

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1088 RICHARDS STREET • HONOLULU, HAWAII 96813

Relating to Bill 4 (2009)



PETER B. CARLISLE
PROSECUTING ATTORNEY

DOUGLAS S. CHIN
FIRST DEPUTY PROSECUTING ATTORNEY

FAX NUMBER: (808) 768-6436
FACSIMILE TRANSMITTAL SHEET

RECEIVED

CITY CLERK
HONOLULU, HAWAII
MAR 5 3 58 PM '09

DATE OF TRANSMISSION:

March 5, 2009

TO:

Frank Street

AGENCY:

City Council

FAX NUMBER:

550-6691

FROM:

LORI NISHIMURA

DIVISION:

LEGISLATIVE

PHONE:

(808) 768-7486

THIS TRANSMITTAL CONSISTS OF 12 PAGE(S), INCLUDING COVER SHEET.

NOTES/COMMENTS:

Frank could you provide the Michigan ordinance re distracted driver & HB 1158 (which covers distracted provisional licensees) to Councilmember Dela Cruz since he asked. FYI HB 1158 & its companion, SB 976 were DOT sponsored bills at this year's legislature. However since HB 1143, the only cell phone bill which looked like it was moving, is now dead (no hearing in judiciary & the deadline is tomorrow) it looks like ^{the} council is the only opportunity for cell phone legislation. Fine info is also attached.

CONFIDENTIALITY NOTE: THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS LEGALLY PRIVILEGED AND CONFIDENTIAL, INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPY OF THIS TELECOPY IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TELECOPY IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS LISTED ABOVE VIA THE UNITED STATES POSTAL SERVICE. THANK YOU!

Michigan

· Good Morning Tom,

· Here is what I have on this issue:

· For the moment, these are the jurisdictions that have ordinances in place as to cell phone usage while driving.

> CITIES: The City of Southfield passed an ordinance in October 2007 that fines drivers \$100.00 for using a cell phone while committing a traffic violation. In the City of Dearborn, a police officer can give an additional \$100.00 ticket to drivers if they are observed using their hand held cell phones while committing another traffic violation. The hand held mobile phone ticket is a 0 point violation and is a civil infraction. The City of Wyandotte passed an ordinance that fines drivers up to \$200.00 while committing a traffic violation or causing an accident while using a cell phone. The City of Woodhaven has a "Distracted Driver" ordinance but does not refer specifically to cell phones. The City of Detroit banned the practice of text messaging while driving and "other distracting behavior." The police can issue a \$100.00 ticket for the civil infraction violation.

> TOWNSHIPS:

> The Township of Brownstown has a "Distracted Driving of Motor Vehicle Ordinance" which specifically includes cell phones. The Township of Shelby has a section on "Distracted Driver" but it is only in their Off Road Vehicles ordinance. It, however, does refer to cell phones. The Township of Clinton, County of Macomb, has a "Distracted Driving" ordinance, and it does refer to cell phones.

> Here is the Shelby Township Ordinance language:

> Sec. 70-96. Distracted driving.

> (a) A person commits distracted driving if, while operating a motor vehicle, that person commits a moving violation while dividing their attention from the safe operation of the vehicle by some action of the operator within the vehicle (divided attention).

> (b) It shall be a rebuttable presumption that the causes of divided attention as referenced above shall include, but not be limited to: attending to personal hygiene, eating or drinking, reading, use of a

*

> cellular telephone or computer, physically attending to a passenger or
> pet, or observation of a video display.

>
> (c) As used in this article, the term motor vehicle shall be defined
> as found in section 33 of Act 300 of 1949 of the Michigan Vehicle Code,
> as amended, and shall include every vehicle contained in said Act that
> in its definition is termed a motor vehicle.

>
> (d) Distracted driving constitutes a civil infraction and shall be
> processed as same, and any person found to have committed a civil
> infraction may be ordered to pay a civil fine of not more than \$500.00
> and cost in accordance with section 70-34.

> (Ord. No. 238, 5-7-2002).

>
>
>
> On a side note, currently, there are approximately 149 pending bills in
> 21 states that would either implement a new cell phone ban or strengthen
> an existing cell phone ban. Here is a link on cell-phones which may be
> useful as well <http://www.iihs.org/laws/cellphonelaws.aspx>
> <<http://www.iihs.org/laws/cellphonelaws.aspx>>.

>
>
>
> Lastly, please find attached a cell-phone article in our August Green
> Light Newsletter.

> I hope that helps, Ken

> -----
>
> From: Robertson, Thomas
> Sent: Friday, November 21, 2008 08:32 AM
> To: Stecker, Ken
> Subject: FW: NAPC Forum - texting/using a cellphone while driving

> Please reply.

Hawaii State Legislature

2009 Regular Session

HB143 HD1

[View all versions of this measure](#)
[Show Committee Reports](#)
[Show Testimony](#)
[View PDF of measure text](#)
[Subscribe to RSS feed](#)

Measure Title: RELATING TO THE USE OF MOBILE PHONES AND ELECTRONIC DEVICES WHILE DRIVING.

Report Title: Mobile Phones; Safety

Description: Prohibits the use of a mobile telephone while driving unless equipped with a hands-free accessory and used in the hands-free mode. Prohibits transit and school bus drivers from using cellular phones whenever their vehicle is in motion. Effective 07/01/2020. (HB143 HD1)

Companion:

Package: None

Current Referral: TRN, JUD

Introducer(s): SOUKI, HANOHANO, M. LEE, RHOADS, Aquino, Nakashima, Pine, Takumi, Yamashita

Date		Status Text
1/22/2009	H	Pending introduction.
1/23/2009	H	Introduced and Pass First Reading.
1/26/2009	H	Referred to TRN, JUD, referral sheet 2
2/4/2009	H	Bill scheduled to be heard by TRN on Monday, 02-09-09 9:00AM in House conference room 309.
2/9/2009	H	The committee(s) recommends that the measure be deferred until 02-18-09.
2/11/2009	H	Bill scheduled for decision making on Wednesday, 02-18-09 8:30AM in conference room 309.
2/18/2009	H	The committees on TRN recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 11 Ayes: Representative(s) Souki, Awana, Aquino, Hanohano, Keith-Agaran, M. Lee, Nakashima, Rhoads, Saiki, Yamashita, Pine; Ayes with reservations: none; Noes: none; and 1 Excused: Representative(s) Takumi.
2/19/2009	H	Reported from TRN (Stand. Com. Rep. No. 561) as amended in HD 1, recommending passage on Second Reading and referral to JUD.
2/20/2009	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on JUD with none voting no (0)

Measure History

and Bertram, McKelvey, Takai, Takumi, Tokioka excused (5).

- S = Senate
- H = House
- D = Data Systems
- A = Appropriation measure
- ConAm = Constitutional Amendment

Please read our [Disclaimer Statement](#).

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

This report was generated on Mar 05, 2009 at 12:25:00 PM
HB143 HD1

B1158.DOC

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAIIDOT'S
bill

H.B. NO.

1158 / SB 976

A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

SECTION 1. Section 286-102.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) The provisional licensee shall have the provisional license in the provisional licensee's immediate possession while driving;
- (2) All occupants of the motor vehicle shall be restrained by safety belts or a child passenger restraint system as required under sections 291-11.5 and 291-11.6;
- (3) The provisional licensee shall not transport more than one person under the age of eighteen, unless the person is, with respect to the provisional licensee:
 - (A) A household member; or
 - (B) A household member's foster or hanai child, without being accompanied and supervised by a licensed driver who is the provisional licensee's parent or guardian; ~~and~~
- (4) Except as provided in subsection (c), whenever the provisional licensee is driving between the hours of 11:00 p.m. and 5:00 a.m., a licensed driver who is the provisional licensee's parent or guardian and is

icensed to operate the same category of motor vehicle as the licensee, shall be in the motor vehicle and shall occupy the passenger seat beside the licensee [↔]; and

- (5) A provisional licensee who is under the age of eighteen shall not operate a motor vehicle while engaging in various tasks not associated with operating a motor vehicle such as; (1) using a wireless telephone, even if equipped with a hands-free device, or any other electronic devices such as, but not limited to, portable video games, portable DVD players, text messengers, Palms, Treos, or Blackberries; (2) consuming food or beverages; (3) engaging in personal grooming (i.e., applying makeup, brushing teeth or shaving); or (4) attempting to reach for any other object or device."

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

"§286-110 Instruction permits. (a) Any person aged fifteen years and six months or more who, except for the person's lack of instruction in operating a motor vehicle, would be qualified to obtain a driver's license issued under this part may apply for a temporary instruction permit at the office of the examiner of drivers in the county in which the applicant resides; provided that the applicant complies with section 286-102.5.

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

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

motor vehicle.

(c) If the examiner of drivers is satisfied that the applicant is qualified to receive an instruction permit, the examiner of drivers shall issue the permit entitling the applicant, while having the permit in the applicant's immediate possession, to drive a motor vehicle upon the highways for a period of one year; provided that an applicant who is registered in a driver training course shall be issued a temporary instruction permit for the duration of the course and the termination date of the course shall be entered on the permit. A person who is not licensed to operate the category of motor vehicles to which the driving training course applies shall not operate a motor vehicle in connection with the driving training course without a valid temporary instruction permit.

(d) Except when operating a motor scooter or motorcycle, the holder of an instruction permit shall be accompanied by a person who is twenty-one years of age or older and licensed to operate the category of motor vehicles in which the motor vehicle that is being operated belongs. The licensed person shall occupy a passenger seat beside the permit holder while the motor vehicle is being operated; provided that if the holder of the instruction permit is under the age of eighteen years and is driving between the hours of 11:00 p.m. and 5:00 a.m.:

- (1) A licensed driver who is the permit holder's parent or guardian shall occupy a passenger seat beside the driver while the motor vehicle is operated, unless the permit holder is an emancipated minor;
- (2) The licensed driver shall be licensed to operate the same category of motor vehicles as the motor vehicle being operated by the holder of the instruction permit; and
- (3) All occupants of the motor vehicle shall be restrained by a seat belt assembly or a child passenger safety restraint system as required under sections 291-11.5 and 291-11.6, notwithstanding any other law to the contrary.

(e) A holder of a temporary instruction permit aged fifteen years and six months or older, but under eighteen years of age shall not operate a motor vehicle while engaging in various tasks not associated with operating a motor vehicle such as: (1) using a wireless telephone, even if equipped with a hands-free device, or any other electronic devices such as, but not limited to, portable video games, portable DVD players, text messengers, Palms, Treos, or Blackberries; (2) consuming food or beverages; (3) engaging in personal grooming (i.e., applying makeup, brushing teeth or shaving); or (4) attempting to reach for any other object or device.

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

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

~~[(g)]~~ (h) The examiner of drivers may accept an application for renewal of an instruction permit no more than thirty days prior to or ninety days after the expiration date of the instruction permit, whereupon the applicant for renewal of an instruction permit shall be exempt from subsection (b) (2) and (3). If an application for renewal of an instruction permit is not made within ninety days after the expiration date of the permit, the applicant shall be treated as

pplying for a new instruction permit and examined in accordance with subsection b).

~~[(h)]~~ (i) Notwithstanding any other law to the contrary, the examiner of drivers may issue an instruction permit to an applicant with a disability who has completed a medical review with this State, and as a condition to licensure is required to pass a road test, but has failed the road test on the applicant's first attempt. The instruction permit issued under this subsection may be renewed no more than thirty days prior to or ninety days after the expiration date of the instruction permit upon receiving an updated medical report.

~~[Subsections]~~ Subsection (b) (2) and (3) shall not apply to the issuance or renewal of an instruction permit issued under this subsection.

For the purposes of this subsection, "applicant with a disability" means an applicant who the examiner of drivers has reasonable cause to believe may have a mental or physical infirmity or disability that would make it unsafe to operate a motor vehicle pursuant to section 286-119 and has been medically evaluated by the medical advisory board established pursuant to section 286-4.1."

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 upon its approval.

INTRODUCED BY: _____

BY REQUEST

Report Title:

Highway; Safety; Distracted Driving; Motor Vehicle

Description:

Prohibits persons aged fifteen years and six months but less than eighteen years of age from engaging in various tasks that distract from the primary task of driving such as, the use of all cell phones (including hands-free devices) and all other electronic devices, consuming food or beverages, engaging in personal grooming (i.e., applying makeup, brushing teeth or shaving), or attempting to reach for any other object or device, while operating a motor vehicle under either a temporary instruction permit or a provisional license.

*Fines applicable to violations
under Bill 4*

Sec. 15-26.9 Unspecified penalty and administrative fines.

(a) Except as otherwise provided in this traffic code, it is a violation for any person to violate any of the provisions of this traffic code unless the violation is by other law of this state declared to be a felony.

(b) Every person who violates any provision of this traffic code for which another penalty is not provided shall, for a first offense thereof, be fined not less than \$15.00, but not more than \$100.00; for a second offense committed within one year after the date of the first offense, the person shall be fined not less than \$15.00, but not more than \$200.00; and for a third or subsequent offense committed within one year after the date of the first offense, the person shall be fined not less than \$15.00, but not more than \$500.00.

(c) The amount of the administrative fine shall be \$10.00 less than the fine that would be indicated on a citation for a violation of the same provision. If the administrative fine is paid, the alleged violator shall be deemed not to have committed a violation of that provision.

(Sec. 15-26.10, R.O. 1978 (1983 Ed.); Am. Ord. 90-77, 95-15, 04-13)