

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

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.

**ADOPTED**

MAY 26 2009

*Antony Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Carson*

1 Amend Committee Amendment No. 1 to C.S.H.B. No. 55 (senate  
2 committee printing) as follows:

3 (1) Strike Item (2) of the amendment adding Subsection (f),  
4 Section 545.425, Transportation Code (page 1, lines 16-19).

5 (2) In Item (3) of the amendment, in added Subsection (g),  
6 Section 545.425, Transportation Code (page 1, line 23), between  
7 "regulations" and "adopted", insert "that are inconsistent with  
8 specific provisions of this section".

# ADOPTED

MAY 26 2009

*Atty. Gen.*  
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *Cannon*

1 Amend C.S.H.B. No. 55 (senate committee printing) in SECTION  
2 1 of the bill as follows:

3 (1) In added Section 545.425(b-1), Transportation Code,  
4 strike the last sentence of that subsection (page 1, lines 54-61)  
5 and substitute the following:

6 The department shall adopt standards that:

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

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

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

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

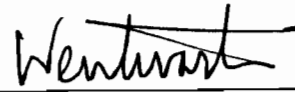
16 (2) Strike added Section 545.425(f), Transportation Code  
17 (page 2, lines 28-31).

# ADOPTED

MAY 26 2009

  
Secretary of the Senate

COMMITTEE AMENDMENT NO. 1

BY: 

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

3 (1) Strike added Subdivision (2), Subsection (e), Section  
4 545.425, Transportation Code (page 3, lines 9-12), and substitute:

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

8 (2) Strike added Subsection (f), Section 545.425,  
9 Transportation Code (page 3, lines 13-16), and substitute:

10 (f) An offense under this section is a misdemeanor  
11 punishable by a fine not to exceed \$50.

12 (3) After added Subsection (f), Section 545.425,  
13 Transportation Code (page 3, between lines 16 and 17), insert:

14 (g) This section preempts all local ordinances, rules, or  
15 regulations adopted by a political subdivision of this state  
16 relating to the use of a wireless communication device by the  
17 operator of a motor vehicle.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 28, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB55** by Branch (Relating to an offense of using a wireless communication device while operating a motor vehicle.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Transportation Code to prohibit an operator of a motor vehicle from using a wireless communication device while operating a motor vehicle within a school crossing zone unless the vehicle is stopped or the wireless device is used with a hands-free device. An exception to the use of a wireless communication device in a school zone would be allowed for making an emergency call to certain entities and would not apply to certain entities. An offense would be a misdemeanor punishable by a fine of not more than \$50.

A municipality, county, or other political subdivision that enforces the applicable section of the Transportation Code would be required to post a sign at the entrance to each school crossing zone within the entity's jurisdiction. The Department of Public Safety would be required to adopt standards related to the signs.

The proposed change in law would preempt all local ordinances, rules, or regulations adopted by a political subdivision of the state related to the use of a wireless communication device by the operator of a motor vehicle that are inconsistent with the specific provisions of the bill. The change in law would apply only to an offense committed on or after the effective date of the bill, which would take effect on September 1, 2009.

It is anticipated that any costs associated with enforcement would be absorbed using existing resources.

**Local Government Impact**

A municipality, county, or other political subdivision would incur costs for purchasing and posting signs at all school crossing zones. According to information obtained from the Texas Department of Transportation, the cost of a small mounted sign is between \$450 and \$650. The total cost for each affected unit of local government would depend on the standards established for the size and type of sign and the number of school crossing zones within each municipality, county, or other political subdivision.

Costs could also be incurred to make administrative adjustments if a local government entity has existing ordinances, rules, or regulations that would be preempted; depending on fines imposed by the current local ordinance, rule, or regulation, a local government's revenue could also be affected.

Any revenue gain related to the fine specified in the bill would depend on the number of offenses prosecuted and the amount of the fine imposed up to the \$50 limit.

**Source Agencies:** 405 Department of Public Safety

**LBB Staff:** JOB, KJG, DB

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 22, 2009**

**TO:** Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB55** by Branch (Relating to an offense of using a wireless communication device while operating a motor vehicle.), **Committee Report 2nd House, As Amended**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Transportation Code to prohibit an operator of a motor vehicle from using a wireless communication device while operating a motor vehicle within a school crossing zone unless the vehicle is stopped or the wireless device is used with a hands-free device. An exception to the use of a wireless communication device in a school zone would be allowed for making an emergency call to certain entities and would not apply to certain entities. An offense would be a misdemeanor punishable by a fine of not more than \$50.

A municipality, county, or other political subdivision that enforces the applicable section of the Transportation Code would be required to post a sign at the entrance to each school crossing zone within the entity's jurisdiction. The Department of Public Safety would be required to adopt standards related to the signs.

The proposed change in law would preempt all local ordinances, rules, or regulations adopted by a political subdivision of the state related to the use of a wireless communication device by the operator of a motor vehicle. The change in law would apply only to an offense committed on or after the effective date of the bill, which would take effect on September 1, 2009.

It is anticipated that any costs associated with enforcement would be absorbed using existing resources.

**Local Government Impact**

A municipality, county, or other political subdivision would incur costs for purchasing and posting signs at all school crossing zones. According to information obtained from the Texas Department of Transportation, the cost of a small mounted sign is between \$450 and \$650. The total cost for each affected unit of local government would depend on the standards established for the size and type of sign and the number of school crossing zones within each municipality, county, or other political subdivision.

Costs could also be incurred to make administrative adjustments if a local government entity has existing ordinances, rules, or regulations that would be preempted; depending on fines imposed by the current local ordinance, rule, or regulation, a local government's revenue could also be affected.

Any revenue gain related to the fine specified in the bill would depend on the number of offenses prosecuted and the amount of the fine imposed up to the \$50 limit.

**Source Agencies:** 405 Department of Public Safety

**LBB Staff:** JOB, KJG, DB



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 18, 2009**

**TO:** Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB55** by Branch (Relating to an offense of using a wireless communication device while operating a motor vehicle.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Transportation Code to prohibit an operator of a motor vehicle from using a wireless communication device while operating a motor vehicle within a school crossing zone unless the vehicle is stopped or the wireless device is used with a hands-free device. An exception to the use of a wireless communication device in a school zone would be allowed for making an emergency call to certain entities and would not apply to certain entities. An offense would be a misdemeanor punishable by a fine of not more than \$25 for the first offense and not more than \$50 for each subsequent offense.

A municipality, county, or other political subdivision that enforces the applicable section of the Transportation Code would be required to post a sign at the entrance to each school crossing zone within the entity's jurisdiction. The Department of Public Safety would be required to adopt standards related to the signs.

The change in law would apply only to an offense committed on or after the effective date of the bill, which would take effect on September 1, 2009.

It is anticipated that any costs associated with enforcement would be absorbed using existing resources.

**Local Government Impact**

A municipality, county, or other political subdivision would incur costs for purchasing and posting signs at all school crossing zones. According to information obtained from the Texas Department of Transportation, the cost of a small mounted sign is between \$450 and \$650. The total cost for each affected unit of local government would depend on the standards established for the size and type of sign and the number of school crossing zones within each municipality, county, or other political subdivision.

**Source Agencies:** 405 Department of Public Safety

**LBB Staff:** JOB, KJG, DB

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 3, 2009**

**TO:** Honorable Joseph Pickett, Chair, House Committee on Transportation

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB55** by Branch (Relating to an offense of using a wireless communication device while operating a motor vehicle.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Transportation Code to prohibit an operator of a motor vehicle from using a wireless communication device while operating a motor vehicle within a school crossing zone unless the vehicle is stopped or the wireless device is used with a hands-free device. An exception to the use of a wireless communication device in a school zone would be allowed for making an emergency call to certain entities. The change in law would apply only to an offense committed on or after the effective date of the bill, which would take effect on September 1, 2009.

It is anticipated that any costs associated with enforcement would be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 405 Department of Public Safety

**LBB Staff:** JOB, KJG, DB

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 5, 2009**

**TO:** Honorable Joseph Pickett, Chair, House Committee on Transportation

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB55** by Branch (Relating to an offense of using a wireless communication device while operating a motor vehicle.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Transportation Code to prohibit an operator of a motor vehicle from using a wireless communication device while operating a motor vehicle within a school crossing zone unless the vehicle is stopped or the wireless device is used with a hands-free device. An exception to the use of a wireless communication device in a school zone would be allowed for making an emergency call to certain entities. The change in law would apply only to an offense committed on or after the effective date of the bill, which would take effect on September 1, 2009.

It is anticipated that any costs associated with enforcement would be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 405 Department of Public Safety

**LBB Staff:** JOB, KJG, DB