

By: Wentworth

S.B. No. 138

A BILL TO BE ENTITLED

AN ACT

relating to prohibitions on the use of a wireless communication device while operating a motor vehicle.

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

SECTION 1. Sections 545.425(a)(1), (b), (d), and (e), Transportation Code, are amended to read as follows:

(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, except to activate or deactivate the hands-free device.

(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.

(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:

(1) [~~(A)~~] an emergency response service, including a

1 rescue, emergency medical, or hazardous material response service;

2 (2) [~~(B)~~] a hospital;

3 (3) [~~(C)~~] a fire department;

4 (4) [~~(D)~~] a health clinic;

5 (5) [~~(E)~~] a medical doctor's office;

6 (6) [~~(F)~~] an individual to administer first aid
7 treatment; or

8 (7) [~~(G)~~] a law enforcement agency [~~police~~
9 ~~department; or~~

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

13 (e) It is an exception to the application of Subsections (b)
14 and (c) that the operator is [~~This section does not apply to~~]:

15 (1) an operator of an authorized emergency vehicle
16 using a wireless communication device while acting in an official
17 capacity; or

18 (2) a person [~~an operator who is~~] licensed by the
19 Federal Communications Commission to operate [~~while operating~~] a
20 radio frequency device or [~~other than~~] a wireless communication
21 device.

22 SECTION 2. Section 545.425(b-1), Transportation Code, is
23 repealed.

24 SECTION 3. The change in law made by this Act applies only
25 to an offense committed on or after the effective date of this Act.
26 An offense committed before the effective date of this Act is
27 governed by the law in effect when the offense was committed, and

1 the former law is continued in effect for that purpose. For
2 purposes of this section, an offense was committed before the
3 effective date of this Act if any element of the offense was
4 committed before that date.

5 SECTION 4. This Act takes effect January 1, 2012.