

SENATE FLOOR AMENDMENTS

2024 Regular Session

Amendments proposed by Senator McMath to Reengrossed House Bill No. 778 by Representative Bayham

1 AMENDMENT NO. 1

2 On page 1, line 2, after "To" insert "amend and reenact R.S. 15:571.11(A)(4) and R.S.
3 32:300.8, to" and after "R.S. 32:43(A)(3)," insert "and to repeal R.S. 32:300.5, 300.6, and
4 300.7,"

5 AMENDMENT NO. 2

6 On page 1, line 3, after "zones" insert "and penalties for operation of a motor vehicle while
7 using a wireless communication device"

8 AMENDMENT NO. 3

9 On page 1, line 4, after "circumstances;" insert "to provide for the operation of a motor
10 vehicle while using a wireless communication device as a secondary offense; to provide for
11 definitions and application of terms; to provide for exceptions; to provide for limitation on
12 law enforcement; to provide for the prevention of search and inspection;"

13 AMENDMENT NO. 4

14 On page 1, between lines 6 and 7, insert the following:

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

16 §571.11. Dispositions of fines and forfeitures

17 A. * * *

18 (4) Notwithstanding any provision of law to the contrary, ~~twenty-five dollars~~
19 ~~from all fines collected pursuant to R.S. 32:300.5, 300.6, 300.7, and 300.8~~ one
20 hundred dollars from all fines collected pursuant to R.S. 32:300.8 for a violation
21 which occurs in a school zone or in a highway work zone and fifty dollars from all
22 fines collected for a violation which occurs in any location other than a school zone
23 or highway work zone shall be distributed to the indigent defender fund of the
24 judicial district in which the citation was issued.

25 * * *

26 AMENDMENT NO. 5

27 On page 1, line 7, delete "Section 1." and insert "Section 2. R.S. 32:300.8 is hereby amended
28 and reenacted and"

29 AMENDMENT NO. 6

30 On page 1, after line 15, insert the following:

31 "§300.8. Use of wireless telecommunications devices ~~in school zones~~ prohibited;
32 exceptions

33 A. Unless otherwise provided in this Subsection, all terms used in this
34 Section shall have the same meaning as defined in R.S. 32:1. As used in this Section,
35 the following terms shall have the meanings ascribed to them in this Section, unless
36 the context clearly indicates a different meaning apply:

37 (1) "Access, read, or post to a social networking site" means using a wireless
38 telecommunications device to access, read, or post on such device to any web-based
39 service that allows individuals to construct a profile within a bounded system,

1 articulate a list of other users with whom they share a connection, and communicate
2 with other members of the site.

3 (2) "Autonomous vehicle" means a vehicle that is equipped with autonomous
4 technology as defined in in R.S. 32:1, which is licensed to operate on the public
5 roads and highways of this state and which meets all applicable financial
6 responsibility requirements.

7 ~~(2)~~ (3) "Engage in a call" means talking or listening during a voice
8 transmission on a wireless telecommunications device or manually entering names
9 or telephone numbers to initiate a voice transmission, except when using a hands-
10 free wireless telephone.

11 (4) "Hands-free wireless telephone" means a wireless telecommunications
12 device that has an internal feature or function, or is equipped with an attachment or
13 addition, whether or not permanently part of such device, by which a user engages
14 in a conversation without the use of either hand. "Hands-free wireless telephone" as
15 defined in this Paragraph shall not preclude the use of either hand to activate,
16 deactivate, or initiate a function of the device.

17 (5) "Lawfully stationary" means any motor vehicle that has stopped, is in
18 park or neutral or is standing while in gear and not moving, while in a travel lane or
19 the shoulder of a public road or highway, including when such action is necessary
20 to observe or avoid conflict with traffic or in compliance with the directions of law
21 enforcement or a traffic control device or signal.

22 (6) "Motor vehicle" means any self-propelled mechanical device on wheels,
23 designed primarily for use or that is primarily used on public roads and highways
24 but, for the purposes of this section, shall not include autonomous vehicles,
25 all-terrain vehicles, golf carts, vehicles propelled or drawn by horses or human
26 power, or motorist wheelchairs operated by handicapped persons.

27 ~~(3)~~ (7) "Wireless telecommunications device" means a cellular telephone, a
28 text-messaging device, a personal digital assistant, a stand-alone computer or other
29 electronic device, or any other substantially similar portable wireless device that is
30 readily removable from the vehicle and is used to write, send, or read text or data
31 through manual input. A "wireless "Wireless telecommunications device" shall not
32 include mean any device or component that is permanently affixed to a motor
33 vehicle. It does not include a hands-free wireless telephone, an electronic
34 communication , or a device used hands-free, citizens band radios, citizens band
35 radio hybrids, commercial two-way radio communications devices, two-way radio
36 transmitters or receivers used by licensees of the Federal Communication
37 Communications Commission in the Amateur Radio Service, or electronic
38 communication devices with a push-to-talk function.

39 ~~(4)~~ (8) "Write, send, or read a text-based communication" means using a
40 wireless telecommunications device to manually communicate with any person by
41 using a text-based communication including but not limited to a text message, instant
42 message, or electronic mail, or other text-based application to communicate with any
43 person.

44 B.(1) Notwithstanding any provision of law to the contrary, Except except
45 as provided in Subsection C of this Section, no person shall operate any wireless
46 telecommunications device while operating a motor vehicle upon any public road or
47 highway, unless the motor vehicle is lawfully stationary during the posted hours
48 within a school zone on such public road or highway.

49 (2) Operating a wireless telecommunications device shall include:

50 ~~(1)~~ (a) Engaging in a call.

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

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

53 (d) Accessing, viewing, posting, editing, or creating a video, photograph, or
54 other image.

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

57 (f) Using any application or feature of a wireless telecommunications device
58 by making manual entries of letters, numbers, symbols, commands, or any
59 combination thereof.

1 (g) Holding or physically supporting a wireless telecommunications device
 2 in either or both hands, except for an earpiece or headphone device or a device worn
 3 on the wrist to talk or listen during a voice transmission.

4 C.(1) The provisions of Subsection B of this Section shall not apply to a
 5 person who uses a wireless telecommunications device ~~and does to do~~ any of the
 6 following:

7 ~~(1) Reports~~ (a) Report a traffic collision, medical emergency, other
 8 emergency, or serious road hazard.

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

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

15 ~~(4) Operates~~ (d) Operate a wireless telecommunications device while the
 16 motor vehicle is ~~lawfully parked~~ lawfully stationary and not in violation of any other
 17 law. A utility vehicle or roadside assistance vehicle which is parked while the utility
 18 worker or roadside responder is in the course and scope of performing his duties
 19 shall be considered lawfully stationary.

20 ~~(5) Uses~~ (e) Use a wireless telecommunications device in an official capacity
 21 as an operator of an authorized emergency vehicle while in the performance of
 22 official duties as a law enforcement officer, firefighter, or emergency services or
 23 EMS practitioner.

24 (f) View data or images related to navigation of a motor vehicle using a
 25 hands-free global positioning system.

26 (g) Dial 9-1-1 to report a crime in progress.

27 (2) Except as otherwise provided in this Subsection, using the
 28 telecommunications device to write, send, or read a text-based communication or
 29 using the telecommunication device to access, read, or post to a social media website
 30 shall not be permitted while a vehicle is positioned in a travel lane.

31 D.(1) Any violation of this Section shall constitute a moving violation.

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

34 (a) A violation of the provisions of this Section shall be punishable by a fine
 35 of two hundred fifty dollars. At the judge's discretion, the fine may be reduced to one
 36 hundred dollars with community service not to exceed fifteen hours, at least half of
 37 which shall consist of a litter abatement program in a school zone or highway work
 38 zone.

39 (b) If a person is involved in a crash at the time of the violation, then the fine
 40 shall be equal to double the amount of the fine imposed in this Subsection and the
 41 law enforcement officer investigating the crash shall indicate on the written accident
 42 report that the person was using a wireless telecommunications device at the time of
 43 the crash.

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

47 ~~(2)(a) The first~~ A violation of the provisions of this Section shall be
 48 punishable by a fine of ~~not more than five hundred dollars~~ one hundred dollars. At
 49 the judge's discretion, the fine may be reduced to fifty dollars with community
 50 service not to exceed fifteen hours, at least half of which shall consist of a litter
 51 abatement program.

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

54 (c) ~~If a person is involved in a collision~~ crash at the time of the violation, then
 55 the fine shall be equal to double the amount of the ~~standard~~ fine imposed in this
 56 Subsection and the law enforcement officer investigating the ~~collision~~ crash shall
 57 indicate on the written accident report that the person was using a wireless
 58 telecommunications device at the time of the ~~collision~~ crash.

59 (3) For violations of this Section that do not result in a crash causing the
 60 bodily injury or death of another person, persons may plead guilty or nolo contendere
 61 to the alleged offense and pay the fine specified herein. If a person pleads guilty or

nolo contendere to the alleged offense, the person shall not be required to appear in court if the person waives his right to contest the charges and pays the fine specified in this Section.

~~(3) It~~ (4) Use of a wireless telecommunications device for any purpose provided for in Subsection C of this Section shall be an affirmative defense against an alleged to a violation for the person to of this Section and the operator of a motor vehicle may produce documentary or other evidence that the wireless telecommunications device that is the basis of the alleged violation was used for emergency purposes as provided in Subsection C of this Section in support of his defense.

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

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

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

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

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

(c) Make a custodial arrest except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine.

F. The state preempts the field of regulating the use of wireless communication devices by the operators of motor vehicles. The provisions of this Section shall supersede any local laws, ordinances, rules or regulations enacted by a parish, municipality or other political subdivision to regulate the use of wireless communication devices by the operator of a motor vehicle.

G. Beginning April 1, 2026, and continuing until April 1, 2031, the Department of Transportation and Development and the Department of Public Safety and Corrections, office of state police shall submit a report annually to the Legislature regarding the impact of the provisions of this Section, including the number of crashes caused by inattentive or distracted driving for each year, broken down by different areas of the state, as such data is already collected. The report shall be based upon data the Department of Transportation and Development and the office of state police collect under existing state law.

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