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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Xavier I. Alexander.

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DIGEST

SB 404 Original

2020 Regular Session

Luneau

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

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

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 specifies that a "wireless telecommunication device" does not include any device or component that is permanently affixed to a motor vehicle, a hands-free wireless telephone, an electronic communication device used hands-free, citizen band radios, citizen 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 push-to-talk functions.

Proposed law modifies present law by adding that a "wireless telecommunications device" also does not include a cellular telephone used hands-free and removing a hands-free wireless telephone from the exclusion.

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 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 other than media, and the use of any other application or feature of such device by making manual entries of letters, numbers, symbols, or any combination thereof.

Proposed law provides exceptions for operating a wireless telecommunications device while operating a motor vehicle upon any public road or highway for law enforcement officers, firefighters, and operators of authorized emergency vehicles.

Present law provides exceptions for operating a wireless telecommunications device while operating

a motor vehicle upon any public road or highway for a person who uses a wireless telecommunications 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 to avert the perpetration or potential perpetration of a criminal act against the driver or another person, or while the motor vehicle is parked.

Proposed law modifies the exception in present law by specifying that it applies to a person using a wireless telecommunications device to report other emergencies, 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; and to navigate using a global positioning system. Proposed law removes the exceptions for a person using a wireless telecommunications device to report a situation in which the person believes their personal safety is in jeopardy, to report or avert the perpetration or potential perpetration of a criminal act against the driver or another person.

Present law provides that the first violation of present law is punishable by a fine of not more than \$500.

Proposed law modifies present law by reducing the fine from \$500 to \$100 and adds an option for community service as a penalty.

Present law provides that each subsequent violation is punishable by a fine of not more than \$1,000 and 60-day driver's license suspension.

Proposed law modifies present law providing that a second violation is punishable by a fine of not more than \$300, and a third violation is punishable by a fine of not more than \$300 with a 30-day driver's license suspension.

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 present law

Effective August 1, 2020.

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