

By: Branch, Menendez

H.B. No. 55

Substitute the following for H.B. No. 55:

By: Harper-Brown

C.S.H.B. No. 55

A BILL TO BE ENTITLED

1 AN ACT
2 relating to an offense of using a wireless communication device
3 while operating a motor vehicle.

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

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

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

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

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

17 (b) Except as provided by Subsection (c), an operator may
18 not use a wireless communication device while operating a motor
19 vehicle within a school crossing zone unless:

20 (1) the vehicle is stopped; or

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

23 (c) An operator [~~A person~~] may not use a wireless
24 communication device while operating a passenger bus with a minor

1 passenger on the bus unless [~~except in case of emergency or if~~] the
2 passenger bus is stopped [~~not in motion~~].

3 (d) It is an affirmative defense to prosecution of an
4 offense under this section that the wireless communication device
5 was used to make an emergency call to:

6 (1) an emergency response service, including a rescue,
7 emergency medical, or hazardous material response service;

8 (2) a hospital;

9 (3) a fire department;

10 (4) a health clinic;

11 (5) a medical doctor's office;

12 (6) an individual to administer first aid treatment;

13 or

14 (7) a police department.

15 (e) This section does not apply to:

16 (1) an operator of an authorized emergency vehicle
17 using a wireless communication device while acting in an official
18 capacity; or

19 (2) an operator who is licensed by the Federal
20 Communications Commission to operate a wireless communication
21 device or a radio frequency device.

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

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1 effective date of this Act if any element of the offense was
2 committed before that date.

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