

By: Swanson

H.B. No. 86

A BILL TO BE ENTITLED

AN ACT

relating to the preemption and prosecution of certain offenses involving the use of a wireless communication device while operating a motor vehicle.

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. PREEMPTION OF LOCAL AUTHORITIES' REGULATION OF USE OF WIRELESS COMMUNICATION DEVICE. (a) In this section, "wireless communication device" has the meaning assigned by Section 545.425.

(b) The authority of a local authority to regulate or prohibit the use of a wireless communication device while operating a motor vehicle is preempted by this code, including by Sections 545.424, 545.425, 545.4251, and 545.4252.

(c) This section does not affect the authority of a local authority's peace officers to enforce the laws of this state relating to the use of a wireless communication device while operating a motor vehicle.

SECTION 2. Sections 545.425(b-1) and (b-4), Transportation Code, are amended to read as follows:

(b-1) A ~~[Except as provided by Subsection (b-2), a]~~ local authority whose peace officers enforce ~~[that enforces]~~ this section in a school crossing zone in the local authority's jurisdiction

1 shall post a sign, or approve the posting of a sign by a school or
2 school district, that complies with the standards described by this
3 subsection at each entrance to the school crossing zone. The Texas
4 Department of Transportation shall adopt standards that:

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

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

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

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

14 (b-4) The local authority shall pay the costs associated
15 with the posting of signs under Subsection ~~[Subsections]~~ (b-1) ~~[and~~
16 ~~(b-2)]~~, unless the authority enters an agreement providing
17 otherwise.

18 SECTION 3. Sections 545.425(b-2), (b-3), (d-1), and (f),
19 545.4251(g) and (j), and 545.4252(e), Transportation Code, are
20 repealed.

21 SECTION 4. The change in law made by this Act applies only
22 to an offense committed on or after the effective date of this Act.
23 An offense committed before the effective date of this Act is
24 governed by the law in effect on the date the offense was committed,
25 and the former law is continued in effect for that purpose. For
26 purposes of this section, an offense was committed before the
27 effective date of this Act if any element of the offense occurred

1 before that date.

2 SECTION 5. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2021.