

COUNCIL OF THE COUNTY OF MAUI

INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT COMMITTEE

September 6, 2013

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Infrastructure and Environmental Management Committee, having met on August 12, 2013, makes reference to County Communication 13-222, from the Chief of Police, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE REPEALING SECTION 10.52.260, MAUI COUNTY CODE, RELATING TO MOBILE ELECTRONIC DEVICES".

The purpose of the proposed bill is to repeal Section 10.52.260, Maui County Code ("MCC"), in its entirety.

Your Committee notes Ordinance 3753, prohibiting a person from using a mobile electronic device while operating a motor vehicle, was enacted on July 6, 2010.

Your Committee further notes the State Legislature established a statewide ban on the use of cellular phones and other mobile electronic devices while operating a motor vehicle when it passed Act 74 (2013), effective July 1, 2013.

The Chief of Police transmitted the proposed bill in response to Act 74 (2013). Act 74 (2013) supersedes any county ordinance regulating the use or utilization of mobile electronic devices while operating a motor vehicle.

A Lieutenant from the Department of Police confirmed the Department recommends that the proposed bill be passed so that the MCC does not conflict with State law.

Your Committee voted 7-0 to recommend passage of the proposed bill on first reading and filing of the communication. Committee Chair Cochran, Vice-Chair Crivello, and members Carroll, Couch, Guzman, Hokama, and White voted "aye".

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Report No. _____

Your Infrastructure and Environmental Management Committee
RECOMMENDS the following:

1. That Bill _____ (2013), attached hereto, entitled "A BILL FOR AN ORDINANCE REPEALING SECTION 10.52.260, MAUI COUNTY CODE, RELATING TO MOBILE ELECTRONIC DEVICES", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 13-222 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



ELLE COCHRAN, Chair

ORDINANCE NO. _____

BILL NO. _____ (2013)

A BILL FOR AN ORDINANCE REPEALING SECTION 10.52.260, MAUI COUNTY CODE, RELATING TO MOBILE ELECTRONIC DEVICES

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 10.52.260, Maui County Code, is repealed in its entirety.

["10.52.260 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 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, and who:

a. Are operating fleet vehicles;

b. Possess a commercial driver's license, pursuant to section 286-239, Hawaii Revised Statutes; or

c. Possess a commercial driver's license instructional permit, pursuant to section 286-236, Hawaii Revised Statutes; and

3. Drivers holding a valid amateur radio operator license issued by the federal communications commission and using a half-duplex two-way radio.

D. Drivers who hold an instructional permit pursuant to section 286-110, Hawaii Revised Statutes, or a provisional license pursuant to section 286-102.6, Hawaii Revised Statutes, shall be further prohibited from using any hands-free technology to assist with the use of a mobile electronic device.

E. As used in this section: "Emergency responders" include fire fighters, emergency medical 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 or data communication between two or more

persons or of providing amusement, including a cellular phone, text messaging device, paging device, personal digital assistance device, laptop computer, video game, or digital photographic device, but not including any audio equipment, navigation equipment, or equipment installed in a motor vehicle for the purpose of providing emergency assistance for the operator of the motor vehicle or video entertainment for passengers in the rear seats of the vehicle.

"Motor vehicle" has the same meaning as in section 291E-1, Hawaii Revised Statutes.

"Operate" has the same meaning as in section 291E-1, Hawaii Revised Statutes.

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

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



SCOTT K. HANANO
Deputy Corporation Counsel
County of Maui

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