

By: Branch, Menendez, Bolton

H.B. No. 55

A BILL TO BE ENTITLED

AN ACT

relating to an offense of using a wireless communication device while operating a motor vehicle.

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

SECTION 1. Section 545.425, Transportation Code, is amended to read as follows:

Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE; OFFENSE ~~[BY CERTAIN MOTORISTS]~~. (a) In this section:

(1) "Hands-free device" means speakerphone capability or a telephone attachment or other piece of equipment, regardless of whether permanently installed in the motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands.

(2) "Wireless communication device" means a device that uses a commercial mobile service, as defined by 47 U.S.C. Section 332.

(b) Except as provided by Subsection (c), an operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone, as defined by Section 541.302, Transportation Code, unless:

(1) the vehicle is stopped; or

(2) the wireless communication device is used with a hands-free device.

(b-1) A municipality, county, or other political

1 subdivision that enforces this section shall post a sign that
2 complies with the standards described by this subsection at the
3 entrance to each school crossing zone in the municipality, county,
4 or other political subdivision. The department shall adopt
5 standards requiring that a sign required to be posted under this
6 subsection inform an operator that:

7 (1) the use of a wireless communication device is
8 prohibited in the school crossing zone; and

9 (2) the operator is subject to the fine described by
10 Subsection (f) if the operator uses a wireless communication device
11 in the school crossing zone.

12 (c) An operator [A person] may not use a wireless
13 communication device while operating a passenger bus with a minor
14 passenger on the bus unless [except in case of emergency or if] the
15 passenger bus is stopped [not in motion].

16 (d) It is an affirmative defense to prosecution of an
17 offense under this section that:

18 (1) the wireless communication device was used to make
19 an emergency call to:

20 (A) an emergency response service, including a
21 rescue, emergency medical, or hazardous material response service;

22 (B) a hospital;

23 (C) a fire department;

24 (D) a health clinic;

25 (E) a medical doctor's office;

26 (F) an individual to administer first aid
27 treatment; or

1 (G) a police department; or

2 (2) a sign required by Subsection (b-1) was not posted
3 at the entrance to the school crossing zone at the time of an
4 offense committed in the school crossing zone.

5 (e) This section does not apply to:

6 (1) an operator of an authorized emergency vehicle
7 using a wireless communication device while acting in an official
8 capacity; or

9 (2) an operator who is licensed by the Federal
10 Communications Commission to operate a wireless communication
11 device or a radio frequency device while operating a device of the
12 type that the person is licensed to operate.

13 (f) An offense under this section is a misdemeanor
14 punishable by a fine of:

15 (1) not more than \$25 for the first offense; and

16 (2) not more than \$50 for each subsequent offense.

17 SECTION 2. The change in law made by this Act applies only
18 to an offense committed on or after the effective date of this Act.
19 An offense committed before the effective date of this Act is
20 governed by the law in effect when the offense was committed, and
21 the former law is continued in effect for that purpose. For
22 purposes of this section, an offense was committed before the
23 effective date of this Act if any element of the offense was
24 committed before that date.

25 SECTION 3. This Act takes effect September 1, 2009.