

1-1 By: Craddick, et al. (Senate Sponsor - Zaffirini) H.B. No. 80
 1-2 (In the Senate - Received from the House March 30, 2015;
 1-3 April 21, 2015, read first time and referred to Committee on State
 1-4 Affairs; May 12, 2015, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 5, Nays 2;
 1-6 May 12, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11		X		
1-12		X		
1-13	X			
1-14			X	
1-15	X			
1-16			X	
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 80 By: Zaffirini

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the use of a portable wireless communication device
 1-22 while operating a motor vehicle; creating a criminal offense;
 1-23 modifying existing criminal penalties.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. This Act may be cited as the Alex Brown Memorial
 1-26 Act.

1-27 SECTION 2. Sections 521.161(b) and (c), Transportation
 1-28 Code, are amended to read as follows:

1-29 (b) The examination must include:

1-30 (1) a test of the applicant's:

1-31 (A) vision;

1-32 (B) ability to identify and understand highway
 1-33 signs in English that regulate, warn, or direct traffic;

1-34 (C) knowledge of the traffic laws of this state;

1-35 [~~and~~]

1-36 (D) knowledge of motorists' rights and
 1-37 responsibilities in relation to bicyclists; and

1-38 (E) knowledge of the effect of using a wireless
 1-39 communication device, or engaging in other actions that may
 1-40 distract a driver, on the safe or effective operation of a motor
 1-41 vehicle;

1-42 (2) a demonstration of the applicant's ability to
 1-43 exercise ordinary and reasonable control in the operation of a
 1-44 motor vehicle of the type that the applicant will be licensed to
 1-45 operate; and

1-46 (3) any additional examination the department finds
 1-47 necessary to determine the applicant's fitness to operate a motor
 1-48 vehicle safely.

1-49 (c) The department shall give each applicant the option of
 1-50 taking the parts of the examination under Subsections (b)(1)(B),
 1-51 (C), [~~and~~] (D), and (E) in writing in addition to or instead of
 1-52 through a mechanical, electronic, or other testing method. If the
 1-53 applicant takes that part of the examination in writing in addition
 1-54 to another testing method, the applicant is considered to have
 1-55 passed that part of the examination if the applicant passes either
 1-56 version of the examination. The department shall inform each
 1-57 person taking the examination of the person's rights under this
 1-58 subsection.

1-59 SECTION 3. Section 545.424, Transportation Code, is amended
 1-60 by adding Subsection (g) to read as follows:

2-1 (g) An offense under Subsection (a) or (b) is a misdemeanor
2-2 punishable by a fine of at least \$25 and not more than \$99 unless it
2-3 is shown on the trial of the offense that the defendant has been
2-4 previously convicted at least one time of an offense under this
2-5 section, in which event the offense is punishable by a fine of at
2-6 least \$100 and not more than \$200.

2-7 SECTION 4. Section 545.425(a)(1), Transportation Code, is
2-8 amended to read as follows:

2-9 (1) "Hands-free device" means speakerphone
2-10 capability, ~~or~~ a telephone attachment, or another function or
2-11 other piece of equipment, regardless of whether permanently
2-12 installed in or on a wireless communication device or in a ~~the~~
2-13 motor vehicle, that allows use of the wireless communication device
2-14 without use of either of the operator's hands, except to activate or
2-15 deactivate a function of the wireless communication device or
2-16 hands-free device.

2-17 SECTION 5. Subchapter I, Chapter 545, Transportation Code,
2-18 is amended by adding Section 545.4251 to read as follows:

2-19 Sec. 545.4251. USE OF PORTABLE WIRELESS COMMUNICATION
2-20 DEVICE TO SEND TEXT-BASED COMMUNICATION; OFFENSE. (a) In this
2-21 section:

2-22 (1) "Text-based communication" means data, other than
2-23 a telephone number or global positioning system data, that is read
2-24 from or manually entered into a wireless communication device for
2-25 the purpose of communicating with another person, including an SMS
2-26 text, e-mail, or instant message.

2-27 (2) "Wireless communication device" has the meaning
2-28 assigned by Section 545.425.

2-29 (b) An operator commits an offense if the operator uses a
2-30 portable wireless communication device to read, write, or send a
2-31 text-based communication while operating a motor vehicle unless the
2-32 vehicle is stopped.

2-33 (c) It is a defense to prosecution under Subsection (b) that
2-34 the operator used a portable wireless communication device:

2-35 (1) in conjunction with voice-operated technology, a
2-36 push-to-talk function, or a hands-free device, as defined by
2-37 Section 545.425;

2-38 (2) to report illegal activity or summon emergency
2-39 help;

2-40 (3) to read a text-based communication that the person
2-41 reasonably believed concerned an emergency; or

2-42 (4) that was permanently or temporarily affixed to the
2-43 vehicle to relay information in the course of the operator's
2-44 occupational duties between the operator and:

2-45 (A) a dispatcher; or

2-46 (B) a digital network or software application
2-47 service.

2-48 (d) Subsection (b) does not apply to an operator who is
2-49 licensed by the Federal Communications Commission while operating a
2-50 radio frequency device other than a portable wireless communication
2-51 device.

2-52 (e) This section preempts all local ordinances, rules, or
2-53 other regulations adopted by a political subdivision relating to
2-54 the use of a portable wireless communication device by the operator
2-55 of a motor vehicle to read, write, or send a text-based
2-56 communication.

2-57 (f) An offense under this section is a misdemeanor
2-58 punishable by a fine of at least \$25 and not more than \$99 unless it
2-59 is shown on the trial of the offense that the defendant has been
2-60 previously convicted at least one time of an offense under this
2-61 section, in which event the offense is punishable by a fine of at
2-62 least \$100 and not more than \$200.

2-63 (g) The Texas Department of Transportation shall post a sign
2-64 at each point at which an interstate highway or United States
2-65 highway enters this state that informs an operator that:

2-66 (1) the use of a portable wireless communication
2-67 device to read, write, or send a text-based communication while
2-68 operating a motor vehicle is prohibited in this state; and

2-69 (2) the operator is subject to a fine if the operator

3-1 uses a portable wireless communication device to read, write, or
3-2 send a text-based communication while operating a motor vehicle in
3-3 this state.

3-4 (h) A peace officer who stops a motor vehicle for an alleged
3-5 violation of this section may not take possession of or otherwise
3-6 inspect a portable wireless communication device in the possession
3-7 of the operator unless authorized by the Code of Criminal
3-8 Procedure, the Penal Code, or other law.

3-9 SECTION 6. Section 708.052, Transportation Code, is amended
3-10 by adding Subsection (e-1) to read as follows:

3-11 (e-1) Notwithstanding Subsection (b), the department may
3-12 not assign points to a person's license if the offense of which the
3-13 person was convicted is the offense of using a portable wireless
3-14 communication device to send a text-based communication as
3-15 described by Section 545.4251.

3-16 SECTION 7. The changes in law made by this Act to Chapter
3-17 545, Transportation Code, apply only to an offense committed on or
3-18 after the effective date of this Act. An offense committed before
3-19 the effective date of this Act is governed by the law in effect on
3-20 the date the offense was committed, and the former law is continued
3-21 in effect for that purpose. For purposes of this section, an
3-22 offense was committed before the effective date of this Act if any
3-23 element of the offense occurred before that date.

3-24 SECTION 8. This Act takes effect September 1, 2015.

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