

2024 Regular Session

SENATE BILL NO. 98

BY SENATOR MCMATH

MOTOR VEHICLES. Prohibits use of a handheld wireless telecommunications device by a person when operating a motor vehicle upon any public roadway in this state. (8/1/24)

AN ACT

To amend and reenact R.S. 15:571.11(A)(4) and R.S. 32:300.8 and to repeal R.S. 32:300.5, 300.6, and 300.7, relative to the operation of a motor vehicle while using a wireless communication device; to consolidate laws relative to the use of a wireless telecommunications device into one statute that applies to everyone in every circumstance; to provide for definitions and application of terms; to provide for exceptions; to provide for penalties; to provide for limitation on law enforcement; to provide for the prevention of search and inspection; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:571.11(A)(4) is hereby amended and reenacted to read as follows:

§571.11. Dispositions of fines and forfeitures

A. * * *

(4) Notwithstanding any provision of law to the contrary, twenty-five dollars from all fines collected pursuant to R.S. 32:300.5, 300.6, 300.7, and 300.8 **on a first violation and fifty dollars from each fine collected on any subsequent violation of R.S. 32:300.8** shall be distributed to the indigent defender fund of the judicial

1 district in which the citation was issued.

2 * * *

3 Section 2. R.S. 32:300.8 is hereby amended and reenacted to read as follows:

4 §300.8. Use of wireless telecommunications devices ~~in school zones~~ prohibited;
5 exceptions

6 A. As used in this Section, the following terms shall ~~have the meanings~~
7 ~~ascribed to them in this Section, unless the context clearly indicates a different~~
8 ~~meaning~~ **apply**:

9 (1) "Access, read, or post to a social networking site" means using a wireless
10 telecommunications device to access, read, or post on such device to any web-based
11 service that allows individuals to construct a profile within a bounded system,
12 articulate a list of other users with whom they share a connection, and communicate
13 with other members of the site.

14 (2) "Engage in a call" means talking or listening **during a voice**
15 **transmission** on a wireless telecommunications device **or manually entering**
16 **names or telephone numbers to initiate a voice transmission, except when using**
17 **a hands-free wireless telephone.**

18 **(3) "Hands-free wireless telephone" means a wireless**
19 **telecommunications device that has an internal feature or function, or is**
20 **equipped with an attachment or addition, whether or not permanently part of**
21 **such device, by which a user engages in a conversation without the use of either**
22 **hand. "Hands-free wireless telephone" as defined in this Paragraph shall not**
23 **preclude the use of either hand to activate, deactivate, or initiate a function of**
24 **the device, as long as the device is not held or supported by any part of the body.**

25 ~~(3)~~**(4)** "Wireless telecommunications device" means a cellular telephone, a
26 text-messaging device, a personal digital assistant, a stand-alone computer **or other**
27 **electronic device**, or any other substantially similar **portable** wireless device that
28 is readily removable from the vehicle and is used to write, send, or read text or data
29 through manual input. A ~~wireless~~ **"Wireless** telecommunications device" shall not

1 ~~include~~ **mean** any device or component that is permanently affixed to a motor
 2 vehicle. ~~It does not include a hands-free wireless telephone, an electronic~~
 3 ~~communication~~ , **or a** device used hands-free, citizens band radios, citizens band
 4 radio hybrids, commercial two-way radio communications devices, two-way radio
 5 transmitters or receivers used by licensees of the Federal ~~Communication~~
 6 **Communications** Commission in the Amateur Radio Service, or electronic
 7 communication devices with a push-to-talk function.

8 ~~(4)(5)~~ **(5)** "Write, send, or read a text-based communication" means using a
 9 ~~wireless telecommunications device to manually communicate with any person by~~
 10 ~~using a text-based communication including but not limited to a text message, instant~~
 11 ~~message, or electronic mail,~~ **or other text-based application to communicate with**
 12 **any person.**

13 B.**(1)** Except as provided in Subsection C of this Section, no person shall
 14 operate any wireless telecommunications device while operating a motor vehicle
 15 upon any public road or highway ~~during the posted hours within a school zone on~~
 16 ~~such public road or highway.~~

17 **(2)** Operating a wireless telecommunications device shall include:

18 ~~(1)(a)~~ **(a)** Engaging in a call.

19 ~~(2)(b)~~ **(b)** Writing, sending, or reading a text-based communication.

20 ~~(3)(c)~~ **(c)** Accessing, reading, or posting to a social networking site.

21 **(d) Accessing, viewing, posting, editing, or creating a video, photograph,**
 22 **or other image.**

23 **(e) Accessing, reading, viewing, composing, browsing, transmitting,**
 24 **saving, or retrieving electronic data from any application or other media.**

25 **(f) Using any application or feature of a wireless telecommunications**
 26 **device by making manual entries of letters, numbers, symbols, commands, or**
 27 **any combination thereof.**

28 **(g) Holding or physically supporting a wireless telecommunications**
 29 **device in either or both hands or with any part of the body, except for an**

1 earpiece or headphone device or a device worn on the wrist to talk or listen
 2 during a voice transmission.

3 C. The provisions of Subsection B of this Section shall not apply to a person
 4 who uses a wireless telecommunications device ~~and does to do~~ any of the following:

5 (1) ~~Reports~~ **Report** a traffic collision, medical emergency, **other emergency,**
 6 or serious road hazard.

7 (2) ~~Reports~~ **Report** a situation in which the person believes ~~his personal~~
 8 ~~safety~~ **that an individual** is in jeopardy **of serious injury or death.**

9 (3) ~~Reports or averts the perpetration or potential perpetration of a criminal~~
 10 ~~act against the driver or another person.~~ **Relay information between a transit or**
 11 **for-hire operator, including a transportation network company driver, and that**
 12 **operator's dispatcher, in which the device is affixed to the vehicle.**

13 (4) ~~Operates~~ **Operate** a wireless telecommunications device while the motor
 14 vehicle is ~~lawfully parked~~ **lawfully stationary and not in violation of any other**
 15 **law.**

16 (5) Uses a wireless telecommunications device in an official capacity as an
 17 operator of an authorized emergency vehicle **while in the performance of official**
 18 **duties as a law enforcement officer, firefighter, or emergency services or EMS**
 19 **practitioner.**

20 (6) **View data or images related to navigation of a motor vehicle using a**
 21 **hands-free global positioning system.**

22 (7) **Dial 9-1-1 to report a crime in progress.**

23 (8) **Except as otherwise provided in this Subsection, using the**
 24 **telecommunications device to write, send, or read a text-based communication**
 25 **or using the telecommunication device to access, read, or post to a social media**
 26 **website shall not be permitted while a vehicle is positioned in a travel lane.**

27 D. ~~(†)~~ Any violation of this Section shall constitute a moving violation.

28 (1) **If a violation of this Section occurs in a school zone or in a highway**
 29 **work zone it shall be a primary offense and shall be punishable as follows:**

1 **(a) The first violation of the provisions of this Section shall be punishable**
2 **by a fine of not more than five hundred dollars.**

3 **(b) Each subsequent violation shall be punishable by a fine of not more**
4 **than one thousand dollars and a suspension of driver's license for a sixty-day**
5 **period.**

6 **(c) If a person is involved in a crash at the time of the violation, then the**
7 **fine shall be equal to double the amount of the fine imposed in this Subsection**
8 **and the law enforcement officer investigating the crash shall indicate on the**
9 **written accident report that the person was using a wireless telecommunications**
10 **device at the time of the crash.**

11 **(2) If a violation of this Section occurs in any location other than a school**
12 **zone or highway work zone it shall be a secondary offense when the officer**
13 **detains a driver for an alleged violation of another provision of this Chapter.**

14 ~~(2)(a)~~ The first violation of the provisions of this Section shall be punishable
15 by a fine of not more than five hundred dollars **less than fifty dollars and not more**
16 **than one hundred dollars and, at the judge's discretion, community service not**
17 **to exceed fifteen hours, at least half of which shall consist in a litter abatement**
18 **program.**

19 ~~(b)~~ Each subsequent violation shall be punishable by a fine of not more than
20 one thousand dollars and a suspension of driver's license for a sixty-day period. **The**
21 **second violation of the provisions of this Section shall be punishable by a fine**
22 **of not less than one hundred dollars and not more than three hundred dollars**
23 **and, at the judge's discretion, community service not to exceed thirty hours, at**
24 **least half of which shall consist of participation in a litter abatement or**
25 **collection program.**

26 **(c) The third violation of the provisions of this Section shall be**
27 **punishable by a fine of not less than one hundred dollars and not more than**
28 **three hundred dollars and shall include the suspension of the person's driver's**
29 **license for a period of thirty days and, at the judge's discretion, community**

1 service not to exceed sixty hours, at least half of which shall consist of
2 participation in a litter abatement or collection program.

3 ~~(e)~~**(d)** If a person the operator of motor vehicle is involved in a ~~collision~~
4 crash at the time of the violation, then the fine shall be equal to double the amount
5 of the ~~standard~~ fine imposed in this Subsection and the law enforcement officer
6 investigating the ~~collision~~ crash shall indicate on the written accident report that the
7 ~~person~~ operator of the motor vehicle was using a wireless telecommunications
8 device at the time of the ~~collision~~ crash.

9 (3) ~~It~~ Use of a wireless telecommunications device for any purpose
10 provided for in Subsection C of this Section shall be an affirmative defense against
11 an alleged ~~to a~~ violation for the person to of this Section and the operator of a
12 motor vehicle may produce documentary or other evidence ~~that the wireless~~
13 ~~telecommunications device that is the basis of the alleged violation was used for~~
14 ~~emergency purposes as provided in Subsection C of this Section~~ in support of his
15 defense.

16 (4) For any violation occurring before January 1, 2025, the law
17 enforcement officer shall issue only a written warning.

18 ~~E.~~**(1)** The provisions of this Section shall only apply within a school zone
19 upon a public road or highway during posted hours when signs are located in a
20 visible manner in each direction that indicate the use of a hand-held wireless
21 communications device is prohibited while operating a motor vehicle: A probable
22 cause determination for a violation of this Section shall be based solely upon a
23 law enforcement officer's clear and unobstructed view of a person using a
24 wireless telecommunications device as prohibited by this Section.

25 (2) A law enforcement officer shall not do any of the following based
26 solely on a probable cause determination or a violation of this Section:

27 (a) Seize, search, view, or require the forfeiture of a wireless
28 telecommunication device.

29 (b) Search or request to search a motor vehicle, motor vehicle operator,

1 **or passenger.**

2 **(c) Make a custodial arrest except upon a warrant issued for failure to**

3 **appear in court when summoned or for failure to pay an imposed fine.**

4 Section 3. R.S. 32:300.5, 300.6, and 300.7 are hereby repealed.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Archana D. Cadge.

DIGEST

SB 98 Engrossed

2024 Regular Session

McMath

Present law defines "wireless telecommunications device" as a cellular telephone, a text-messaging device, a personal digital assistant, a stand alone computer, or any other substantially similar wireless device that is readily removable from the vehicle and is used to write, send, or read text or data through manual input. A "wireless telecommunications device" shall not include any device or component that is permanently affixed to a motor vehicle. It does not include citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, two-way radio transmitters or receivers used by licensees of the Federal Communication Commission in the Amateur Radio Service, or electronic communication devices with a push-to-talk function.

Present law prohibits the use of a wireless telecommunication device while operating a motor vehicle for certain individuals or certain situations:

R.S. 32:300.5 - Applies to everyone and prohibits text messaging and social media networking.

R.S. 32:300.6 - Applies to individuals with a Class "E" learner's permit or intermediate license and prohibits using the device to make a call unless it is hands-free.

R.S. 23:300.7 - Applies to minors under the age of 17 and prohibits engaging in a call or writing, sending, or reading a text based communication.

R.S. 23:300.8 - Applies to everyone and prohibits the use of a wireless telecommunications device in a school zone during posted hours.

Proposed law consolidates all of the separate statutes and distinct prohibitions relative to use of a wireless telecommunications device into one section of law that applies to everyone in all situations. Proposed law repeals 300.5, 300.6, and 300.7, and combines the provisions of present law that remain relevant into 300.8.

Present law provides for definitions to clarify certain phrases used to describe actions and activities relative to use of a wireless telecommunications device.

Proposed law makes further clarifications in definition and prohibitions to reflect improvements in technology that have occurred since enactment of present law.

Present law provides for limited exceptions to the prohibition against using a wireless telecommunications device while operating a motor vehicle for certain individuals and under limited circumstances including law enforcement officers and to request help or report a crime. Proposed law retains present law exceptions, but consolidates them into proposed law.

Present law provides for penalties for violation of present law which vary depending on the statute, but generally provides for graduated monetary fines that increase with the number of violations and suspension of driver's license. Present law provides that the monetary penalties are doubled if the person is involved in a collision at the time of the violation.

Proposed law retains the graduated monetary penalties based on the number of violations and adds community service in the litter abatement program as a penalty available to the judge and retains present law penalty of driver's license suspension upon a third violation driver's license suspension, but retains present law provision which doubles the penalty if the person is involved in a collision.

Present law makes use of a wireless telecommunications device while operating a motor vehicle a moving violation. Present law (300.6) provides that a violation should be enforced as a secondary offense only when the officer detains the driver for another violation of the traffic laws.

Proposed law retains designation as a moving violation and incorporates present law (300.6) designation as a secondary violation enforced as a secondary offense only when the officer detains the driver for another violation of traffic laws. Proposed law further adds a provision that use of a wireless device in a school zone or construction work zone be enforced as a primary offense.

Present law provides that it is an affirmative defense if the person or circumstance was exempt under one of the limited exceptions in present law.

Proposed law retains the affirmative defense provision and adds that for any violation occurring before January 1, 2025, the law enforcement office should only issue a written warning.

Proposed law establishes a probable cause determination for a violation of proposed law based solely on the law enforcement officer's clear and unobstructed view of the person violating proposed law.

Proposed law prohibits the law enforcement officer from searching or seizing the wireless telecommunications device, the motor vehicle, operator, or passenger. Proposed law allows the law enforcement officer to make a custodial arrest in limited circumstances.

Proposed law makes technical corrections to present law citations relative to the deposit of funds into the indigent defender fund.

Effective August 1, 2024.

(Amends R.S. 15:571.11(A)(4) and R.S. 32:300.8; repeals R.S. 32:300.5, 300.6, and 300.7)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the original bill

1. Adds provision for primary offense.