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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Archana D. Cadge.

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SB 98 Engrossed

DIGEST  
2024 Regular Session

McMath

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

Present law prohibits the use of a wireless telecommunication device while operating a motor vehicle for certain individuals or certain situations:

**R.S. 32:300.5** - Applies to everyone and prohibits text messaging and social media networking.

**R.S. 32:300.6** - Applies to individuals with a Class "E" learner's permit or intermediate license and prohibits using the device to make a call unless it is hands-free.

**R.S. 23:300.7** - Applies to minors under the age of 17 and prohibits engaging in a call or writing, sending, or reading a text based communication.

**R.S. 23:300.8** - Applies to everyone and prohibits the use of a wireless telecommunications device in a school zone during posted hours.

Proposed law consolidates all of the separate statutes and distinct prohibitions relative to use of a wireless telecommunications device into one section of law that applies to everyone in all situations. Proposed law repeals 300.5, 300.6, and 300.7, and combines the provisions of present law that remain relevant into 300.8.

Present law provides for definitions to clarify certain phrases used to describe actions and activities relative to use of a wireless telecommunications device.

Proposed law makes further clarifications in definition and prohibitions to reflect improvements in technology that have occurred since enactment of present law.

Present law provides for limited exceptions to the prohibition against using a wireless telecommunications device while operating a motor vehicle for certain individuals and under limited circumstances including law enforcement officers and to request help or report a crime. Proposed law retains present law exceptions, but consolidates them into proposed law.

Present law provides for penalties for violation of present law which vary depending on the statute, but generally provides for graduated monetary fines that increase with the number of violations and

suspension of driver's license. Present law provides that the monetary penalties are doubled if the person is involved in a collision at the time of the violation.

Proposed law retains the graduated monetary penalties based on the number of violations and adds community service in the litter abatement program as a penalty available to the judge and retains present law penalty of driver's license suspension upon a third violation driver's license suspension, but retains present law provision which doubles the penalty if the person is involved in a collision.

Present law makes use of a wireless telecommunications device while operating a motor vehicle a moving violation. Present law (300.6) provides that a violation should be enforced as a secondary offense only when the officer detains the driver for another violation of the traffic laws.

Proposed law retains designation as a moving violation and incorporates present law (300.6) designation as a secondary violation enforced as a secondary offense only when the officer detains the driver for another violation of traffic laws. Proposed law further adds a provision that use of a wireless device in a school zone or construction work zone be enforced as a primary offense.

Present law provides that it is an affirmative defense if the person or circumstance was exempt under one of the limited exceptions in present law.

Proposed law retains the affirmative defense provision and adds that for any violation occurring before January 1, 2025, the law enforcement office should only issue a written warning.

Proposed law establishes a probable cause determination for a violation of proposed law based solely on the law enforcement officer's clear and unobstructed view of the person violating proposed law.

Proposed law prohibits the law enforcement officer from searching or seizing the wireless telecommunications device, the motor vehicle, operator, or passenger. Proposed law allows the law enforcement officer to make a custodial arrest in limited circumstances.

Proposed law makes technical corrections to present law citations relative to the deposit of funds into the indigent defender fund.

Effective August 1, 2024.

(Amends R.S. 15:571.11(A)(4) and R.S. 32:300.8; repeals R.S. 32:300.5, 300.6, and 300.7)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the original bill

1. Adds provision for primary offense.