

By: Menendez

H.B. No. 41

A BILL TO BE ENTITLED

AN ACT

relating to the use of a wireless communication device while operating a motor vehicle; providing for penalties.

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

SECTION 1. Section 545.425(a), Transportation Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "School crossing zone" has the meaning assigned by Section 541.302.

SECTION 2. Section 545.425, Transportation Code, is amended by amending Subsections (b), (c), (d), and (f) and adding Subsection (g) to read as follows:

(b) An ~~[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's transmission is in park;

(2) the vehicle's parking brake is applied ~~[vehicle is stopped]~~; or

(3) [(2)] the wireless communication device is used with a hands-free device.

(c) For the purposes of this section, use of a wireless communication device includes dialing a telephone number or using the device to read, write, or send a text-based or e-mail-based communication. ~~[An operator may not use a wireless communication~~

1 ~~device while operating a passenger bus with a minor passenger on the~~
2 ~~bus unless the passenger bus is stopped.]~~

3 (d) It is an affirmative defense to prosecution of an
4 offense under this section that [+

5 ~~(1)]~~ the wireless communication device was used to
6 make an emergency call to:

7 (1) ~~[(A)]~~ an emergency response service, including a
8 rescue, emergency medical, or hazardous material response service;

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

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

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

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

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

15 (7) a law enforcement agency ~~[(G) a police~~
16 ~~department; or~~

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

20 (f) This ~~[Except as provided by Subsection (b-2), this]~~
21 section preempts all local ordinances, rules, or regulations that
22 are inconsistent with specific provisions of this section adopted
23 by a political subdivision of this state relating to the use of a
24 wireless communication device by the operator of a motor vehicle.

25 (g) An offense under this section is a misdemeanor
26 punishable by a fine of:

27 (1) not less than \$25 or more than \$100 if the offense

1 occurs outside a school crossing zone; or
2 (2) not less than \$125 or more than \$200 if the offense
3 occurs within a school crossing zone.

4 SECTION 3. Sections 545.425(b-1), (b-2), (b-3), (b-4), and
5 (d-1), Transportation Code, are repealed.

6 SECTION 4. The change in law made by this Act applies only
7 to an offense committed on or after the effective date of this Act.
8 An offense committed before the effective date of this Act is
9 governed by the law in effect when the offense was committed, and
10 the former law is continued in effect for that purpose. For
11 purposes of this section, an offense was committed before the
12 effective date of this Act if any element of the offense was
13 committed before that date.

14 SECTION 5. This Act takes effect September 1, 2013.