

REPORT OF THE COMMITTEE ON TRANSPORTATION AND PLANNING

Voting Members:

Gary H. Okino, Chair; Donovan Dela Cruz, Vice-Chair
Nestor Garcia, Rod Tam

Committee Meeting Held
March 5, 2009

Honorable Todd K. Apo
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Transportation and Planning, which considered Bill 4 (2009) entitled:

"A BILL FOR AN ORDINANCE RELATING TO THE USE OF ELECTRONIC DEVICES WHILE OPERATING MOTOR VEHICLES,"

which passed First Reading at the February 25, 2009 Council meeting, reports as follows:

The purpose of this Bill is to prohibit the use of certain electronic devices while operating a motor vehicle. However, the bill exempts from this prohibition police officers and emergency service personnel in the performance of their official duties, and also provides as an affirmative defense to the ordinance, the use of a mobile electronic device for the sole purpose of communicating with emergency responders.

In addition to the introduced version of Bill 4, your Committee also considered two CD1 versions, a posted version and a hand-carried version.

Representatives from the Honolulu Police Department and the Department of the Prosecuting Attorney testified in support of the hand-carried CD1 version. A representative of Hawaiian Electric Company also testified regarding the communication needs of electrical utility workers.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON MAR 18 2009

COMMITTEE REPORT NO. 95

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Page 2

Your Committee notes that while the Bill prohibits the use of a mobile electronic device while operating a motor vehicle, which is defined as holding a mobile electronic device while operating a motor vehicle, it does not prohibit the use of devices that operate in a "hands free" mode. As such, your Committee is of the opinion that a reasonable and affordable alternative to the common and ubiquitous hand held cell phone is readily available to those who require or desire a communication option while driving.

Based on the testimony presented and subsequent discussion, your Committee has amended the Bill as follows:

- 1) Revised paragraph (b) to state that the use of a mobile electronic device for the sole purpose of making a "911" emergency communication shall be an affirmative defense to the ordinance;
- 2) Revised paragraph (c) to exempt only the following from the ordinance:
 - Emergency responders using a mobile electronic device while in the performance and scope of their official duties; and
 - Drivers using two-way radios while in the performance and scope of their work-related duties.
- 3) Added a new definition of "emergency responders"

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Page 3

Your Committee on Transportation and Planning is in accord with the intent and purpose of Bill 4 (2009), as amended herein, and recommends that it pass Second Reading and be scheduled for a Public Hearing in the form attached hereto as Bill 4 (2009), CD1. (Ayes: Okino, Dela Cruz, Garcia, Tam – 4; Noes: None.)

Respectfully submitted,



Committee Chair

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON MAR 18 2009

COMMITTEE REPORT NO. 95



A BILL FOR AN ORDINANCE

RELATING TO THE USE OF ELECTRONIC DEVICES WHILE OPERATING MOTOR VEHICLES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. The purpose of this ordinance is to prohibit the use of certain electronic devices while operating a motor vehicle.

SECTION 2. Chapter 15, Article 24, Revised Ordinances of Honolulu 1990, as amended ("Miscellaneous Provisions"), is amended by adding a new section to be appropriately designated by the revisor of ordinances and to read as follows:

"Sec. 15-24. Mobile electronic devices.

- (a) No person shall operate a motor vehicle while using a mobile electronic device.
- (b) The use of a mobile electronic device for the sole purpose of making a "911" emergency communication shall be an affirmative defense to this ordinance.
- (c) The following persons shall be exempt from the provisions of subsection (a):
 - (1) Emergency responders using a mobile electronic device while in the performance and scope of their official duties;
 - (2) Drivers using two-way radios while in the performance and scope of their work-related duties.
- (d) As used in this section:

"Emergency responders" include fire fighters, emergency medical service technicians, mobile intensive care technicians, civil defense workers, police officers and federal and state law enforcement officers.

"Mobile electronic device" means any hand-held or other portable electronic equipment capable of providing wireless and/or data communication between two or more persons or of providing amusement, including but not limited to a cellular phone, text messaging device, paging device, personal digital assistant, laptop computer, video game, or digital photographic device, but does not include any audio equipment or any equipment installed in a motor vehicle for the purpose of providing navigation, emergency assistance to the operator of the



A BILL FOR AN ORDINANCE

motor vehicle or video entertainment to the passengers in the rear seats of the motor vehicle.

"Operate a motor vehicle" means to drive or assume actual physical control of a vehicle upon a public way, street, road, or highway.

"Use or using" means holding a mobile electronic device while operating a motor vehicle."

SECTION 3. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the underscoring.



A BILL FOR AN ORDINANCE

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Rod Tam

Donovan Dela Cruz

DATE OF INTRODUCTION:

January 28, 2009
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

MUFU HANNEMANN, Mayor
City and County of Honolulu