

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 that:

6 (1) allow for a sign required to be posted under this
7 subsection to be attached to an existing sign at a minimal cost; and

8 (2) require that a sign required to be posted under
9 this subsection inform an operator that:

10 (A) the use of a wireless communication device is
11 prohibited in the school crossing zone; and

12 (B) the operator is subject to a fine if the
13 operator uses a wireless communication device in the school
14 crossing zone.

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

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

21 (1) the wireless communication device was used to make
22 an emergency call to:

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

25 (B) a hospital;

26 (C) a fire department;

27 (D) a health clinic;

1 (E) a medical doctor's office;

2 (F) an individual to administer first aid
3 treatment; or

4 (G) a police department; or

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

8 (e) This section does not apply to:

9 (1) an operator of an authorized emergency vehicle
10 using a wireless communication device while acting in an official
11 capacity; or

12 (2) an operator who is licensed by the Federal
13 Communications Commission while operating a radio frequency device
14 other than a wireless communication device.

15 (f) This section preempts all local ordinances, rules, or
16 regulations that are inconsistent with specific provisions of this
17 section adopted by a political subdivision of this state relating
18 to the use of a wireless communication device by the operator of a
19 motor vehicle.

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

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

President of the Senate

Speaker of the House

I certify that H.B. No. 55 was passed by the House on May 15, 2009, by the following vote: Yeas 106, Nays 32, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 55 on May 29, 2009, by the following vote: Yeas 138, Nays 4, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 55 was passed by the Senate, with amendments, on May 26, 2009, by the following vote: Yeas 27, Nays 4.

Secretary of the Senate

APPROVED: _____

Date

Governor