

BILL ANALYSIS

Senate Research Center
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S.B. 31
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Distracted driving continues to be a significant factor in property damage, injury, and death on this state's roads and highways. Every day, nine Americans are killed from motor vehicle crashes that involve distracted driving, such as using a cell phone or texting. Forty percent of people between 19 and 39 years of age admit to texting while driving, and 10 percent of them say they do it regularly. Text messaging while driving creates a crash risk 23 times higher than driving while not distracted. Studies show that a driver's reaction time doubles when a driver is distracted by sending or reading a text message.

What's more, drivers who text take their eyes off the road for an average of 4.6 seconds within a six second interval. This equates to traveling the length of a football field at 55 miles per hour without looking. Yet, current state law still does not prohibit texting while driving.

Texas is one of just four states with no statute that addresses distracted driving on a statewide level. S.B. 31 remedies that by prohibiting the use of a wireless communication device for electronic messaging while operating a motor vehicle unless the vehicle is stopped.

As proposed, S.B. 31 amends current law relating to the use of a wireless communication device while operating a motor vehicle; creates a criminal offense; and modifies existing criminal penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that this Act may be cited as the Alex Brown Memorial Act.

SECTION 2. Amends Sections 521.161(b) and (c), Transportation Code, as follows:

(b) Requires the examination of license applicants to include 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.

(c) Amends this subsection to include Subsection (b)(1)(E) with the parts of the examination administered by the Department of Public Safety (DPS) that applicants may take in writing in addition to or instead of through a mechanical, electronic, or other testing method.

SECTION 3. Amends Section 545.424, Transportation Code, by amending Subsections (a), (b), and (c) and adding Subsection (g), as follows:

(a) Prohibits a person under 18 years of age from operating a motor vehicle while using a wireless communication device, rather than wireless communications device, except in case of emergency. Provides that this subsection does not apply to a person licensed by

the Federal Communications Commission (FCC) while operating a radio frequency device other than a wireless communication device.

(b) Prohibits a person under 17 years of age who holds a restricted motorcycle license or moped license from operating a motorcycle or moped while using a wireless communication device, rather than wireless communications device, except in case of emergency. Provides that this subsection does not apply to a person licensed by the FCC while operating a radio frequency device other than a wireless communication device.

(c) Provides that Subsection (a-1) does not apply to a person operating a motor vehicle while accompanied in the manner required by Section 521.222(d)(2) (relating to the holder operating a type of motor vehicle on a highway while the holder is accompanied by a person occupying the seat by the operator) for the holder of an instruction permit. Deletes existing text providing that this section does not apply to a person operating a motor vehicle while accompanied in the manner required by Section 521.222(d)(2) for the holder of an instruction permit or a person licensed by the FCC to operate a wireless communication device or a radio frequency device.

(g) Provides that an offense under Subsection (a) or (b) is a misdemeanor punishable by a fine of at least \$25 and not more than \$99 unless it is shown on the trial of the offense that the defendant has been previously convicted at least one time of an offense under either subsection, in which event the offense is punishable by a fine of at least \$100 and not more than \$200.

SECTION 4. Amends Section 545.425(a)(1), Transportation Code, to redefine "hands-free device."

SECTION 5. Amends Subchapter I, Chapter 545, Transportation Code, by adding Section 545.4251, as follows:

Sec. 545.4251. USE OF PORTABLE WIRELESS COMMUNICATION DEVICE FOR ELECTRONIC MESSAGING; OFFENSE. (a) Defines "electronic message" and "wireless communication device."

(b) Establishes that an operator commits an offense if the operator uses a portable wireless communication device to read, write, or send an electronic message while operating a motor vehicle unless the vehicle is stopped.

(c) Provides that it is an affirmative defense to prosecution of an offense under this section that the operator used a portable wireless communication device in certain situations.

(d) Provides that Subsection (b) does not apply to 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 FCC while operating a radio frequency device other than a portable wireless communication device.

(e) Provides that an offense under this section is a misdemeanor punishable by a fine of at least \$25 and not more than \$99 unless it is shown on the trial of the offense that the defendant has been previously convicted at least one time of an offense under this section, in which event the offense is punishable by a fine of at least \$100 and not more than \$200.

(f) Requires the Texas Department of Transportation to post a sign at each point at which an interstate highway or United States highway enters this state that informs an operator that the use of a portable wireless communication device for electronic messaging while operating a motor vehicle is prohibited in this state and the operator is subject to a fine if the operator uses a portable wireless

communication device for electronic messaging while operating a motor vehicle in this state.

(g) Prohibits a peace officer who stops a motor vehicle for an alleged violation of this section from taking possession of or otherwise inspecting a portable wireless communication device in the possession of the operator unless authorized by the Code of Criminal Procedure, the Penal Code, or other law.

SECTION 6. Amends Section 708.052, Transportation Code, by adding Subsection (e-1), as follows:

(e-1) Prohibits DPS, notwithstanding Subsection (b) (relating to requiring the assignment of points to a person's license by DPS for certain traffic law violations), from assigning points to a person's license if the offense of which the person was convicted is the offense of using a portable wireless communication device for electronic messaging as described by Section 545.4251.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2017.