

1 SB1
2 195031-1
3 By Senator McClendon
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 01/14/2019

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8 SYNOPSIS: Under existing law, it is unlawful to write,
9 send, or read a text-based communication using a
10 wireless telecommunications device while operating
11 a motor vehicle on a public road, street, or
12 highway, subject to certain penalties.

13 This bill would prohibit the use of a
14 wireless telecommunications device or other
15 stand-alone electronic device while operating a
16 motor vehicle and holding the device and would
17 provide penalties.

18 Amendment 621 of the Constitution of Alabama
19 of 1901, now appearing as Section 111.05 of the
20 Official Recompilation of the Constitution of
21 Alabama of 1901, as amended, prohibits a general
22 law whose purpose or effect would be to require a
23 new or increased expenditure of local funds from
24 becoming effective with regard to a local
25 governmental entity without enactment by a 2/3 vote
26 unless: it comes within one of a number of
27 specified exceptions; it is approved by the

1 affected entity; or the Legislature appropriates
2 funds, or provides a local source of revenue, to
3 the entity for the purpose.

4 The purpose or effect of this bill would be
5 to require a new or increased expenditure of local
6 funds within the meaning of the amendment. However,
7 the bill does not require approval of a local
8 governmental entity or enactment by a 2/3 vote to
9 become effective because it comes within one of the
10 specified exceptions contained in the amendment.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

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16 Relating to motor vehicles; to amend Section
17 32-5A-350 of the Code of Alabama 1975, to prohibit the use of
18 a wireless telecommunications device or other stand-alone
19 electronic device while operating a motor vehicle on a public
20 road, street, or highway; to provide exceptions; to provide
21 penalties; and in connection therewith would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds within the meaning of Amendment 621
24 of the Constitution of Alabama of 1901, now appearing as
25 Section 111.05 of the Official ReCompilation of the
26 Constitution of Alabama of 1901, as amended.
27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 32-5A-350 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§32-5A-350.

4 "(a) For purposes of this article, the following
5 words have the following meanings:

6 "(1) STAND-ALONE ELECTRONIC DEVICE. A device other
7 than a wireless telecommunications device which stores audio
8 or video data files to be retrieved on demand by a user.

9 "~~(1)~~ (2) WIRELESS TELECOMMUNICATION
10 TELECOMMUNICATIONS DEVICE. A handheld cellular telephone, a
11 portable telephone, a text-messaging device, a personal
12 digital assistant, a stand alone computer, a global
13 positioning system receiver, or any other similar portable
14 wireless device that is readily removable from a vehicle and
15 is used to write, send, or read text or data through manual
16 input initiate or receive communications, information, or
17 data. The term "wireless telecommunication telecommunications
18 device" does not include a device which is voice-operated and
19 which allows the user to send or receive a text-based
20 communication without the use of either hand except to
21 activate or deactivate a feature or function radio, citizens
22 band radio, citizens band radio hybrid, commercial two-way
23 radio communication device or its functional equivalent,
24 subscription based emergency communication device, prescribed
25 medical device, amateur or ham radio device, or in-vehicle
26 security, navigation, or remote diagnostics system.

1 ~~"(2) WRITE, SEND, OR READ A TEXT-BASED~~
2 ~~COMMUNICATION. Using a wireless telecommunication device to~~
3 ~~manually communicate with any person using text-based~~
4 ~~communication, including, but not limited to, communications~~
5 ~~referred to as a text message, instant message, or electronic~~
6 ~~mail. The term does not include reading, selecting, or~~
7 ~~entering a telephone number or name in a cell or wireless~~
8 ~~telephone or communication device for the purpose of making a~~
9 ~~telephone call.~~

10 ~~"(b) A person may not operate a motor vehicle on a~~
11 ~~public road, street, or highway in Alabama while using a~~
12 ~~wireless telecommunication device to write, send, or read a~~
13 ~~text-based communication.~~

14 "(b) A driver shall exercise due care in operating a
15 motor vehicle on a public road, street, or highway of this
16 state and may not engage in any actions which distract the
17 driver from the safe operation of the vehicle.

18 "(c) The driver of a motor vehicle may not do any of
19 the following:

20 "(1) Physically hold or support a wireless
21 telecommunications device, with any part of his or her body.
22 This subdivision does not prohibit the use of an earpiece,
23 headphone device, or device worn on a wrist to conduct a voice
24 based communication.

25 "(2) Physically hold or support a stand-alone
26 electronic device with any part of his or her body.

1 "(3) Write, send, or read any text based
2 communication, including but not limited to a text message,
3 instant message, e-mail, or Internet data on a wireless
4 telecommunications device or stand-alone electronic device.
5 This subdivision does not apply to either of the following:

6 "a. A voice based communication which is
7 automatically converted by the device to be sent as a message
8 in a written form.

9 "b. The use of the device for navigation of the
10 vehicle or for global positioning system purposes.

11 "(4) Watch a video or movie on a wireless
12 telecommunications device or stand-alone electronic device
13 other than watching data related to the navigation of the
14 vehicle.

15 "(5) Record or broadcast a video on a wireless
16 telecommunications device or stand-alone electronic device.
17 This subdivision does not apply to electronic devices used for
18 the sole purpose of continuously recording or broadcasting a
19 video within or outside of the motor vehicle.

20 "(e) While operating a commercial motor vehicle on
21 any public road, street or highway of this state, no person
22 shall do either of the following:

23 "(1) Use more than a single button on a wireless
24 telecommunications device to initiate or terminate a voice
25 communication.

26 "(2) Reach for a wireless telecommunications device
27 or stand-alone electronic device if the driver is no longer

1 seated in the driving position or properly restrained by a
2 safety belt.

3 "(f) Each violation of this section shall constitute
4 a separate offense.

5 "(c)(g) A person who violates subsection (b) this
6 section is subject to fines as follows:

7 "(1) ~~Twenty-five dollars (\$25)~~ Fifty dollars (\$50)
8 for a first violation.

9 "(2) ~~Fifty dollars (\$50)~~ One hundred dollars (\$100)
10 for a second violation.

11 "(3) ~~Seventy-five dollars (\$75)~~ One hundred and
12 fifty dollars (\$150) for a third or subsequent violation.

13 "(h) Any person appearing before a court for a first
14 charge of violating subsection (f) who produces in court a
15 device or proof of purchase of a device that would allow the
16 person to comply with this section in the future shall not be
17 guilty of an offense. The court shall require the person to
18 affirm that he or she has not previously utilized the
19 privilege under this subsection.

20 "(d) (i) Law enforcement officers enforcing this
21 section may treat a violation of this section as the primary
22 or sole reason for issuing a citation to a driver.

23 "(e) (j) The following uses of a wireless
24 communication devices telecommunications device or stand-alone
25 electronic device shall not be subject to the restrictions in
26 this section:

1 "(1) An individual using a ~~wireless communication~~
2 device to obtain emergency services including, but not limited
3 to, an emergency call to a law enforcement agency, health care
4 provider, fire department, or other emergency services agency
5 or entity.

6 "(2) An individual using a ~~wireless communication~~
7 device while the motor vehicle is parked on the shoulder of
8 the highway, road, or street.

9 "(3) An individual using a ~~wireless communication~~
10 device as a global positioning or navigation system to receive
11 driving directions which has been pre-programmed with the
12 desired coordinates. The programming of coordinates while
13 operating a vehicle remains a violation of this section.

14 "(4) A law enforcement officer, firefighter,
15 emergency medical services personnel, ambulance driver, or
16 other similarly employed public safety first responder using a
17 device during the performance of his or her official duties."

18 Section 2. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime.

1 Section 3. This act shall become effective October
2 1, 2019 following its passage and approval by the Governor, or
3 its otherwise becoming law.