

By: Zaffirini

S.B. No. 28

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of an offense for use of a handheld
3 wireless communication device for text-based communication while
4 operating a motor vehicle.

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

6 SECTION 1. This Act may be cited as the Alex Brown Memorial
7 Act.

8 SECTION 2. The heading to Section 545.425, Transportation
9 Code, is amended to read as follows:

10 Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE
11 GENERALLY; OFFENSE.

12 SECTION 3. Section 545.425(a)(1), Transportation Code, is
13 amended to read as follows:

14 (1) "Hands-free device" means speakerphone
15 capability, ~~or~~ a telephone attachment, or another function or
16 other piece of equipment, regardless of whether permanently
17 installed in or on a wireless communication device or in a ~~the~~
18 motor vehicle, that allows use of the wireless communication device
19 without use of either of the operator's hands, except to activate or
20 deactivate a function of the wireless communication device or
21 hands-free device.

22 SECTION 4. Subchapter I, Chapter 545, Transportation Code,
23 is amended by adding Section 545.4251 to read as follows:

24 Sec. 545.4251. USE OF WIRELESS COMMUNICATION DEVICE TO SEND

1 TEXT-BASED COMMUNICATIONS; OFFENSE. (a) In this section:

2 (1) "Handheld wireless communication device" means a
3 wireless communication device, as defined by Section 545.425, that
4 is portable. The term does not include:

5 (A) a citizens band radio or citizens band radio
6 hybrid; or

7 (B) a commercial two-way radio communication
8 device.

9 (2) "Text-based communication" means a communication
10 that is designed or intended to be composed with at least one hand
11 on a handheld wireless communication device and that is transmitted
12 between wireless communication devices for the purpose of manually
13 communicating in a nonspoken manner with another person in a
14 written medium. The term includes:

15 (A) a text message;

16 (B) an instant message;

17 (C) an e-mail; or

18 (D) another type of electronic message.

19 (b) An operator commits an offense if the operator uses a
20 handheld wireless communication device to read, write, or send a
21 text-based communication while operating a motor vehicle unless the
22 vehicle is stopped.

23 (c) It is a defense to prosecution under Subsection (b)
24 that:

25 (1) the operator used a handheld wireless
26 communication device:

27 (A) to read, select, or enter a telephone number

1 or name for the purpose of making a telephone call;

2 (B) in conjunction with voice-operated
3 technology, a push-to-talk function, or a hands-free device, as
4 defined by Section 545.425; or

5 (C) to navigate using a global positioning system
6 or navigation service; or

7 (2) the handheld wireless communication device:

8 (A) was used by the operator to relay information
9 between the operator and a dispatcher in the course of the
10 operator's occupational duties; and

11 (B) was affixed to the vehicle.

12 (d) It is an exception to the application of Subsection (b)
13 that the operator is:

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

17 (2) an operator who is licensed by the Federal
18 Communications Commission while operating a radio frequency device
19 other than a handheld wireless communication device; or

20 (3) an operator of a moving motor vehicle using a
21 handheld wireless communication device to report illegal activity
22 or summon emergency help.

23 (e) Except as provided by Subsection (f), this section
24 preempts all local ordinances, rules, or regulations that are
25 inconsistent with specific provisions of this section adopted by a
26 political subdivision of this state relating to the use of a
27 wireless communication device by the operator of a motor vehicle.

1 (f) A political subdivision of this state may adopt a local
2 ordinance, rule, or regulation relating to an operator using a
3 handheld wireless communication device to read, write, or send a
4 text-based communication while operating a motor vehicle that is
5 more stringent than this section.

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