

1-1 By: Branch, Menendez, Bolton H.B. No. 55
1-2 (Senate Sponsor - Carona)
1-3 (In the Senate - Received from the House May 18, 2009;
1-4 May 19, 2009, read first time and referred to Committee on
1-5 Transportation and Homeland Security; May 23, 2009, reported
1-6 favorably, as amended, by the following vote: Yeas 7, Nays 0;
1-7 May 23, 2009, sent to printer.)

1-8 COMMITTEE AMENDMENT NO. 1 By: Wentworth

1-9 Amend H.B. No. 55 (engrossed version) in SECTION 1 of the bill
1-10 as follows:

1-11 (1) Strike added Subdivision (2), Subsection (e), Section
1-12 545.425, Transportation Code (page 2, lines 24-27), and substitute:

1-13 (2) an operator who is licensed by the Federal
1-14 Communications Commission while operating a radio frequency device
1-15 other than a wireless communication device.

1-16 (2) Strike added Subsection (f), Section 545.425,
1-17 Transportation Code (page 2, lines 28-29), and substitute:

1-18 (f) An offense under this section is a misdemeanor
1-19 punishable by a fine not to exceed \$50.

1-20 (3) After added Subsection (f), Section 545.425,
1-21 Transportation Code (page 2, between lines 31 and 32) insert:

1-22 (g) This section preempts all local ordinances, rules, or
1-23 regulations adopted by a political subdivision of this state
1-24 relating to the use of a wireless communication device by the
1-25 operator of a motor vehicle.

1-26 A BILL TO BE ENTITLED
1-27 AN ACT

1-28 relating to an offense of using a wireless communication device
1-29 while operating a motor vehicle.

1-30 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-31 SECTION 1. Section 545.425, Transportation Code, is amended
1-32 to read as follows:

1-33 Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE; OFFENSE
1-34 ~~[BY CERTAIN MOTORISTS]~~. (a) In this section:

1-35 (1) "Hands-free device" means speakerphone capability
1-36 or a telephone attachment or other piece of equipment, regardless
1-37 of whether permanently installed in the motor vehicle, that allows
1-38 use of the wireless communication device without use of either of
1-39 the operator's hands.

1-40 (2) "Wireless communication device" means a device
1-41 that uses a commercial mobile service, as defined by 47 U.S.C.
1-42 Section 332.

1-43 (b) Except as provided by Subsection (c), an operator may
1-44 not use a wireless communication device while operating a motor
1-45 vehicle within a school crossing zone, as defined by Section
1-46 541.302, Transportation Code, unless:

1-47 (1) the vehicle is stopped; or

1-48 (2) the wireless communication device is used with a
1-49 hands-free device.

1-50 (b-1) A municipality, county, or other political
1-51 subdivision that enforces this section shall post a sign that
1-52 complies with the standards described by this subsection at the
1-53 entrance to each school crossing zone in the municipality, county,
1-54 or other political subdivision. The department shall adopt
1-55 standards requiring that a sign required to be posted under this
1-56 subsection inform an operator that:

1-57 (1) the use of a wireless communication device is
1-58 prohibited in the school crossing zone; and

1-59 (2) the operator is subject to the fine described by
1-60 Subsection (f) if the operator uses a wireless communication device
1-61 in the school crossing zone.

1-62 (c) An operator [A person] may not use a wireless

2-1 communication device while operating a passenger bus with a minor
2-2 passenger on the bus unless [~~except in case of emergency or if~~] the
2-3 passenger bus is stopped [~~not in motion~~].

2-4 (d) It is an affirmative defense to prosecution of an
2-5 offense under this section that:

2-6 (1) the wireless communication device was used to make
2-7 an emergency call to:

2-8 (A) an emergency response service, including a
2-9 rescue, emergency medical, or hazardous material response service;

2-10 (B) a hospital;

2-11 (C) a fire department;

2-12 (D) a health clinic;

2-13 (E) a medical doctor's office;

2-14 (F) an individual to administer first aid
2-15 treatment; or

2-16 (G) a police department; or

2-17 (2) a sign required by Subsection (b-1) was not posted
2-18 at the entrance to the school crossing zone at the time of an
2-19 offense committed in the school crossing zone.

2-20 (e) This section does not apply to:

2-21 (1) an operator of an authorized emergency vehicle
2-22 using a wireless communication device while acting in an official
2-23 capacity; or

2-24 (2) an operator who is licensed by the Federal
2-25 Communications Commission to operate a wireless communication
2-26 device or a radio frequency device while operating a device of the
2-27 type that the person is licensed to operate.

2-28 (f) An offense under this section is a misdemeanor
2-29 punishable by a fine of:

2-30 (1) not more than \$25 for the first offense; and

2-31 (2) not more than \$50 for each subsequent offense.

2-32 SECTION 2. The change in law made by this Act applies only
2-33 to an offense committed on or after the effective date of this Act.
2-34 An offense committed before the effective date of this Act is
2-35 governed by the law in effect when the offense was committed, and
2-36 the former law is continued in effect for that purpose. For
2-37 purposes of this section, an offense was committed before the
2-38 effective date of this Act if any element of the offense was
2-39 committed before that date.

2-40 SECTION 3. This Act takes effect September 1, 2009.

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