
DIGEST

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HB 619 Reengrossed

2018 Regular Session

Huval

Abstract: Modifies provisions applicable to the use of a wireless communications device while operating a motor vehicle.

Present law prohibits the use of wireless telecommunications devices in school zones.

Proposed law extends the prohibition to include the general usage of wireless telecommunications devices while driving.

Present law defines "access, read, or post to a social networking site" as using a wireless telecommunications device to access, read, or post on such device to any web-based service that allows individuals to construct a profile within a bounded system, articulate a list of other users with whom they share a connection, and communicate with other members of the site.

Proposed law modifies present law by defining the term "access, read, or post to a social networking site" as using a wireless telecommunications device to access, read, view, communicate, post, or transmit electronic data, including text, video, or photographs from or to any web-based service that allows individuals to construct a profile within a bounded system, articulate a list of other users with whom they share a connection, and communicate with other members of the site.

Present law defines the term "engage in a call" as talking or listening on a wireless telecommunications device.

Proposed law modifies present law by defining the term "engage in a call" as talking or listening during a voice transmission on a wireless telecommunications device or manually entering names or phone numbers to initiate a call.

Present law defines the term "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.

Proposed law modifies present law by defining the term "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 used to access, send, read, view, communicate, post, or transmit audio, text, or electronic data including text, video, or photographs through manual input or manipulation.

Present law provides that a "wireless telecommunications device" shall not include any device or component that is permanently affixed to a motor vehicle. Further provides that it does not include a hands-free wireless telephone, an electronic communication device used hands-free, citizens band radios, citizens band radio hybrids, commercial two-way radio communications 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.

Proposed law modifies present law by adding to the exclusion for the term of "wireless telecommunications device", an electronic communication device used with a wired or wireless headset or through a short -range wireless interconnection.

Present law specifies that operating a wireless telecommunications device includes engaging in a call; writing, sending, or reading a text-based communication; and accessing, reading, or posting to a social networking site.

Proposed law adds to present law the use of any other application or feature of a wireless telecommunications device by making manual entries of letters, numbers, symbols, or any combination thereof; accessing, viewing, posting, editing, or creating a video, photograph, or other image; accessing, reading, viewing, composing, browsing, transmitting, saving, or retrieving electronic data from any application or other media; or holding a wireless telecommunications device in either or both hands.

Proposed law provides exceptions for operating a wireless telecommunication device while operating a motor vehicle upon any public road or highway for law enforcement officers, firefighters, and operators of authorized emergency vehicles while they are performing their official duties.

Present law provides exceptions for operating a wireless telecommunication device while operating a motor vehicle upon any public road or highway for a person who uses a wireless telecommunication device to report a traffic collision, medical emergency, or serious road hazard; to report a situation in which the person believes his personal safety is in jeopardy; to report or avert the perpetration or potential perpetration of a criminal act against the driver or another person; or while the motor vehicle is in park.

Proposed law modifies the exception in present law by specifying that it applies to a person using a wireless telecommunications device to report any other emergency; to report a situation in which the person believes that an individual is in jeopardy of serious injury or death; to relay information between a transit or for-hire operator, including a transportation network company driver, and that operator's dispatcher, in which the device is affixed to the vehicle; to navigate using a global positioning system; or while the vehicle is stationary.

Proposed law removes the exceptions for a person using a wireless telecommunications device to report a situation in which the person believes his person safety is in jeopardy, or report or avert the perpetration or potential perpetration of a criminal act against the driver or another person.

Present law provides that any violation of present law will constitute a moving violation including

a fine of not more than \$500 for the first violation and a fine of not more than \$1,000 and a 60-day suspension of the violator's driver's license.

Proposed law removes the provision making such violations a moving violation and decreases the fine for the first violation to not more than \$125, decreases the fine for the second offense to not more than \$250, and adds a fine for a third violation not to exceed \$250 with a 15-day suspension of the violator's driver's license.

Present law requires that a person involved in a collision at the time of the violation of present law be fined equal to double the amount of the standard fine imposed in present law.

Proposed law modifies present law by declaring that the operator of a motor vehicle involved in a crash at the time of the violation of present law must be fined equal the amount of the standard fine imposed in present law.

Present law establishes an affirmative defense against an alleged violation of present law by allowing the person to 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 for in present law.

Proposed law modifies present law by specifying that use of a wireless telecommunications device for any of the exceptions provided for in present law is an affirmative defense to a violation of present law in support of which the alleged violator may produce documentary or other evidence.

Present law specifies that the provisions of present law 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.

Proposed law repeals this provision.

Proposed law specifies that probable cause for a violation of proposed law must be based solely upon a law enforcement officer's clear and unobstructed view of a person violating proposed law. Further provides that a violation of proposed law will not be used as a basis to search or inspect a motor vehicle, its contents, the driver, or a passenger.

Effective date Jan. 1, 2019.

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

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Make technical changes.
2. Provide relative to using a wireless telecommunications device to access, communicate, post, or transmit electronic data, including text, video, or photographs from or to any web-based service.
3. Add using any other application or feature of a wireless telecommunications device by making a command and holding a wireless telecommunications device in either or both hands to the list of what operating a wireless telecommunications device includes.
4. Add operating a wireless telecommunications device while the vehicle is stationary to the list of exceptions for using a wireless telecommunications device.
5. Change the amount of the fine for the first violation from \$500 to \$125.
6. Change the amount of the fine for the second violation from \$1,000 to \$250 and removes the 60-day suspension of the violator's driver's license.
7. Add a fine for any subsequent violation after the second of \$250 and adds a 15-day suspension of the violator's driver's license.
8. Clarify that if the operator of a motor vehicle is involved in a crash at the time of the violation, the fine shall be equal to double the amount of the standard fine imposed in present law.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Remove references in present law to present law statutes that are being repealed.
3. Remove language that designates a violation of present law and proposed law as a moving violation.
4. Provide an effective date of Jan. 1, 2019.
5. Provide that probable cause for a violation of proposed law must be based solely upon a law enforcement officer's clear and unobstructed view of a person violating proposed law.
6. Provide that a violation of proposed law will not be used as a basis to search or inspect a motor vehicle, its contents, the driver, or a passenger.
7. Provide that an electronic communication device used with a wired or wireless headset or through a short-range wireless interconnection does not mean a wireless

communication device as provided for in proposed law.