

House Bill 55
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 subdivision that enforces this section shall post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision.

The department shall adopt standards

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(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 subdivision that enforces this section shall post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision.

The department shall adopt standards that:

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

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requiring that a sign required to be posted under this subsection inform an operator that:

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

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

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

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

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

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

(B) a hospital;

(C) a fire department;

(D) a health clinic;

(E) a medical doctor's office;

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

(G) a police department; or

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

(e) This section does not apply to:

(1) an operator of an authorized emergency vehicle

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

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

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

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

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

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

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

(B) a hospital;

(C) a fire department;

(D) a health clinic;

(E) a medical doctor's office;

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

(G) a police department; or

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

(e) This section does not apply to:

(1) an operator of an authorized emergency vehicle

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using a wireless communication device while acting in an official capacity; or

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

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

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

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

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

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

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using a wireless communication device while acting in an official capacity; or

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

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

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

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

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

Same as House version.

Same as House version.

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