

By: Turner of Tarrant

H.B. No. 1352

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Chapter 545, Transportation Code, is amended by adding Subchapter H-1 to read as follows:

SUBCHAPTER H-1. USE OF WIRELESS COMMUNICATION DEVICE

Sec. 545.381. DEFINITIONS. In this subchapter:

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

(2) "Text-based communication" includes:

(A) a text message;

(B) an instant message;

(C) an e-mail; or

(D) another type of written electronic message.

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

Sec. 545.382. APPLICABILITY. This subchapter does not apply to:

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

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

7 Sec. 545.383. PREEMPTION. This subchapter does not preempt
8 a local ordinance, rule, or regulation adopted by a political
9 subdivision relating to the use of a wireless communication device
10 by the operator of a motor vehicle that is consistent with or more
11 stringent than the provisions of this subchapter.

12 Sec. 545.384. USE OF WIRELESS COMMUNICATION DEVICE TO SEND
13 TEXT-BASED COMMUNICATION WHILE OPERATING MOTOR VEHICLE WHEN MINOR
14 PRESENT; OFFENSE. (a) An operator commits an offense if the
15 operator uses at least one hand to read, write, or send a text-based
16 communication with a wireless communication device while operating
17 a motor vehicle when a person under 18 years of age is in the vehicle
18 unless the vehicle is stopped.

19 (b) An offense under this section is a misdemeanor
20 punishable by a fine of not more than \$100, unless it is shown on the
21 trial of the offense that the defendant has been previously
22 convicted at least one time of an offense under this section, in
23 which event the offense is punishable by a fine of not more than
24 \$200.

25 (c) The Texas Department of Transportation shall post a sign
26 at each point at which an interstate highway or U.S. highway enters
27 this state that informs an operator that:

1 (1) the use of a wireless communication device to
2 read, write, or send a text-based communication while operating a
3 motor vehicle when a person under 18 years of age is in the vehicle
4 is prohibited in this state; and

5 (2) the operator is subject to a fine if the operator
6 violates the prohibition.

7 (d) It is a defense to prosecution under this section that
8 the operator used a wireless communication device:

9 (1) in conjunction with a hands-free device;

10 (2) to navigate using a global positioning system or
11 navigation service;

12 (3) to report illegal activity or summon emergency
13 help;

14 (4) to read a text-based communication that the person
15 reasonably believes concerns an emergency; or

16 (5) to relay information between the operator and a
17 dispatcher in the course of the operator's occupational duties, if
18 the device was affixed to the vehicle.

19 Sec. 545.385. USE OF WIRELESS COMMUNICATION DEVICE WHILE
20 OPERATING PASSENGER BUS WITH A MINOR PASSENGER; OFFENSE. (a) An
21 operator commits an offense if the operator uses a wireless
22 communication device while operating a passenger bus with a
23 passenger who is under 18 years of age on the bus unless the bus is
24 stopped.

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

- 1 (1) an emergency response service, including a rescue,
2 emergency medical, or hazardous material response service;
3 (2) a hospital;
4 (3) a fire department;
5 (4) a health clinic;
6 (5) a medical doctor's office;
7 (6) an individual to administer first aid treatment;
8 or
9 (7) a police department.

10 Sec. 545.386. USE OF WIRELESS COMMUNICATION DEVICE WHILE
11 OPERATING MOTOR VEHICLE ON SCHOOL PROPERTY OR IN SCHOOL CROSSING
12 ZONE; OFFENSE. (a) An operator commits an offense if the operator
13 uses a wireless communication device while operating a motor
14 vehicle on the property of a public elementary, middle, junior
15 high, or high school for which a local authority has designated a
16 school crossing zone, during the time a reduced speed limit is in
17 effect for the school crossing zone, unless:

- 18 (1) the vehicle is stopped; or
19 (2) the operator uses the device with a hands-free
20 device.

21 (b) An operator commits an offense if the operator uses a
22 wireless communication device while operating a motor vehicle in a
23 school crossing zone unless:

- 24 (1) the vehicle is stopped; or
25 (2) the operator uses the wireless communication
26 device with a hands-free device.

27 (c) It is an affirmative defense to prosecution of an

1 offense:

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

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

6 (B) a hospital;

7 (C) a fire department;

8 (D) a health clinic;

9 (E) a medical doctor's office;

10 (F) an individual to administer first aid
11 treatment; or

12 (G) a police department; or

13 (2) under Subsection (b) that:

14 (A) the offense was committed in a school
15 crossing zone located in a political subdivision other than a
16 political subdivision that is in compliance with Subsection (e);
17 and

18 (B) a sign required by Subsection (d) was not
19 posted at the time of the offense.

20 (d) Except as provided by Subsection (e), a political
21 subdivision that enforces Subsection (b) shall post a warning sign
22 at each entrance to a school crossing zone in the political
23 subdivision. The political subdivision shall pay the costs
24 associated with posting the signs in the political subdivision. The
25 department shall adopt standards that:

26 (1) allow for the signs to be attached to existing
27 signs at a minimal cost; and

1 (2) require that the signs inform an operator that:

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

4 (B) the operator is subject to a fine if the
5 operator uses a wireless communication device in the school
6 crossing zone.

7 (e) A political subdivision that by ordinance or rule
8 prohibits the use of a wireless communication device while
9 operating a motor vehicle throughout the jurisdiction of the
10 political subdivision is not required to post a warning sign
11 required by Subsection (d) if the political subdivision:

12 (1) posts warning signs that are readable to an
13 operator traveling at the applicable speed limit at each point at
14 which a state highway, U.S. highway, or interstate highway enters
15 the political subdivision and that state:

16 (A) that an operator is prohibited from using a
17 wireless communication device while operating a motor vehicle in
18 the political subdivision; and

19 (B) that the operator is subject to a fine if the
20 operator uses a wireless communication device while operating a
21 motor vehicle in the political subdivision; and

22 (2) subject to applicable United States Department of
23 Transportation Federal Highway Administration rules, posts a
24 message that complies with Subdivision (1) on any dynamic message
25 sign operated by the political subdivision located on a state
26 highway, U.S. highway, or interstate highway in the political
27 subdivision.

1 Sec. 545.387. USE OF WIRELESS COMMUNICATION DEVICE BY
2 PERSON UNDER 18 YEARS OF AGE WHILE OPERATING A MOTOR VEHICLE;
3 OFFENSE. (a) A person under 18 years of age commits an offense if
4 the person operates a motor vehicle while using a wireless
5 communication device, except in case of emergency.

6 (b) A person under 17 years of age who holds a restricted
7 motorcycle license or moped license commits an offense if the
8 person operates a motorcycle or moped while using a wireless
9 communication device, except in case of emergency.

10 (c) A peace officer may not stop a vehicle or detain the
11 operator of a vehicle for the sole purpose of determining whether
12 the operator of the vehicle has violated this section.

13 (d) This section does not apply to a person operating a
14 motor vehicle while accompanied in the manner required by Section
15 521.222(d)(2) for the holder of an instruction permit.

16 SECTION 2. Sections 545.424(a), (b), and (f), 545.425, and
17 545.4252, Transportation Code, are repealed.

18 SECTION 3. The change in law made by this Act applies only
19 to an offense committed on or after the effective date of this Act.
20 An offense committed before the effective date of this Act is
21 governed by the law in effect on the date the offense was committed,
22 and the former law is continued in effect for that purpose. For
23 purposes of this section, an offense was committed before the
24 effective date of this Act if any element of the offense occurred
25 before that date.

26 SECTION 4. This Act takes effect September 1, 2015.