

BILL ANALYSIS

Senate Research Center
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S.B. 138
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Transportation & Homeland Security
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Driving while using a cellular telephone is dangerous and causes accidents. According to the Texas Department of Transportation, one in four motor vehicle crashes involves driver distraction, and drivers who use cellular telephones in their vehicles have a higher risk of collision than drivers who do not.

Currently, a driver is not prohibited from using a cellular telephone while operating a motor vehicle, except within a school crossing zone. As proposed, S. B. 138 prohibits a person operating a motor vehicle from using a wireless communication device at any time unless the car is stopped or the device is used with a hands-free device. Using a wireless communication device for certain emergencies would not be punished.

As proposed, S.B. 138 amends current law relating to prohibitions on the use of a wireless communication device while operating a motor vehicle.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 545.425(a)(1), (b), (d), and (e), as follows:

(1) Redefines "hands-free device."

(b) Prohibits an operator, except as provided by Subsection (c), from using a wireless communication device while operating a motor vehicle unless the vehicle is stopped, or the wireless communication device is used with a hand-free device. Deletes existing text limiting the prohibition to an operator using a wireless communication device while operating a motor vehicle within a school crossing zone, as defined by Section 541.302 (Traffic Areas), Transportation Code.

(d) Provides that it is an affirmative defense to prosecution of an offense under this section that the wireless communication device was used to make an emergency call to certain entities, including a law enforcement agency, rather than a police department. Deletes existing text providing that it is an affirmative defense to prosecution of an offense under this section that 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. Makes nonsubstantive changes.

(e) Provides that it is an exception to the application of Subsections (b) and (c) that the operator is, rather than this section does not apply to, an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity, or a person licensed by the Federal Communications Commission to operate a radio frequency device or a wireless communication device, rather than an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.

SECTION 2. Repealer: Section 545.425(b-1) (relating to a requirement that a municipality, county, or other political subdivision post a sign at the entrance of each school crossing zone), Transportation Code.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: January 1, 2012.