

BILL ANALYSIS

C.S.H.B. 80
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Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recent studies have found that drivers using a wireless communication device to write a text message, e-mail message, or instant message are sometimes distracted to a level of impairment equal to that of intoxicated drivers, increasing the likelihood of motor vehicle accidents caused by distracted drivers over accidents caused by drivers who are not distracted.

While common sense and personal responsibility are major components in the effort to make Texas roads safer, interested parties contend that a statutory prohibition against the use of such a device would greatly improve the safety of Texas roads. The parties point to other well-known successful efforts to improve public safety, such as Texas' seat belt law, that criminalized risky behavior and provided an educational campaign to inform drivers about the risks associated with the behavior.

It is reported by national research organizations that more than 40 states have banned text messaging for all drivers. In Texas, however, drivers are not currently prohibited in most situations from using a wireless communication device to read, write, or send a text-based communication. In the absence of a statewide policy, several cities have opted to enact various local ordinances to ban texting while driving. There is concern, however, that these well-intentioned local laws have resulted in some measure of confusion because of the inconsistency of their application across the state. C.S.H.B. 80 seeks to remedy this situation by establishing provisions relating to the use of a wireless communication device while driving.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 80 amends the Transportation Code to include among the material that the Department of Public Safety (DPS) must include in a driver's license examination a test of the applicant's knowledge of the effect of using a wireless communication device, or engaging in other actions that may distract a driver, on the safe or effective operation of a motor vehicle and to require DPS to give license applicants the option of taking such test in writing in addition to or instead of other provided testing methods. The bill establishes a fine of at least \$25 and not more than \$99 for the misdemeanor offense involving the operation of a vehicle by a person under 18 years of age while using a wireless communication device or the operation of a motorcycle or moped

by a person under 17 years of age who holds a restricted motorcycle or moped license while using a wireless communication device. The bill enhances the punishment for such offense to a fine of at least \$100 and not more than \$200 for a previous conviction of an offense relating to the operation of a vehicle by a person under 18 years of age.

C.S.H.B. 80 makes it a misdemeanor punishable by a fine of at least \$25 and not more than \$99 to use a portable wireless communication device to read, write, or send a text-based communication while operating a motor vehicle unless the vehicle is stopped and is outside a lane of travel. The bill enhances the punishment for a subsequent conviction of such offense to a fine of at least \$100 and not more than \$200. The bill establishes a defense to prosecution for such an offense if the operator used the portable wireless communication device: to read, select, or enter a telephone number or name for the purpose of making a telephone call; in conjunction with voice-operated technology, a push-to-talk function, or a hands-free device; to navigate using a global positioning system or navigation service; to report illegal activity or summon emergency help; to read a text-based communication that the person reasonably believed concerned an emergency; or that was affixed to the vehicle to relay information between the operator and a dispatcher in the course of the operator's occupational duties. The bill exempts from the application of the offense an operator of an authorized emergency or law enforcement vehicle using a portable wireless communication device while acting in an official capacity or an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a portable wireless communication device. The bill specifies that its provisions regarding this offense do not preempt a locally adopted ordinance, rule, or regulation relating to the use of a portable wireless communication device by the operator of a motor vehicle that is consistent with or more stringent than the bill's provisions.

C.S.H.B. 80 requires the Texas Department of Transportation to post a sign at each point at which an interstate highway or United States highway enters Texas that informs drivers that the use of a portable wireless communication device to read, write, or send a text-based communication while operating a motor vehicle is prohibited and subject to a fine. The bill prohibits a peace officer who stops a motor vehicle for such an alleged violation from taking possession of or otherwise inspecting a portable wireless communication device in the possession of the operator unless otherwise authorized by law. The bill prohibits DPS from assigning points to a person's driver's license for a conviction of the offense of using a portable wireless communication device as described by the bill.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 80 differs from the original only by amending the caption.