

By: Menendez

H.B. No. 1649

A BILL TO BE ENTITLED

AN ACT

relating to the operation of a motor vehicle by a person under 18 years of age while using a wireless communications device; providing a penalty.

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

SECTION 1. Section 545.424, Transportation Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (b-1), (f), and (g) to read as follows:

(a) A person under 18 years of age, during the six-month period following issuance of an original Class A, B, or C driver's license to the person, may not operate a motor vehicle:

(1) after midnight and before 5 a.m. unless the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

(2) with more than one passenger in the vehicle under 21 years of age who is not a family member [~~+~~ ~~or~~

~~[(3) while using a wireless communications device]~~].

(b) A person under 17 years of age who holds a restricted Class M [~~motorcycle~~] license or moped license, during the six-month period following the issuance of an original Class M [~~motorcycle~~ ~~license~~] or moped license to the person, may not operate a motorcycle or moped [~~+~~

~~[(1)]~~ after midnight and before 5 a.m. unless:

1           (1) ~~[(A)]~~ the person is in sight of the person's parent  
2 or guardian; or

3           (2) ~~[(B)]~~ the operation of the vehicle is necessary  
4 for the operator to attend or participate in employment or a  
5 school-related activity or because of a medical emergency.

6           (b-1) A person under 18 years of age who holds a Class A, B,  
7 or C driver's license may not operate a motor vehicle, and a person  
8 under 17 years of age who holds a restricted Class M or moped  
9 license may not operate a motorcycle or moped, ~~[-or~~

10           ~~[(2)]~~ while using a wireless communications device,  
11 regardless of whether the device is equipped with a hands-free  
12 device.

13           (c) Subsections (a) and (b) do ~~[This section does]~~ not apply  
14 to:

15                 (1) the holder of a hardship license; or

16                 (2) a person operating a motor vehicle while  
17 accompanied in the manner required by Section 521.222(d)(2) for the  
18 holder of an instruction permit.

19           (f) It is an affirmative defense to prosecution under  
20 Subsection (b-1) that the wireless communication device was used to  
21 make an emergency call to:

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

24                 (2) a hospital;

25                 (3) a fire department;

26                 (4) a health clinic;

27                 (5) a medical doctor's office;

1           (6) an individual to administer first aid treatment;  
2 or  
3           (7) a law enforcement agency.

4           (g) An offense under Subsection (b-1) is a misdemeanor  
5 punishable by a fine of:

6           (1) not less than \$25 or more than \$100 if the offense  
7 occurs outside a school crossing zone; or

8           (2) not less than \$125 or more than \$200 if the offense  
9 occurs within a school crossing zone.

10           SECTION 2. The change in law made by this Act applies only  
11 to an offense committed on or after the effective date of this Act.  
12 An offense committed before the effective date of this Act is  
13 governed by the law in effect when the offense was committed, and  
14 the former law is continued in effect for that purpose. For  
15 purposes of this section, an offense was committed before the  
16 effective date of this Act if any element of the offense was  
17 committed before that date.

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