section repealed on January 9, 2011. L 2005, c*
5 *72, §15*] (a) A person may be granted a provisional license to
6 drive passenger cars of any gross vehicle weight rating, buses
7 designed to transport fifteen or fewer occupants, and trucks and
8 vans having a gross vehicle weight rating of fifteen thousand
9 pounds or less if the person:

10 (1) Is at least sixteen years of age but under the age of
11 eighteen;

12 (2) Holds an instruction permit and has held the permit
13 for a period of at least one hundred eighty days and
14 there is no pending proceeding that might result in
15 the suspension or revocation of the instruction
16 permit; and

17 (3) Satisfactorily completes all requirements of sections
18 286-108 and 286-109.



1 (b) The provisional license shall entitle the provisional
2 licensee to drive the class of motor vehicles specified in
3 subsection (a) upon the roadways of the State; provided that:

4 (1) The provisional licensee shall have the provisional
5 license in the provisional licensee's immediate
6 possession while driving;

7 (2) All occupants of the motor vehicle shall be restrained
8 by safety belts or a child passenger restraint system
9 as required under sections 291-11.5 and 291-11.6;

10 (3) The provisional licensee shall not transport more than
11 one person under the age of eighteen, unless the
12 person is, with respect to the provisional licensee:

13 (A) A household member; or

14 (B) A household member's foster or hanai child,
15 without being accompanied and supervised by a
16 licensed driver who is the provisional licensee's
17 parent or guardian; [~~and~~]

18 (4) Except as provided in subsection (c), whenever the
19 provisional licensee is driving between the hours of
20 11:00 p.m. and 5:00 a.m., a licensed driver who is the
21 provisional licensee's parent or guardian and is
22 licensed to operate the same category of motor vehicle



1 as the licensee, shall be in the motor vehicle and
2 shall occupy the passenger seat beside the
3 licensee[-]; and

4 (5) The provisional licensee who is under the age of
5 eighteen shall not operate a motor vehicle while
6 engaging in secondary tasks, including:

7 (A) using a mobile telephone, regardless of whether
8 it is equipped with a hands-free device or not;

9 (B) using any electronic wireless communication
10 device;

11 (C) consuming food or beverages;

12 (D) conducting personal grooming; or

13 (E) reaching for any object located below eye level.

14 (c) A provisional licensee may drive between the hours of
15 11:00 p.m. and 5:00 a.m. without a licensed parent or guardian
16 in the motor vehicle under the following conditions:

17 (1) The provisional licensee is traveling to or from the
18 provisional licensee's place of employment, operation
19 of the motor vehicle is necessary for this purpose,
20 and the provisional licensee keeps in the provisional
21 licensee's possession a signed statement from the
22 employer containing the employer's name, address,



1 telephone number, and verification of employment and
2 work hours; or

3 (2) The provisional licensee is traveling to or from a
4 school-authorized activity of the provisional
5 licensee, operation of a motor vehicle is necessary
6 for this purpose, and the provisional licensee keeps
7 in the provisional licensee's possession a signed
8 statement from a parent or guardian containing the
9 parent's or guardian's name, address, and telephone
10 number, and verification that operation of the motor
11 vehicle by the provisional licensee is necessary to
12 travel to or from the school-authorized activity;

13 provided that the provisional licensee shall not transport more
14 than one person under the age of eighteen between the hours of
15 11:00 p.m. and 5:00 a.m. without being accompanied and
16 supervised by a licensed driver who is the provisional
17 licensee's parent or guardian.

18 (d) If the provisional licensee violates any of the
19 requirements of subsection (b) or (c):

20 (1) For a first violation of any requirement, the
21 provisional license shall be suspended for a period of
22 three months by a district court or family court

1 judge. If the person's provisional license is
2 suspended, the person shall not be eligible for
3 reissuance of the provisional license or issuance of a
4 driver's license until:

- 5 (A) The person is eighteen years of age; or
- 6 (B) Three months have elapsed since the date of
7 suspension,

8 whichever is sooner, and the person has otherwise
9 satisfied the requirements of this chapter; and

10 (2) For a second or any subsequent violation of any
11 requirement, the provisional license shall be revoked
12 for six months by a district court or family court
13 judge. If the person's provisional license is
14 revoked, the person shall not be eligible for
15 reissuance of the provisional license or issuance of a
16 driver's license until:

- 17 (A) The person is eighteen years of age; or
- 18 (B) Six months have elapsed since the date of
19 revocation,

20 whichever is sooner, and the person has otherwise
21 satisfied the requirements of this chapter.



1 Suspension or revocation of a provisional license pursuant to
2 this subsection shall be exempt from proof of financial
3 responsibility requirements under section 287-20.

4 (e) If the provisional licensee is adjudicated of an
5 offense relating to the operation of a motor vehicle other than
6 the requirements of subsection (b) or (c):

7 (1) For a first adjudication, the provisional license
8 shall be suspended or revoked by a district court or
9 family court judge, in addition to any other penalties
10 that may be prescribed by law. If the person's
11 provisional license is suspended or revoked, the
12 person shall not be eligible for reissuance of the
13 provisional license or issuance of a driver's license
14 until:

15 (A) The person is eighteen years of age; or

16 (B) Six months have elapsed since the date of
17 suspension or revocation,

18 whichever is sooner, and the person has otherwise
19 satisfied the requirements of this chapter; and

20 (2) For a second or any subsequent adjudication, the
21 provisional license shall be revoked for one year by a
22 district court or family court judge, in addition to



1 any other penalties that may be prescribed by law. If
2 the person's provisional license is revoked, the
3 person shall not be eligible for reissuance of the
4 provisional license or issuance of a driver's license
5 until:

6 (A) The person is eighteen years of age; or

7 (B) One year has elapsed since the date of
8 revocation,

9 whichever is later, and the person has otherwise
10 satisfied the requirements of this chapter.

11 (f) A provisional licensee may be issued a driver's
12 license in accordance with this chapter if the provisional
13 licensee:

14 (1) Has satisfactorily held a provisional license for at
15 least six months;

16 (2) Has no pending proceeding that might result in the
17 suspension or revocation of the license;

18 (3) Is at least seventeen years of age; and

19 (4) Has satisfactorily complied with all requirements of
20 this chapter.



1 (g) If not suspended or revoked, the provisional license
2 shall expire on the date of the provisional licensee's
3 nineteenth birthday.

4 (h) The fee for a provisional license shall be set in
5 accordance with section 286-111.

6 (i) This section shall not apply to the licensing of:

7 (1) An emancipated minor; and

8 (2) Motorcycle or motor scooter drivers.

9 (j) For the purposes of this section[, ~~"household member"~~
10 ~~shall have the same meaning as defined in section 291E-1.~~]:

11 "Electronic wireless communications device" means any
12 device that provides to users the ability to send or receive
13 electronic communications, but excluding a voice-activated
14 global positioning or navigation system that is affixed to the
15 vehicle.

16 "Hands-free accessory" means an attachment, add-on, built-
17 in feature, or addition to a mobile telephone, whether or not
18 permanently installed in a motor vehicle, that when used, allows
19 the vehicle operator to maintain both hands on the steering
20 wheel.

21 "Household member" shall have the same meaning as defined
22 in section 291E-1.



1 "Mobile telephone" means a cellular, analog, wireless, or
2 digital telephone capable of sending or receiving telephone
3 messages without an access line for service.

4 "Personal grooming" means applying makeup, brushing teeth,
5 shaving, and the combing of hair.

6 "Use" means talking, placing, or receiving a call, or
7 attempting to place or receive a call, or sending, reading, or
8 writing a text message, instant message, or electronic mail, or
9 playing a video game on an electronic wireless communication
10 device or a mobile telephone.

11 (k) Notwithstanding any other provisions, for the purposes
12 of this section, the district court and family court shall
13 notify the driver's license examiner of all persons under the
14 age of eighteen who have pending violations or proceedings that
15 might result in the suspension or revocation of the provisional
16 license, and any pending adjudication of an offense relating to
17 the operation of a motor vehicle."

18 SECTION 2. Section 286-110, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§286-110 Instruction permits.** (a) Any person aged
21 fifteen years and six months or more who, except for the
22 person's lack of instruction in operating a motor vehicle, would



1 be qualified to obtain a driver's license issued under this part
2 may apply for a temporary instruction permit at the office of
3 the examiner of drivers in the county in which the applicant
4 resides; provided that the applicant complies with section 286-
5 102.5.

6 (b) The examiner of drivers shall examine every applicant
7 for an instruction permit. The examination shall include tests
8 of the applicant's:

- 9 (1) Eyesight and other physical or mental capabilities to
10 determine if the applicant is capable of operating a
11 motor vehicle;
- 12 (2) Understanding of highway signs regulating, warning,
13 and directing traffic; and
- 14 (3) Knowledge of the traffic laws, ordinances, or
15 regulations of the State and the county where the
16 applicant resides or intends to operate a motor
17 vehicle.

18 (c) If the examiner of drivers is satisfied that the
19 applicant is qualified to receive an instruction permit, the
20 examiner of drivers shall issue the permit entitling the
21 applicant, while having the permit in the applicant's immediate
22 possession, to drive a motor vehicle upon the highways for a



1 period of one year; provided that an applicant who is registered
2 in a driver training course shall be issued a temporary
3 instruction permit for the duration of the course and the
4 termination date of the course shall be entered on the permit.
5 A person who is not licensed to operate the category of motor
6 vehicles to which the driving training course applies shall not
7 operate a motor vehicle in connection with the driving training
8 course without a valid temporary instruction permit.

9 (d) [*Repeal and reenactment on January 9, 2011. L 2005, c*
10 *72, §15.*] Except when operating a motor scooter or motorcycle,
11 the holder of an instruction permit shall be accompanied by a
12 person who is twenty-one years of age or older and licensed to
13 operate the category of motor vehicles in which the motor
14 vehicle that is being operated belongs. The licensed person
15 shall occupy a passenger seat beside the permit holder while the
16 motor vehicle is being operated; provided that if the holder of
17 the instruction permit is under the age of eighteen years and is
18 driving between the hours of 11:00 p.m. and 5:00 a.m.:

19 (1) A licensed driver who is the permit holder's parent or
20 guardian shall occupy a passenger seat beside the
21 driver while the motor vehicle is operated, unless the
22 permit holder is an emancipated minor;



- 1 (2) The licensed driver shall be licensed to operate the
2 same category of motor vehicles as the motor vehicle
3 being operated by the holder of the instruction
4 permit; and
- 5 (3) All occupants of the motor vehicle shall be restrained
6 by a seat belt assembly or a child passenger safety
7 restraint system as required under sections 291-11.5
8 and 291-11.6, notwithstanding any other law to the
9 contrary.
- 10 (e) No holder of a temporary instruction permit between
11 the ages of fifteen years and six months and eighteen
12 years shall not operate a motor vehicle while engaging
13 in secondary tasks, including:
- 14 (A) using a mobile telephone, regardless of whether
15 it is equipped with a hands-free device or not;
- 16 (B) using any electronic wireless communication
17 device;
- 18 (C) consuming food or beverages;
- 19 (D) conducting personal grooming; or
- 20 (E) reaching for any object located below eye level.

21



1 ~~(e)~~ (f) No holder of a temporary instruction permit
2 shall operate a motorcycle or a motor scooter during hours of
3 darkness or carry any passengers.

4 ~~(f)~~ (g) No holder of a category 1 or 2 temporary
5 instruction permit shall have the permit renewed, nor shall the
6 holder be issued another temporary instruction permit for the
7 same purpose, unless the holder has taken the examination for a
8 category 1 or 2 license at least once prior to the expiration of
9 the temporary instruction permit. If the holder of a temporary
10 instruction permit fails to meet the requirements of this
11 section, the holder shall not be permitted to apply for another
12 category 1 or 2 temporary instruction permit for a period of
13 three months. Nothing in this subsection shall affect the right
14 and privilege of any holder of a category 1 or 2 temporary
15 instruction permit to obtain a temporary instruction permit or
16 driver's license for the operation of any other type of motor
17 vehicle.

18 ~~(g)~~ (h) The examiner of drivers may accept an
19 application for renewal of an instruction permit no more than
20 thirty days prior to or ninety days after the expiration date of
21 the instruction permit, whereupon the applicant for renewal of
22 an instruction permit shall be exempt from subsection (b)(2) and



1 (3). If an application for renewal of an instruction permit is
2 not made within ninety days after the expiration date of the
3 permit, the applicant shall be treated as applying for a new
4 instruction permit and examined in accordance with subsection
5 (b).

6 ~~[(h)]~~ (i) Notwithstanding any other law to the contrary,
7 the examiner of drivers may issue an instruction permit to an
8 applicant with a disability who has completed a medical review
9 with this State, and as a condition to licensure is required to
10 pass a road test, but has failed the road test on the
11 applicant's first attempt. The instruction permit issued under
12 this subsection may be renewed no more than thirty days prior to
13 or ninety days after the expiration date of the instruction
14 permit upon receiving an updated medical report. ~~[Subsections]~~
15 Subsection (b) (2) and (3) shall not apply to the issuance or
16 renewal of an instruction permit issued under this subsection.

17 (j) For the purposes of this ~~[subsection, "applicant with~~
18 ~~a disability"]~~ section:

19 "Applicant with a disability" means an applicant who the
20 examiner of drivers has reasonable cause to believe may have a
21 mental or physical infirmity or disability that would make it
22 unsafe to operate a motor vehicle pursuant to section 286-119



1 and has been medically evaluated by the medical advisory board
2 established pursuant to section 286-4.1.

3 "Electronic wireless communications device" means any
4 device that provides to users the ability to send or receive
5 electronic communications, but excluding a voice-activated
6 global positioning or navigation system that is affixed to the
7 vehicle.

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

13 "Household member" shall have the same meaning as defined
14 in section 291E-1.

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

18 "Personal grooming" means applying makeup, brushing teeth,
19 shaving, and the combing of hair.

20 "Use" means talking, placing, or receiving a call, or
21 attempting to place or receive a call, or sending, reading, or
22 writing a text message, instant message, or electronic mail, or



1 playing a video game on an electronic wireless communication
2 device or a mobile telephone."

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

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

8 SECTION 5. This Act shall take effect upon its approval.

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10

INTRODUCED BY:

Cog.

John Ward

JAN 23 2009

Barbara Mamamoto



Report Title:

Highway; safety; distracted driving; motor vehicle

Description:

Prohibits driving minors from engaging in secondary tasks that distract from driving such as: the use of all cell phones other electronic devices; consuming food or beverages; engaging in personal grooming; or reaching for any object; while operating a motor vehicle under either a temporary instruction permit or a provisional license.

