

By: VanDeaver

H.B. No. 1748

A BILL TO BE ENTITLED

AN ACT

relating to the use of a portable electronic device while operating a motor vehicle; creating a criminal offense.

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

SECTION 1. Section 545.424(c), Transportation Code, is amended to read as follows:

(c) This section does not apply to[+]

[~~(1)~~] a person operating a motor vehicle while accompanied in the manner required by Section 521.222(d)(2) for the holder of an instruction permit[~~, or~~

[~~(2) a person licensed by the Federal Communications Commission to operate a wireless communication device or a radio frequency device~~].

SECTION 2. Section 545.425, Transportation Code, is amended to read as follows:

Sec. 545.425. USE OF PORTABLE ELECTRONIC [~~WIRELESS COMMUNICATION~~] DEVICE [~~IN A SCHOOL CROSSING ZONE OR~~] WHILE OPERATING A MOTOR VEHICLE [~~SCHOOL BUS WITH A MINOR PASSENGER~~]; OFFENSE. (a) In this section:

(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 the wireless communication device without use of either of the operator's hands.

1           (2) "Portable electronic device" means a hand-held  
2 mobile telephone, personal digital assistant, MP3 player or other  
3 hand-held music player, electronic reading device, laptop  
4 computer, pager, broadband personal communication device, global  
5 positioning or navigation system, electronic game device, or  
6 computing device. [~~"Wireless communication device" means a device~~  
7 ~~that uses a commercial mobile service, as defined by 47 U.S.C.~~  
8 ~~Section 332.]~~

9           (b) An [~~Except as provided by Subsection (c), an~~] operator  
10 may not use a portable electronic [~~wireless communication~~] device  
11 while holding or touching the device and operating a moving motor  
12 vehicle. This subsection applies to any use of a portable  
13 electronic device, including:

14                   (1) dialing or deactivating a telephone call;  
15                   (2) speaking in or listening to a conversation;  
16                   (3) viewing, taking, or transmitting electronic  
17 images;

18                   (4) composing, sending, viewing, accessing, browsing,  
19 retrieving, or saving e-mail messages, text messages, or other  
20 electronic data;

21                   (5) entering or changing information in a global  
22 positioning or navigation system or any software or application  
23 designed for navigation;

24                   (6) accessing or viewing an Internet website or  
25 computer application; or

26                   (7) playing a game [~~within a school crossing zone, as~~  
27 ~~defined by Section 541.302, Transportation Code, unless:~~

1           ~~[(1) the vehicle is stopped; or~~  
2           ~~[(2) the wireless communication device is used with a~~  
3 ~~hands-free device].~~

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

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

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

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

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

19           ~~[(b-2) A municipality, county, or other political~~  
20 ~~subdivision that by ordinance or rule prohibits the use of a~~  
21 ~~wireless communication device while operating a motor vehicle~~  
22 ~~throughout the jurisdiction of the political subdivision is not~~  
23 ~~required to post a sign as required by Subsection (b-1) if the~~  
24 ~~political subdivision:~~

25           ~~[(1) posts signs that are located at each point at~~  
26 ~~which a state highway, U.S. highway, or interstate highway enters~~  
27 ~~the political subdivision and that state:~~

1           ~~[(A) that an operator is prohibited from using a~~  
2 ~~wireless communication device while operating a motor vehicle in~~  
3 ~~the political subdivision; and~~

4           ~~[(B) that the operator is subject to a fine if the~~  
5 ~~operator uses a wireless communication device while operating a~~  
6 ~~motor vehicle in the political subdivision; and~~

7           ~~[(2) subject to all applicable United States~~  
8 ~~Department of Transportation Federal Highway Administration rules,~~  
9 ~~posts a message that complies with Subdivision (1) on any dynamic~~  
10 ~~message sign operated by the political subdivision located on a~~  
11 ~~state highway, U.S. highway, or interstate highway in the political~~  
12 ~~subdivision.~~

13           ~~[(b-3) A sign posted under Subsection (b-2)(1) must be~~  
14 ~~readable to an operator traveling at the applicable speed limit.~~

15           ~~[(b-4) The political subdivision shall pay the costs~~  
16 ~~associated with the posting of signs under Subsection (b-2).~~

17           ~~[(c) An operator may not use a wireless communication device~~  
18 ~~while operating a passenger bus with a minor passenger on the bus~~  
19 ~~unless the passenger bus is stopped.]~~

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

22           ~~[(1)]~~ the portable electronic ~~[wireless~~  
23 ~~communication]~~ device was used:

24           (1) for global positioning or navigation and the  
25 device was affixed to the motor vehicle;

26           (2) with a hands-free device to engage in telephone  
27 communication or to listen to audio transmissions;

1           (3) to make an emergency report of a crime, traffic  
2 accident, serious traffic hazard, or medical emergency;

3           (4) in the reasonable belief that a person's life or  
4 safety was in immediate danger; or

5           (5) to prevent a crime about to be committed ~~[call to:~~

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

8                   ~~[(B) a hospital;~~

9                   ~~[(C) a fire department;~~

10                  ~~[(D) a health clinic;~~

11                  ~~[(E) a medical doctor's office;~~

12                  ~~[(F) an individual to administer first aid~~  
13 ~~treatment; or~~

14                  ~~[(G) a police department; or~~

15           ~~[(2) a sign required by Subsection (b-1) was not~~  
16 ~~posted at the entrance to the school crossing zone at the time of an~~  
17 ~~offense committed in the school crossing zone].~~

18           (d-1) The affirmative defense available in Subsection  
19 (d)(2) is not available for an offense under Subsection (b)  
20 committed by a person under 18 years of age or by a person operating  
21 a school bus with a minor passenger on the bus ~~[in a school crossing~~  
22 ~~zone located in a municipality, county, or other political~~  
23 ~~subdivision that is in compliance with Subsection (b-2)].~~

24           (e) This section does not apply to:

25           (1) an operator of an authorized emergency vehicle  
26 using a portable electronic ~~[a wireless communication]~~ device while  
27 acting in an official capacity; ~~[or]~~

1           (2) an operator who is licensed by the Federal  
2 Communications Commission while operating a radio frequency device  
3 other than a portable electronic [~~a wireless communication~~] device;  
4 or

5           (3) an operator using two-way radio communication in a  
6 commercial motor vehicle.

7           (f) This [~~Except as provided by Subsection (b-2), this~~]  
8 section does not preempt [~~preempts all~~] local ordinances, rules, or  
9 regulations that are consistent [~~inconsistent~~] with or more  
10 stringent than the [~~specific~~] provisions of this section adopted by  
11 a local authority [~~political subdivision of this state~~] relating to  
12 the use of a portable electronic [~~a wireless communication~~] device  
13 by the operator of a motor vehicle.

14           SECTION 3. Sections 545.424(a), (b), and (f) and 545.4252,  
15 Transportation Code, are repealed.

16           SECTION 4. The changes in law made by this Act to Chapter  
17 545, Transportation Code, apply only to an offense committed on or  
18 after the effective date of this Act. An offense committed before  
19 the effective date of this Act is governed by the law in effect on  
20 the date the offense was committed, and the former law is continued  
21 in effect for that purpose. For purposes of this section, an  
22 offense was committed before the effective date of this Act if any  
23 element of the offense occurred before that date.

24           SECTION 5. This Act takes effect September 1, 2017.