H.B. NO. 3198

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 licensed 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) The provisional licensee who is under the age of eighteen shall not operate a motor vehicle while using a wireless telephone, even if equipped with a hands-free device, or any other electronic communications device such as, but not limited to, text messengers, Palms, Treos, or Blackberries."

SECTION 2. Section 286-110, Hawaii Revised Statutes, is amended:

"**§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

1 instruction permit for the duration of the course and the
2 termination date of the course shall be entered on the permit.
3 A person who is not licensed to operate the category of motor
4 vehicles to which the driving training course applies shall not
5 operate a motor vehicle in connection with the driving training
6 course without a valid temporary instruction permit.
7 (d) Except when operating a motor scooter or motorcycle,
8 the holder of an instruction permit shall be accompanied by a
9 person who is twenty-one years of age or older and licensed to
10 operate the category of motor vehicles in which the motor
11 vehicle that is being operated belongs. The licensed person
12 shall occupy a passenger seat beside the permit holder while the
13 motor vehicle is being operated; provided that if the holder of
14 the instruction permit is under the age of eighteen years and is
15 driving between the hours of 11:00 p.m. and 5:00 a.m.:
16 (1) A licensed driver who is the permit holder's parent
17 or guardian shall occupy a passenger seat beside the
18 driver while the motor vehicle is operated, unless
19 the permit holder is an emancipated minor;
20 (2) The licensed driver shall be licensed to operate the
21 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) No holder of a temporary instruction permit aged fifteen years and six months but under eighteen years shall operate a motor vehicle while using a wireless telephone, even if equipped with a hands-free device, or any other electronic communication device such as but not limited to text messengers, Palms, Treos, or Blackberries.

[~~(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 applying 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.

H.B. NO. 3198

1 INTRODUCED BY: _____

2 BY REQUEST

JAN 22 2008

H.B. NO. 3198

Report Title:
Highway; safety; cell phones; motor vehicle

Description:
Prohibits the use of cell phones, including hands-free, or other electronic communications devices by persons aged fifteen years and six months but less than eighteen years while operating a motor vehicle under either a temporary instruction permit or a provisional license.

HB 3198

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY.

PURPOSE: To prohibit the use of all cell phones (including hands-free) or any other electronic communications devices by persons aged fifteen years and six months but less than eighteen years while operating a motor vehicle under either a temporary instruction permit or a provisional license.

MEANS: Amend sections 286-102.6(b) and 286-110, Hawaii Revised Statutes.

JUSTIFICATION: The lack of driving experience and immaturity make younger drivers more hazardous on the road. Cell phones and other electronic communications devices give those younger drivers more distractions that they may not be able to manage as easily as more experienced drivers.

Seventeen states and the District of Columbia have enacted restrictive cell phone driving laws for novice drivers. For example; Maryland restricts drivers under 18 years of age who hold either a learner's permit or an intermediate permit from using a wireless communication device while driving, except for contacting a 911 system. West Virginia prohibits young drivers within their Graduated Driver's Licensing Program (Learner and Intermediate stages) from using a cell phone while driving.

Additionally, effective January 2008, Nebraska shall prohibit teenagers with learner's, provisional and school permits from using a cell phone, sending text messages or using other interactive electronic devices while operating a motor vehicle.

HB 3198

The State of Hawaii crash data indicates that between the years of 2001 through 2005, there were a total of 31,515 motor vehicle crashes resulting in injuries. Of those 31,515 injury producing crashes, a total of 2,134 or 6.8 percent of those crashes involved a driver ages 15 through 17 years old. During the same time period, there were a total of 22,270 property damages only crashes, of which 1,400 or 6.3 percent of those crashes involved a driver ages 15 through 17 years old.

Additionally, the Fatality Analysis Reporting System (FARS) data reveals that between the years of 2002 to 2006, there were a total of 24 drivers, ages 15 through 17 years old who were involved in fatal motor vehicle traffic crashes and died from their injuries.

Impact on the public: With the cell phone and any other electronic communications devices prohibition, younger drivers ages 15½ through 17 years old, will have less distractions while operating a vehicle, thereby increasing their ability to concentrate on improving their driving skills. In turn, the roadway will be safer for all other roadway users (i.e., other drivers, pedestrians, bicyclists, etc.).

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PBS PROGRAM DESIGNATION: TRN 595.

OTHER AFFECTED AGENCIES: County Police Departments.

EFFECTIVE DATE: Upon approval.