

By: Menéndez

H.B. No. 141

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the use of a wireless communication device while  
3 operating a motor vehicle; creating an offense and providing  
4 penalties.

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

6 SECTION 1. Section 545.001, Transportation Code, is amended  
7 by adding Subdivisions (3) and (4) to read as follows:

8 (3) "Hands-free device" means speakerphone capability  
9 or a telephone attachment or other piece of equipment, regardless  
10 of whether permanently installed in the motor vehicle, that allows  
11 use of the wireless communication device without use of either of  
12 the operator's hands.

13 (4) "Wireless communication device" means a device  
14 that uses a commercial mobile service, as defined by 47 U.S.C.  
15 Section 332.

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

18 Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE WHILE  
19 OPERATING MOTOR VEHICLE ON SCHOOL PROPERTY OR IN [A] SCHOOL  
20 CROSSING ZONE [~~OR WHILE OPERATING A SCHOOL BUS WITH A MINOR~~  
21 PASSENGER]; OFFENSE.

22 SECTION 3. Sections 545.425(a), (b), (b-1), (c), (d), and  
23 (f), Transportation Code, are amended to read as follows:

24 (a) An operator may not use a wireless communication device

1 while operating a motor vehicle on the property of a public  
2 elementary, middle, junior high, or high school for which a local  
3 authority has designated a school crossing zone, during the time a  
4 reduced speed limit is in effect for the school crossing zone,  
5 unless:

- 6 (1) the vehicle's transmission is in park;  
7 (2) the vehicle's parking brake is applied; or  
8 (3) the operator uses the wireless communication  
9 device with a hands-free device [~~In this section:~~

10 [~~(1) "Hands-free device" means speakerphone~~  
11 ~~capability or a telephone attachment or other piece of equipment,~~  
12 ~~regardless of whether permanently installed in the motor vehicle,~~  
13 ~~that allows use of the wireless communication device without use of~~  
14 ~~either of the operator's hands.~~

15 [~~(2) "Wireless communication device" means a device~~  
16 ~~that uses a commercial mobile service, as defined by 47 U.S.C.~~  
17 ~~Section 332].~~

18 (b) An [~~Except as provided by Subsection (c), an~~] operator  
19 may not use a wireless communication device while operating a motor  
20 vehicle in [~~within~~] a school crossing zone[, ~~as defined by Section~~  
21 ~~541.302, Transportation Code,~~] unless:

- 22 (1) the vehicle's transmission is in park;  
23 (2) the vehicle's parking brake is applied [~~vehicle is~~  
24 ~~stopped~~]; or  
25 (3) [~~(2)~~] the operator uses the wireless  
26 communication device [~~is used~~] with a hands-free device.

27 (b-1) Except as provided by Subsection (b-2), a

1 municipality, county, or other political subdivision that enforces  
2 Subsection (b) [~~this section~~] shall post a sign that complies with  
3 the standards described by this subsection at the entrance to each  
4 school crossing zone in the municipality, county, or other  
5 political subdivision. The department shall adopt standards that:

6 (1) allow for a sign required to be posted under this  
7 subsection to be attached to an existing sign at a minimal cost; and

8 (2) require that a sign required to be posted under  
9 this subsection inform an operator that:

10 (A) the use of a wireless communication device is  
11 prohibited in the school crossing zone; and

12 (B) the operator is subject to a fine if the  
13 operator uses a wireless communication device in the school  
14 crossing zone.

15 (c) An offense under this section is a misdemeanor  
16 punishable by a fine of not less than \$125 or more than \$200  
17 [~~operator may not use a wireless communication device while~~  
18 ~~operating a passenger bus with a minor passenger on the bus unless~~  
19 ~~the passenger bus is stopped~~].

20 (d) It is an affirmative defense to prosecution of an  
21 offense [~~under this section that~~]:

22 (1) under this section that the wireless communication  
23 device was used to make an emergency call to:

24 (A) an emergency response service, including a  
25 rescue, emergency medical, or hazardous material response service;

26 (B) a hospital;

27 (C) a fire department;

- 1 (D) a health clinic;
- 2 (E) a medical doctor's office;
- 3 (F) an individual to administer first aid
- 4 treatment; or
- 5 (G) a law enforcement agency [~~police~~
- 6 ~~department~~]; and [~~or~~]

7 (2) under Subsection (b) that a sign required by  
8 Subsection (b-1) was not posted at the entrance to the school  
9 crossing zone at the time of an offense committed in the school  
10 crossing zone.

11 (f) This [~~Except as provided by Subsection (b-2), this~~]  
12 section does not preempt a [~~preempts all~~] local ordinance, rule, or  
13 regulation [~~ordinances, rules, or regulations that are~~  
14 ~~inconsistent with specific provisions of this section~~] adopted by a  
15 political subdivision [~~of this state~~] relating to the use of a  
16 wireless communication device by the operator of a motor vehicle  
17 that is consistent with or more stringent than the provisions of  
18 this section.

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

21 Sec. 545.4251. GENERAL USE OF WIRELESS COMMUNICATION DEVICE  
22 WHILE OPERATING MOTOR VEHICLE; OFFENSE. (a) An operator may not use  
23 a wireless communication device while operating a motor vehicle  
24 unless:

- 25 (1) the vehicle's transmission is in park;
- 26 (2) the vehicle's parking brake is applied; or
- 27 (3) the operator uses the wireless communication

1 device:

2 (A) with a hands-free device;

3 (B) for voice communication, including for  
4 reading, selecting, or entering a number or name for the purposes of  
5 making a voice call; or

6 (C) for navigation.

7 (b) An offense under this section is a misdemeanor  
8 punishable by a fine of not less than \$25 or more than \$100.

9 (c) This section does not apply to:

10 (1) an operator of an authorized emergency vehicle  
11 using a wireless communication device while acting in an official  
12 capacity; or

13 (2) an operator who is licensed by the Federal  
14 Communications Commission while operating a radio frequency device  
15 other than a wireless communication device.

16 (d) This section does not preempt a local ordinance, rule,  
17 or regulation adopted by a political subdivision relating to the  
18 use of a wireless communication device by the operator of a motor  
19 vehicle that is consistent with or more stringent than the  
20 provisions of this section.

21 SECTION 5. Subchapter I, Chapter 545, Transportation Code,  
22 is amended by adding Section 545.4261 to read as follows:

23 Sec. 545.4261. USE OF WIRELESS COMMUNICATION DEVICE WHILE  
24 OPERATING PASSENGER BUS WITH MINOR PASSENGER; OFFENSE. (a) An  
25 operator may not use a wireless communication device while  
26 operating a passenger bus with a passenger under 18 years of age on  
27 the bus unless:

1           (1) the transmission of the bus is in park; or

2           (2) the parking brake of the bus is applied.

3           (b) It is an affirmative defense to prosecution of an  
4 offense under this section that the wireless communication device  
5 was used to make an emergency call to:

6           (1) an emergency response service, including a rescue,  
7 emergency medical, or hazardous material response service;

8           (2) a hospital;

9           (3) a fire department;

10          (4) a health clinic;

11          (5) a medical doctor's office;

12          (6) an individual to administer first aid treatment;

13 or

14          (7) a law enforcement agency.

15          (c) This section does not apply to an operator who is  
16 licensed by the Federal Communications Commission while operating a  
17 radio frequency device other than a wireless communication device.

18          (d) This section does not preempt a local ordinance, rule,  
19 or regulation adopted by a political subdivision relating to the  
20 use of a wireless communication device by the operator of a motor  
21 vehicle that is consistent with or more stringent than the  
22 provisions of this section.

23          SECTION 6. Sections           545.424(f)           and           545.4252,  
24 Transportation Code, are repealed.

25          SECTION 7. The change in law made by this Act applies only  
26 to an offense committed on or after the effective date of this Act.  
27 An offense committed before the effective date of this Act is

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

6 SECTION 8. This Act takes effect September 1, 2015.