

TO: Honolulu City Council

March 16, 2009

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CITY CLERK
HONOLULU, HAWAII

Aloha,

My name is Robert Schneider. My Amateur Radio call is AH6J. I am the elected American Radio Relay League Section Manager for the Pacific Section. My address is Box 131-Keaau, HI 96749 and phone 808-966-8146. Although I live on the Island of Hawaii the unintended consequences of this proposed law in Honolulu will effect everyone in the state either through copy cat laws or through direct laws.

As it is now written it would weaken the second level of Emergency Communications that Amateur Radio try to provide. While the intention is good to reduce the number of accidents due to inattention to driving, the goal is much harder to reach or even define. What is the next law to be enacted? Could it be prohibitions on combing your hair? It is impossible to legislate "common sense".

It is already difficult to put up an effective Amateur Radio Station on Oahu because of the many CC&R's throughout the island. As a result many Hams are effectively forced to have their station in their car. We on the island of Hawaii are lucky that there are less restrictions so the active ham population is actually as big or bigger then the Island of Oahu. During Simulated emergency tests, the number of Amateur Radio operators that check in from Hawaii is always larger then Oahu. Oahu has a much larger overall Amateur Radio population so it should have the most active hams too, but it doesn't. This is a direct result of the copy cat effect mentioned earlier. One subdivision passes a restriction then another and another and so on.

If the council is absolutely determined to pass this ill advised law, at least exempt Amateur Radio. It would actually be better to put more emphasis on citing people for violations of the existing laws on inattention to driving then trying to "nit pick" the many distractions that people do while driving. The distraction is the real problem and is already covered in inattention to driving laws already on the books.

The unintended consequences include but are not limited to:

Do statistics really support the assumption that cell phone use causes a large number of accidents? (Yes it does cause some) What about other uses of mobile and portable radios?

The cell pho

ne industry is in a period of rapid change. The definitions given today may not be valid later in time. For example Blue tooth, hands free technology and installed phones do not solve the distracted driver problem. I tried hands free and it is more distracting to me then just holding the phone in one hand.

At the absolute very least any law passed should expire and not be like the obsolete 1800 laws regarding how to ride your horse. The technology is changing too rapidly.

In its present form the bill would prohibit Amateur Radio operations and some commercial operations. Do you really want to cause more problems for business and emergency communications?

In the ARRL policy below they state that installed radios should be exempt however I use a hand held radio and do not have a permanent installation. I think they should also be exempted. Many commercial users also use hand held radios. Some commercial users use only cell phones. Are they to be prevented from doing their business?

Bill 4

MISC. COM. 638

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There are many other reasons why this is a poor law. Please research it carefully before a tragic mistake is made and our emergency and commercial communications are harmed. Finally this will be an additional burden on both the court system and anyone cited. Would you want to appear in court a minimum of three times to resolve a citation? Thank you for your thoughtful consideration and I again urge you to not pass this law.

Respectfully; Robert (Bob) Schneider

I have submitted the entire text of the policy statement of the ARRL board of directors below. I do not agree with all of their statement however it is good information that you should consider. This resolution was passed in the January 2009 Annual BOD meeting.

Background Information:

The American Radio Relay League is an incorporated 501c3 organization with headquarters in Newington, CT

INTRODUCTION:

Reference: <http://www.arrl.org/announce/board-0901/>

35. On motion of Mr. Isely, seconded by Mr. Milesosky, it was VOTED that the following resolution be adopted:

WHEREAS, there is a growing trend for state legislatures and municipalities to consider legislation aimed at "distracted drivers" using cellular telephones; and

WHEREAS, this legislation often inadvertently prohibits or can be construed to prohibit Amateur Radio mobile communications; and

WHEREAS, Amateur Radio mobile communications are necessary to the accomplishment of the objectives of the amateur radio service; now, therefore, it is

RESOLVED, that the Executive Committee is instructed to develop a policy statement and recommended language which protects the ability of licensed radio amateurs to prudently conduct mobile amateur communications. The Chief Executive Officer and General Counsel are instructed to draft such a policy statement for submission to the Executive Committee not later than February 1, 2009 for its consideration.

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Reference: www.arrl.org/govrelations/MobileAmateurRadioPolicyStatement.pdf

POLICY STATEMENT of
ARRL, THE NATIONAL ASSOCIATION FOR AMATEUR RADIO
Adopted by the ARRL Executive Committee, January 30, 2009
Mobile Amateur Radio Operation

ARRL, the national association for Amateur Radio, formally known as the American Radio Relay League, Incorporated (ARRL) is the principal advocate for the interests of FCC-licensed Amateur Radio operators in the United States. Obtaining an FCC Amateur Radio license requires the passing of a written examination on regulations, operating practices, electronics theory, and safety. There are approximately 680,000 licensed Amateur Radio operators in the United States. Amateur Radio operators provide emergency and public service communications on a volunteer, uncompensated basis. Amateur Radio is an avocation, which is intended by the Federal Communications Commission to encourage and promote technical self-training, international goodwill, non-commercial communication service (particularly with respect to emergency communications), advancement of radio technology, and expansion of the existing reservoir of trained operators, technicians, and electronics experts. Amateur Radio operators are responsible for many advances in electronics and telecommunications technology over the past 100 years.

In the course of preparing for and conducting emergency, disaster and other public service communications, Amateur Radio operators routinely equip their motor vehicles with two-way radios, operated most often with hand-held microphones. The radios are typically installed in the vehicles and utilize fixed mounted speakers. Unlike cellular telephones, the speakers are not held to the face; the radios remain in the receive mode most of the time; transmissions typically are brief and infrequent. The microphone is held only when a transmission is being made or is imminent, and otherwise is stowed in a position where the operator can reach it without removing his or her eyes from the road. Amateur operators often conduct mobile communications as participants in networks of stations, controlled often by a fixed station, not unlike commercial dispatch mobile radio systems. Radio amateurs have regularly used mobile two-way radio systems for the past 70 years. The ARRL is aware of no evidence that such operation contributes to driver inattention. Quite the contrary: radio amateurs are public service-minded individuals who utilize their radio-equipped motor vehicles to assist others, and they are focused on driving in the execution of that function.

The States encourage mobile amateur radio operation as a public benefit. Every State issues license plates to motor vehicles of licensed radio amateurs showing their FCC-assigned call letters, in order to identify a particular vehicle as a mobile-radio equipped vehicle. The United States Congress, in 1994, in a Joint Resolution (S.J. Res. 90/H.J. Res. 199 (1994)), in "recognizing the achievements of radio amateurs, and to establish support for such amateurs as national policy" found and declared, among other things, that: "reasonable accommodation should be made for the effective operation of amateur radio from residences, private vehicles and public areas, and that regulation at all levels of government should facilitate and encourage amateur radio operation as a public benefit."

The ARRL acknowledges numerous and increasing instances of state legislative proposals (and occasionally municipal ordinance proposals) to curb the use of cellular telephones while operating motor vehicles, ranging from prohibitions on hand-held telephones to prohibitions on all forms of electronic devices. These statutory proposals would supplement the more generalized motor vehicle code requirements that exist in various forms in virtually all States, which require operators of motor vehicles to pay full time and attention to the operation of the vehicle while driving. ARRL understands that driver inattention is a leading cause of automobile accidents, and it is not unreasonable to be concerned about substantial distractions to drivers of motor vehicles.

Typically, the intention of this type of legislation is to prohibit the operation of cellular telephones specifically, and devices incorporating full duplex wireless telephones, while operating a motor vehicle. Some such statutes prohibit the use of such devices while driving unless they incorporate "hands-free" peripheral attachments. There is substantial variation in the definition of the devices regulated by the legislation. Often, the proposed statutory language broadly prohibits operation of "mobile communication devices" or "mobile electronic devices" while driving. Whether or not intentionally, some of these proposed statutes or ordinances would in fact, or could be interpreted to prohibit the operation of Amateur Radio equipment by drivers of motor vehicles. Often, there are exemptions to the general prohibition of mobile electronic or communication devices while driving. Some legislation specifically exempts devices that are operated on a hands-free basis. Other exemptions reference specific types of devices or radio services (such as public safety land mobile radio, Citizen's Radio Service or business and industrial land mobile radio) which are not intended to be restricted. Some legislation specifically exempts licensed Amateur Radio mobile operation; some does not.

Amateur Radio mobile operation is ubiquitous, and Amateur Radio emergency and public service communications, and other organized Amateur Radio communications activities and networks necessitate operation of equipment while some licensees are driving motor vehicles. Two-way radio use is dissimilar from full-duplex cellular telephone communications because the operator spends little time actually transmitting; the time spent listening is more similar to, and arguably less distracting than, listening to a broadcast radio, CD or MP3 player. There are no distinctions to be made between or among Amateur Radio, public safety land mobile radio, private land mobile radio, or citizen's radio in terms of driver distraction. All are distinguishable from mobile cellular telephone communications in this respect. Nevertheless, ARRL encourages licensees to conduct Amateur communications from motor vehicles in a manner that does not detract from the safe and attentive operation of a motor vehicle at all times.

Given the necessity of unrestricted mobile Amateur Radio communications in order for the benefits of Amateur Radio to the public to continue to be realized, ARRL urges state and municipal legislators considering restrictions on mobile cellular telephone operation to (I) narrowly define the class of devices included in the regulation so that the class includes only full duplex wireless telephones and related hand-held or portable equipment as defined below; or alternatively (II) specifically identify licensed Amateur Radio operation as an excluded service.

Suggested statutory language for state motor vehicle codes follows:

(Definition)

"Cellular Telephone (or Mobile Communications/Electronic Device)" as used herein means hand held or portable electronic equipment capable of providing full duplex, wireless voice or data communications via the public switched telephone network between two or more people. Also included are devices for text messaging or paging, personal digital assistants, laptop computers, equipment capable of playing video games or video disks, or equipment on which digital photographs are taken or displayed.

(Prohibited Acts)

Section _____ Use of cellular telephones or mobile communications/electronic devices prohibited. No person shall use a cellular telephone (or mobile communications or electronic device) in any manner, including the reading or sending of text or electronic messages on the telephone, while operating a motor vehicle unless the telephone is specifically designed to allow hands-free operation and the telephone is so used. This section shall not apply to a person who is using the cellular telephone (or mobile communications/electronic device): (a) While the vehicle is lawfully parked; or (b) To contact or receive calls from an emergency response vehicle or agency.

(Exclusion)

A mobile (electronic/communication) device does not include audio equipment or any equipment installed in the vehicle to provide navigation or emergency information to the driver, or video entertainment exclusively to passengers in the back seat. Nor does it include two-way mobile radio transmitters or receivers used by licensees of the Federal Communications Commission in the Amateur Radio Service.