

By: Zaffirini

S.B. No. 92

A BILL TO BE ENTITLED

AN ACT

relating to distracted driving; adding a provision subject to a criminal penalty.

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

SECTION 1. Subchapter B, Chapter 542, Transportation Code, is amended by adding Section 542.2034 to read as follows:

Sec. 542.2034. LIMITATION ON LOCAL AUTHORITIES' REGULATION OF DISTRACTED DRIVING. (a) In this section, "wireless communication device" has the meaning assigned by Section 545.425.

(b) Except as provided by Subsection (c), a local authority may not regulate or prohibit distracted driving, including the use of a wireless communication device while operating a motor vehicle.

(c) A local authority may enforce the laws of this state relating to distracted driving, including Sections 545.4015, 545.424, 545.425, 545.4251, and 545.4252.

SECTION 2. Subchapter I, Chapter 545, Transportation Code, is amended by adding Section 545.4015 to read as follows:

Sec. 545.4015. DISTRACTED DRIVING. (a) In this section, "hands-free device" and "wireless communication device" have the meanings assigned by Section 545.425.

(b) A person may not operate a moving motor vehicle while engaging in an activity that is not related to the operation of the motor vehicle and interferes with the operator's ability to safely operate the vehicle. Activities that may interfere with an

1 operator's safe operation may include:

2 (1) eating;

3 (2) reading;

4 (3) interacting with a passenger;

5 (4) personal grooming, including applying cosmetics;

6 (5) using an entertainment system; or

7 (6) using a wireless communication device.

8 (c) Except as otherwise provided by this section, use of a
9 wireless communication device by an operator of a motor vehicle to
10 send an electronic message while the vehicle is moving is prima
11 facie evidence that the operator was distracted.

12 (d) It is an affirmative defense to prosecution of an
13 offense under this section that solely involved the use of a
14 wireless communication device that the operator used the device:

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

16 (2) to navigate using a global positioning system or
17 navigation system;

18 (3) to report illegal activity, summon emergency help,
19 or enter information into a software application that provides
20 information relating to traffic and road conditions to users of the
21 application;

22 (4) to read a message that the person reasonably
23 believed concerned an emergency; or

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

27 (A) a dispatcher; or

1 (B) a digital network or software application
2 service.

3 (e) The affirmative defenses in Subsections (d)(1), (2),
4 (4), and (5) are not available for an offense under this section
5 committed by a person under 18 years of age or by a person operating
6 a school bus with a minor passenger on the bus.

7 (f) It is a defense to prosecution of an offense under this
8 section that solely involved the use of a wireless communication
9 device that at the time of the offense the operator was:

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

13 (2) an operator of a commercial motor vehicle, other
14 than a school bus with a minor passenger on the bus, using a
15 wireless communication device while acting in the scope of the
16 operator's employment if the use is allowed under federal motor
17 carrier safety regulations, as defined by Section 644.001.

18 (g) It is a defense to prosecution of an offense under this
19 section that solely involved the use of a radio frequency device
20 that at the time of the offense the operator was licensed by the
21 Federal Communications Commission and the use occurred during an
22 emergency.

23 SECTION 3. The heading to Section 545.425, Transportation
24 Code, as effective September 1, 2017, is amended to read as follows:

25 Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE IN A
26 SCHOOL CROSSING ZONE OR WHILE OPERATING A SCHOOL BUS WITH A MINOR
27 PASSENGER; LOCAL AUTHORITY [~~POLITICAL~~—SUBDIVISION] SIGN

1 REQUIREMENTS; OFFENSE.

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

4 (b-1) A [~~Except as provided by Subsection (b-2), a~~
5 municipality, county, or other local authority [~~political~~
6 ~~subdivision~~] that enforces this section shall post a sign that
7 complies with the standards described by this subsection at the
8 entrance to each school crossing zone in the municipality, county,
9 or other local authority [~~political subdivision~~]. The department
10 shall adopt standards that:

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

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

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

17 (B) the operator is subject to a fine if the
18 operator uses a wireless communication device in the school
19 crossing zone.

20 SECTION 5. (a) Sections 545.425(b-2) and 545.4251(j),
21 Transportation Code, as effective September 1, 2017, are repealed.

22 (b) Sections 545.425(b-3), (b-4), (d-1), and (f) and
23 545.4252(e), Transportation Code, are repealed.

24 SECTION 6. The changes in law made by this Act apply only to
25 an offense committed on or after the effective date of this Act. An
26 offense committed before the effective date of this Act is governed
27 by the law in effect on the date the offense was committed, and the

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

4 SECTION 7. This Act takes effect September 1, 2017, if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for effect on that
8 date, this Act takes effect on the 91st day after the last day of the
9 legislative session.