

Amend SB 15 (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION _____. The heading to Section 545.4251, Transportation Code, as effective September 1, 2017, is amended to read as follows:

Sec. 545.4251. USE OF PORTABLE WIRELESS COMMUNICATION DEVICE WHILE OPERATING MOTOR VEHICLE [~~FOR ELECTRONIC MESSAGING~~]; OFFENSE.

SECTION _____. Section 545.4251, Transportation Code, as effective September 1, 2017, is amended by amending Subsections (a), (b), (c), (h), and (j) and adding Subsection (c-1) to read as follows:

(a) In this section:

(1) "Hands-free device" means 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. The term includes voice-operated technology and a push-to-talk function [~~"Electronic message" means data that is read from or entered into a wireless communication device for the purpose of communicating with another person~~].

(2) "Wireless communication device" means a device through which personal wireless services, as defined by 47 U.S.C. Section 332(c)(7)(C)(i), are transmitted. The term does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes [~~has the meaning assigned by Section 545.425~~].

(b) An operator commits an offense if the operator uses a portable wireless communication device [~~to read, write, or send an electronic message~~] while operating a motor vehicle unless the vehicle is stopped outside a lane of travel. To be prosecuted, the behavior must be committed in the presence of or within the view of a peace officer or established by other evidence.

(c) Except as provided by Subsection (c-1), it [~~is~~] is an

affirmative defense to prosecution of an offense under this section that the operator used a portable wireless communication device:

(1) in conjunction with a hands-free device [~~as defined by Section 545.425~~]; or

(2) [~~to navigate using a global positioning system or navigation system;~~

~~[(3)] to report illegal activity or [(7)] summon emergency help [~~or enter information into a software application that provides information relating to traffic and road conditions to users of the application;~~~~

~~[(4) to read an electronic message that the person reasonably believed concerned an emergency;~~

~~[(5) that was permanently or temporarily affixed to the vehicle to relay information in the course of the operator's occupational duties between the operator and:~~

~~[(A) a dispatcher; or~~

~~[(B) a digital network or software application service; or~~

~~[(6) to activate a function that plays music].~~

(c-1) The affirmative defense in Subsection (c)(1) is not available for an offense under Subsection (b) committed by a person under 18 years of age or by a person operating a school bus with a minor passenger on the bus.

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

(1) the use of a portable wireless communication device [~~for electronic messaging~~] while operating a motor vehicle is prohibited in this state; and

(2) the operator is subject to a fine if the operator uses a portable wireless communication device [~~for electronic messaging~~] while operating a motor vehicle in this state.

(j) This section preempts all local ordinances, rules, or other regulations adopted by a local authority [~~political subdivision~~] relating to the use of a portable wireless communication device by the operator of a motor vehicle [~~to read, write, or send an electronic message~~].

SECTION _____. (a) Sections 545.424(f) and 545.4252, Transportation Code, are repealed.

(b) Sections 545.424(a), (b), and (g) and 545.425, Transportation Code, as effective September 1, 2017, are repealed.

(c) Section 545.4251(d), as effective September 1, 2017, is repealed.

SECTION _____. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION _____. This Act takes effect September 1, 2017, if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this Act takes effect on the 91st day after the last day of the legislative session.