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HOUSE FLOOR AMENDMENTS

2022 Regular Session

Amendments proposed by Representative Selders to Engrossed House Bill No. 376 by Representative Huval

1 AMENDMENT NO. 1

2 On page 1, line 3, after "to the" and before "use" delete "prohibition of the" and on line 4,
3 after "vehicle;" and before "to" insert "to provide relative to prohibitions against the use of
4 certain telecommunications devices while operating a vehicle;"

5 AMENDMENT NO. 2

6 On page 1, line 5, after "reporting;" and before "and to" insert "to provide for a termination
7 date;"

8 AMENDMENT NO. 3

9 On page 8, line 21, after "300.8" delete the remainder of the line and insert "shall not become
10 effective until January 1, 2027."

11 AMENDMENT NO. 4

12 On page 8, delete line 22 in its entirety and insert in lieu thereof the following:

13 "Section 3. R.S. 32:300.5, 300.6, 300.7, and 300.8 are hereby reenacted and amended
14 to read as follows:

15 §300.5. Use of certain wireless telecommunications devices for text messaging and
16 social networking prohibited

17 A.(1) Except as provided in Subsection B of this Section, no person shall
18 operate any motor vehicle upon any public road or highway of this state while using
19 a wireless telecommunications device to write, send, or read a text-based
20 communication. For purposes of this Section, a person shall not be deemed to be
21 writing, reading, or sending a text message if the person reads, selects, or enters a
22 telephone number or name in a wireless telecommunications device for the purpose
23 of making a telephone call.

24 (2) No person shall operate any motor vehicle upon any public road or
25 highway of this state while using a wireless telecommunications device to access,
26 read, or post to a social networking site.

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

37 (b) "Write, send, or read a text-based communication" means using a
38 wireless telecommunications device to manually communicate with any person by

1 using a text-based communication referred to as a text message, instant message, or
 2 electronic mail.

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

8 B. The provisions of Paragraph (A)(1) of this Section shall not apply to the
 9 following:

10 (1) Any law enforcement officer, firefighter, or operator of an authorized
 11 emergency vehicle while engaged in the actual performance of his official duties.

12 (2) An operator of a moving motor vehicle using a wireless
 13 telecommunications device to:

14 (a) Report illegal activity.

15 (b) Summon medical or other emergency help.

16 (c) Prevent injury to a person or property.

17 (d) Relay information between a transit or for-hire operator and that
 18 operator's dispatcher, in which the device is permanently affixed to the
 19 vehicle.

20 (e) Navigate using a global positioning system.

21 (3) A physician or other health care provider using a wireless
 22 telecommunications device to communicate with a hospital, health clinic or the
 23 office of the physician, or to otherwise provide for the health care of an individual
 24 or medical emergency through a text-based communication.

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

27 (2) Each subsequent violation shall be punishable by a fine of not more than
 28 one thousand dollars.

29 (3) If the person is involved in a crash at the time of violation, then the fine
 30 shall be equal to double the amount of the standard fine imposed in this Subsection
 31 and the law enforcement officer investigating the crash shall indicate on the written
 32 accident form that the person was using a wireless telecommunications device at the
 33 time of the crash.

34 (4) Any violation of this Section shall constitute a moving violation.

35 §300.8. Use of wireless telecommunications devices in school zones; prohibited;
 36 exceptions

37 A. As used in this Section, the following terms shall have the meanings
 38 ascribed to them in this Section, unless the context clearly indicates a different
 39 meaning:

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

45 (2) "Engage in a call" means talking or listening during a voice transmission
 46 on a wireless telecommunications device or manually entering names or telephone
 47 numbers to initiate a voice transmission, except when using a hands-free wireless
 48 telephone.

49 (3) "Wireless telecommunications device" means a cellular telephone, a text-
 50 messaging device, a personal digital assistant, a stand-alone computer or other
 51 electronic device, or any other substantially similar portable wireless device that is
 52 readily removable from the vehicle and is used to write, send, or read text or data
 53 through manual input or create, edit, post, or view video, photography, or other
 54 images. A "wireless" ~~Wireless~~ telecommunications device" shall not mean include
 55 any device or component that is permanently affixed to a motor vehicle, nor shall it
 56 mean any. It does not include a hands-free wireless telephone, an electronic
 57 communication device used hands-free, citizens band radios, citizens band radio
 58 hybrids, commercial two-way radio communications devices, two-way radio
 59 transmitters or receivers used by licensees of the Federal Communication

1 Communications Commission in the Amateur Radio Service, or electronic
 2 communication devices with a push-to-talk function.

3 (4) "Write, send, or read a text-based communication" means using a
 4 wireless telecommunications device to manually communicate with any person by
 5 using a text-based communication including but not limited to a text message, instant
 6 message, or electronic mail, or other text-based application to manually
 7 communicate with any person.

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

12 (2) Operating a "wireless telecommunications device" shall include mean
 13 any of the following:

- 14 (1) (a) Engaging in a call.
- 15 (2) (b) Writing, sending, or reading a text-based communication.
- 16 (3) (c) Accessing, reading, or posting to a social networking site.
- 17 (d) ~~Accessing, viewing, posting, editing, or creating a video, photograph, or~~
 18 ~~other image.~~

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

21 (f) ~~Using any application or feature of a wireless telecommunications device~~
 22 ~~by making manual entries of letters, numbers, symbols, commands, or any~~
 23 ~~combination thereof.~~

24 (g) ~~Holding or physically supporting a wireless telecommunications device~~
 25 ~~in either or both hands or with any part of the body, except for an earpiece or~~
 26 ~~headphone device or a device worn on the wrist to talk or listen during a voice~~
 27 ~~transmission.~~

28 C.(1) ~~The provisions of Subsection B of this Section shall not apply to any~~
 29 ~~of the following persons in the performance of their official duties:~~

- 30 (a) ~~A law enforcement officer.~~
- 31 (b) ~~A firefighter.~~
- 32 (c) ~~An emergency service or EMS practitioner.~~

33 C. (2) The provisions of Subsection B of this Section shall not apply to a
 34 person who uses a wireless telecommunications device and does while doing any of
 35 the following:

36 (1) (a) Reports Reporting a traffic collision, medical emergency, ~~other~~
 37 ~~emergency~~, or serious road hazard.

38 (2) (b) Reports Reporting a situation in which the person believes a person
 39 his personal safety is in jeopardy of serious injury or death.

40 (3) Reports or averts the perpetration or potential perpetration of a criminal
 41 act against the driver or another person.

42 (c) ~~Relaying information between a transit, for-hire operator, or a~~
 43 ~~transportation network company driver, and that operator's dispatcher or affiliated~~
 44 ~~transportation network company, in which the device is affixed to the vehicle.~~

45 (d) ~~Viewing data or images related to navigation of a motor vehicle using a~~
 46 ~~hands-free global positioning system.~~

47 (4) (e) Operates Operating a wireless telecommunications device while the
 48 motor vehicle is lawfully stationary and not in violation of any other law. lawfully
 49 parked.

50 (f) ~~Dialing 9-1-1 to report a crime in progress.~~

51 (3) Except as otherwise provided in Subparagraphs (2)(a) through (d) of this
 52 Subsection, using the telecommunications device to write, send, or read a text-based
 53 communication or using the telecommunication device to access, read, or post to a
 54 social media website shall not be permitted while a vehicle is positioned in a travel
 55 lane:

56 (5) Uses a wireless telecommunications device in an official capacity as an
 57 operator of an authorized emergency vehicle.

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

1 (2)(a) The first violation of the provisions of this Section shall be punishable
 2 by a fine of not more than ~~five one~~ five hundred dollars ~~but not less than fifty dollars and~~
 3 ~~may include up to thirty hours of community service, at least half of which shall~~
 4 ~~consist of participation in a litter abatement or collection program.~~

5 (b) ~~Each subsequent~~ The second violation of the provisions of this Section
 6 shall be punishable by a fine of not more than one thousand three hundred dollars
 7 ~~and a suspension of driver's license for a sixty-day period~~ but not less than one
 8 hundred dollars and may include up to thirty hours of community service, at least
 9 half of which shall consist of participation in a litter abatement or collection
 10 program.

11 (c) ~~The third and any subsequent~~ violation of the provisions of this Section
 12 shall be punishable by a fine of not more than three hundred dollars but not less than
 13 one hundred dollars and may include up to ninety hours of community service, at
 14 least half of which shall consist of participation in a litter abatement or collection
 15 program.

16 (c) ~~(d)~~ If a person the operator of a motor vehicle is involved in a collision
 17 ~~crash~~ at the time of the violation, then the fine shall be equal to double the amount
 18 of the standard fine imposed in this Subsection: and the ~~The~~ law enforcement officer
 19 investigating the collision ~~crash~~ shall indicate on the written accident report that the
 20 person operator of a motor vehicle was using a wireless telecommunications device
 21 at the time of the collision ~~crash~~.

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

28 (4) ~~For any violation occurring before January 1, 2023, the law enforcement~~
 29 ~~officer shall issue only a written warning.~~

30 E. The provisions of this Section shall only apply within a school zone upon
 31 a public road or highway during posted hours when signs are located in a visible
 32 manner in each direction that indicate the use of a hand-held wireless
 33 communications device is prohibited while operating a motor vehicle.

34 (1) ~~When a law enforcement officer issues a citation for a violation of this~~
 35 ~~Section, the law enforcement officer shall record the race and ethnicity of the~~
 36 ~~violation. All law enforcement agencies shall maintain such information and report~~
 37 ~~the information to the Department of Public Safety and Corrections in a form and~~
 38 ~~manner as determined by the department. Beginning August 1, 2023, the~~
 39 ~~Department of Public Safety and Corrections shall annually report the data collected~~
 40 ~~under this Subsection to the governor, the president of the Senate, and the speaker~~
 41 ~~of the House of Representatives. The data collected shall be reported, at a minimum,~~
 42 ~~by statewide totals for local law enforcement agencies, state law enforcement~~
 43 ~~agencies, and state university law enforcement agencies. The statewide total for~~
 44 ~~local law enforcement agencies shall combine the data for the parish sheriffs and the~~
 45 ~~municipal law enforcement agencies.~~

46 (2) A law enforcement officer who stops a motor vehicle for a violation of
 47 this Section shall inform the motor vehicle operator of his right to decline a search
 48 of his wireless communications device and shall not do any of the following:

49 (a) ~~Access the wireless communications device without a warrant.~~

50 (b) ~~Confiscate the wireless communications device while awaiting the~~
 51 ~~issuance of a warrant to access such device.~~

52 (c) ~~Obtain consent from the motor vehicle operator to search his wireless~~
 53 ~~communications device through coercion or other improper method. Consent to~~
 54 ~~search a motor vehicle operator's wireless communications device shall be free and~~
 55 ~~voluntary.~~

56 (d) ~~Make a custodial arrest except upon a warrant issued for failure to appear~~
 57 ~~for a felony or state misdemeanor charge in court when summoned.~~

58 F. ~~A law enforcement officer shall not search or inspect a motor vehicle, its~~
 59 ~~contents, the driver, or a passenger solely because of a violation of this Section.~~

1 Section 4. The provisions of Sections 1 and 2 of this Act shall become effective
2 upon signature by the governor or, if not signed by the governor, upon expiration of
3 the time for bills to become law without signature by the governor, as provided by
4 Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor
5 and subsequently approved by the legislature, this Act shall become effective on the
6 day following such approval.
7 Section 5. The provisions of Section 1 of this Act shall cease to exist on January 1,
8 2027.
9 Section 6. The provisions of Section 3 of this Act shall become effective on January
10 1, 2027 and shall supersede Section 1 of this Act."