

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 80  
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State Affairs  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Research by the United States Department of Transportation found that sending or receiving a text message while driving creates a crash risk 23 times higher than driving while not text messaging. Drivers who text while driving take their eyes off the road for an average of 4.6 seconds within a six second interval. This equates to traveling the length of a football field at 55 miles per hour without looking.

While common sense and personal responsibility are major components in the effort to make Texas roads safer, a statutory prohibition against texting while driving would greatly improve the safety of Texas roads. Such a prohibition would be similar to other well-known successful efforts to improve public safety, such as Texas' seat belt law, which penalized risky behavior and provided an educational campaign to inform drivers about the risks associated with the behavior.

National research organizations report that more than 40 states have banned text messaging for all drivers. In Texas, however, drivers currently are not prohibited in most situations from using a wireless communication device to read, write, or send a text-based communication. In the absence of a statewide policy, several cities have opted to enact various local ordinances to ban texting while driving. There is concern, however, that these well-intentioned local laws have resulted in some measure of confusion because of the inconsistency of their application across the state. C.S.H.B. 80 seeks to remedy this situation by establishing a statewide prohibition on text-based communication while driving.

C.S.H.B. 80 amends current law relating to the use of a portable wireless communication device while operating a motor vehicle; creates a criminal offense; and modifies existing criminal penalties.

### **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. Authorizes this Act to be cited as the Alex Brown Memorial Act.

SECTION 2. Amends Sections 521.161(b) and (c), Transportation Code, as follows:

(b) Requires that the examination for a driver's license include:

(1) a test of the applicant's:

(A) and (B) Makes no change to these subdivisions;

(C) and (D) Makes nonsubstantive changes; and

(E) knowledge of the effect of using a wireless communication device, or engaging in other actions that may distract a driver, on the safe or effective operation of a motor vehicle;

(2) and (3) Makes no changes to these subdivisions.

(c) Requires the Department of Public Safety of the State of Texas (DPS) to give each applicant the option of taking the parts of the examination under Subsections (b)(1)(B), (C), (D), and (E) in writing in addition to or instead of through a mechanical, electronic, or other testing method.

SECTION 3. Amends Section 545.424, Transportation Code, by adding Subsection (g), as follows:

(g) Provides that an offense under Subsection (a) (relating to prohibiting a person under 18 years of age from operating a motor vehicle while using a wireless communications device, except in a case of emergency) or (b) (relating to prohibiting a person under 17 years of age who holds a restricted motorcycle license or moped license from operating a motorcycle or moped while using a wireless communications device, except in a case of emergency) is a misdemeanor punishable by a fine of at least \$25 and not more than \$99 unless it is shown on the trial of the offense that the defendant has been previously convicted at least one time of an offense under this section, in which event the offense is punishable by a fine of at least \$100 and not more than \$200.

SECTION 4. Amends Section 545.425(a)(1), Transportation Code, as follows:

(1) Redefines "hands-free device" to include speakerphone capability, a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a wireless communication device or in a motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands, except to activate or deactivate a function of the wireless communication device or hands-free device.

SECTION 5. Amends Subchapter I, Chapter 545, Transportation Code, by adding Section 545.4251, as follows:

Sec. 545.4251. USE OF PORTABLE WIRELESS COMMUNICATION DEVICE TO SEND TEXT-BASED COMMUNICATION; OFFENSE. (a) Defines "text-based communication" and "wireless communication device."

(b) Provides that an operator commits an offense if the operator uses a portable wireless communication device to read, write, or send a text-based communication while operating a motor vehicle unless the vehicle is stopped.

(c) Provides that it is a defense to prosecution under Subsection (b) that the operator used a portable wireless communication device:

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

(2) to report illegal activity or summon emergency help;

(3) to read a text-based communication that the person reasonably believed concerned an emergency; or

(4) that was affixed to the vehicle to relay information between the operator and a dispatcher in the course of the operator's occupational duties.

(d) Provides that Subsection (b) does not apply to an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a portable wireless communication device.

(e) Provides that this section preempts all local ordinances, rules, or regulations adopted by a political subdivision relating to the use of a portable wireless communication device by the operator of a motor vehicle to read, write, or send a text-based communication.

(f) Authorizes a political subdivision to by ordinance, rule, or other regulation prohibit or regulate the use of a portable wireless communication device, other than to read, write, or send a text-based communication, while operating a motor vehicle.

(g) Provides that an offense under this section is a misdemeanor punishable by a fine of at least \$25 and not more than \$99 unless it is shown on the trial of the offense that the defendant has been previously convicted at least one time of an offense under this section, in which event the offense is punishable by a fine of at least \$100 and not more than \$200.

(h) Prohibits a peace officer who stops a motor vehicle for an alleged violation of this section from taking possession of or otherwise inspecting a portable wireless communication device in the possession of the operator unless authorized by the Code of Criminal Procedure, the Penal Code, or other law.

SECTION 6. Amends Section 708.052, Transportation Code, by adding Subsection (e-1), as follows:

(e-1) Prohibits DPS, notwithstanding Subsection (b) (relating to requiring DPS to assign points to a person's license for each conviction arising out of a separate transaction), from assigning points to a person's license if the offense of which the person was convicted is the offense of using a portable wireless communication device to send a text-based communication as described by Section 545.4251.

SECTION 7. Provides that the changes in law made by this Act to Chapter 545 (Operation and Movement of Vehicles), Transportation Code, apply only to an offense committed on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2015.