

- SUBJECT:** Prohibiting wireless device use while driving by persons under 18
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 7 ayes — Pickett, Phillips, Y. Davis, Harper-Brown, Merritt, T. Smith, W. Smith  
0 nays  
4 absent — Callegari, Dunnam, Guillen, McClendon
- WITNESSES:** For — Chris W. Jones, Combined Law Enforcement Associations of Texas; Ann O’Ryan, AAA Texas  
  
Against — Glen Reid, John Robert Stratton, American Radio Relay League; (*Registered, but did not testify:* Colleen McGue, American Civil Liberties Union)  
  
On — (*Registered, but did not testify:* Rebekah Hibbs, John Madden, Texas Department of Public Safety)
- BACKGROUND:** Transportation Code, sec. 545.424 prohibits a person under 18 years of age from operating a motor vehicle while using a wireless communication device during the six-month period following issuance of an original driver's license. The code also prohibits a person under 17 from operating a motorcycle or moped while using a wireless communications device during the six-month period following issuance of a restricted Class M license.  
  
The code prohibits a peace officer from stopping a vehicle or detaining the operator of a vehicle for the sole purpose of determining whether the operator of the vehicle has violated provisions governing wireless devices.
- DIGEST:** CSHB 662 would prohibit any person under 18 years with a driver’s license or a person under 17 years with a motorcycle or moped license from using a wireless communications device while driving, unless used with a hands-free device or in an emergency. The bill also would prohibit a justice of the peace or a municipal judge from submitting a record of

conviction to TxDOT as a result of proceedings related to an offense in the bill.

The bill would take effect September 1, 2009.

**SUPPORTERS  
SAY:**

CSHB 662 would promote teen driver safety by prohibiting drivers under 18 from using cell phones without a hands-free device on. The bill would seek to recognize and address what has become common practice among many teen drivers — texting and talking on a cell phone while driving.

A growing body of research has concluded resoundingly that cell phones distract drivers and increase response times to sudden traffic incidents. Teen drivers, who are less experienced behind the wheel and statistically more prone to being in accidents, are especially vulnerable to distractions. A teen driver texting or talking on a cell phone without a hands-free device is a hazard to other drivers on the road. Extending a limited cell phone prohibition until the age of 18 is a reasonable approach, since 18 is the age of legal adulthood and associated privileges.

A full ban on wireless use for drivers under 18 would be very difficult to enforce and would not promote good habits — using a hands-free device to talk while driving, for example — that a teen driver would carry into adulthood. The bill would leave the \$200 maximum fine currently in law and would not count the penalty against a driver's record. This is important, since the ultimate goal is to foster good habits and not to threaten a person's driving record. A \$200 dollar fine should suffice to promote the good habits the bill wishes to reinforce.

CSHB 662 would continue the current secondary offense afforded in the law. A person's age and use of a wireless device would be difficult to discern from a distance and would be left to the discretion of an officer. Since it would be very difficult to prove either affirmatively or negatively that an individual was using a cell phone without a hands-free device while driving, an officer should not be able to stop people on a pretense that cannot easily be verified.

**OPPONENTS  
SAY:**

CSHB 662 would single out one among an innumerable number of distractions that can result in dangerous driving. Drivers are distracted by radios, various auto controls, passengers, and many other potential distractions that decrease awareness and increase judgment time. Banning the use of cell phones without a hands-free device, even for limited

populations, would not address the core issue of distracted driving. The state should focus on improving driver education and ensuring that driver's education courses cover fully the topic of distracted driving, including possible consequences.

The bill simultaneously would extend restrictions on cell phone use while driving for those under 18 and relax existing restrictions that apply to first six months after teens under 18 receive their license. The first six months after a young person starts driving are the most dangerous by many standards and require the most concentration and focus. The bill would suspend an important existing restriction in favor of a relaxed standard of cell phone use, allowing it with a hands-free device. While hands-free devices are helpful, they still present the distraction of a conversation. Persons under 18 should not be allowed to use a cell phone in any way while driving — the restriction on the first six months in current law should be extended.

OTHER  
OPPONENTS  
SAY:

CSHB 55 should create a primary offense for using a cell phone with no hands-free device while under 18, allowing an officer to pull over an offending party. To be effective, an officer would need the authority to pull over an individual in visible violation of the prohibition. Officers receive a great deal of training about using discretion to identify infractions that may not be obvious to others; creating a primary offense for cell phone use would pose no greater difficulty than the range of offenses officers currently are charged to enforce.

The bill does not include a definition of a “wireless communications device.” This could have unintended consequences, since a range of devices could fall under this general term. The bill should be amended to include a definition of a wireless device that references definitions in federal code.

NOTES:

The companion bill, SB 772 by Williams, has been referred to the Senate Transportation and Homeland Security Committee. A related bill, HB 55 by Branch, which would prohibit the use of a wireless device without a hands-free device while driving in a school zone, has been placed on the May 8 General State Calendar.