

2019 Regular Session

HOUSE BILL NO. 229

BY REPRESENTATIVE HUVAL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TRAFFIC/VIOLATIONS: Provides with respect to the use of a wireless telecommunications device while operating a motor vehicle

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AN ACT

To amend and reenact R.S. 32:300.5 and to repeal R.S. 32:300.6, 300.7, and 300.8, relative to the use of certain wireless telecommunications devices while operating a motor vehicle; to provide for definitions; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:300.5 is hereby amended and reenacted to read as follows:

~~§300.5. Use of certain wireless telecommunications devices for text messaging and social networking prohibited~~

~~A.(1) Except as provided in Subsection B of this Section, no person shall operate any motor vehicle upon any public road or highway of this state while using a wireless telecommunications device to write, send, or read a text-based communication. For purposes of this Section, a person shall not be deemed to be writing, reading, or sending a text message if the person reads, selects, or enters a telephone number or name in a wireless telecommunications device for the purpose of making a telephone call.~~

~~(2) No person shall operate any motor vehicle upon any public road or highway of this state while using a wireless telecommunications device to access, read, or post to a social networking site.~~

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

11 ~~(b) "Write, send, or read a text-based communication" means using a~~
12 ~~wireless telecommunications device to manually communicate with any person by~~
13 ~~using a text-based communication referred to as a text message, instant message, or~~
14 ~~electronic mail.~~

15 ~~(c) "Access, read, or post to a social networking site" means using a wireless~~
16 ~~telecommunications device to access, read, or post on such device to any web-based~~
17 ~~service that allows individuals to construct a profile within a bounded system,~~
18 ~~articulate a list of other users with whom they share a connection, and communicate~~
19 ~~with other members of the site.~~

20 ~~B. The provisions of Paragraph (A)(1) of this Section shall not apply to the~~
21 ~~following:~~

22 ~~(1) Any law enforcement officer, firefighter, or operator of an authorized~~
23 ~~emergency vehicle while engaged in the actual performance of his official duties.~~

24 ~~(2) An operator of a moving motor vehicle using a wireless~~
25 ~~telecommunications device to:~~

26 ~~(a) Report illegal activity.~~

27 ~~(b) Summon medical or other emergency help.~~

28 ~~(c) Prevent injury to a person or property.~~

1 ~~(d) Relay information between a transit or for-hire operator and that~~
2 ~~operator's dispatcher, in which the device is permanently affixed to the vehicle.~~

3 ~~(e) Navigate using a global positioning system.~~

4 ~~(3) A physician or other health care provider using a wireless~~
5 ~~telecommunications device to communicate with a hospital, health clinic or the~~
6 ~~office of the physician, or to otherwise provide for the health care of an individual~~
7 ~~or medical emergency through a text-based communication.~~

8 ~~C.(1) The first violation of the provisions of this Section shall be punishable~~
9 ~~by a fine of not more than five hundred dollars.~~

10 ~~(2) Each subsequent violation shall be punishable by a fine of not more than~~
11 ~~one thousand dollars.~~

12 ~~(3) If the person is involved in a crash at the time of violation, then the fine~~
13 ~~shall be equal to double the amount of the standard fine imposed in this Subsection~~
14 ~~and the law enforcement officer investigating the crash shall indicate on the written~~
15 ~~accident form that the person was using a wireless telecommunications device at the~~
16 ~~time of the crash.~~

17 ~~(4) Any violation of this Section shall constitute a moving violation.~~

18 ~~§300.8:§300.5. Use of wireless telecommunications devices in school zones~~
19 ~~prohibited; exceptions~~

20 A. As used in this Section, the following terms shall have the meanings
21 ascribed to them in this Section, unless the context clearly indicates a different
22 meaning:

23 (1) "Access, read, or post to a social networking site" means using a wireless
24 telecommunications device to access, read, or post on such device to any web-based
25 service that allows individuals to construct a profile within a bounded system,
26 articulate a list of other users with whom they share a connection, and communicate
27 with other members of the site.

1 (2) "Engage in a call" means talking or listening during a voice transmission
2 on a wireless telecommunications device or manually entering names or phone
3 numbers to initiate a call.

4 (3) "Wireless telecommunications device" means a cellular telephone, a text-
5 messaging device, a personal digital assistant, a stand-alone computer, or any other
6 substantially similar wireless device that is readily removable from the vehicle and
7 is used to write, send, or read text or data through manual input. ~~A "wireless~~
8 Wireless telecommunications device" shall not mean include any device or
9 component that is permanently affixed to a motor vehicle, nor shall it mean a cellular
10 telephone used hands-free ~~It does not include a hands-free wireless telephone, an~~
11 electronic communication device used hands-free, citizens band radios, citizens band
12 radio hybrids, commercial two-way radio communications devices, two-way radio
13 transmitters or receivers used by licensees of the Federal Communication
14 Commission in the Amateur Radio Service, or electronic communication devices
15 with a push-to-talk function.

16 (4) "Write, send, or read a text-based communication" means using a
17 wireless telecommunications device to manually communicate with any person by
18 using a text-based communication including but not limited to a text message, instant
19 message, or electronic mail.

20 B.(1) Except as provided in Subsection C of this Section, no person shall
21 operate any wireless telecommunications device while operating a motor vehicle
22 upon any public road or highway ~~during the posted hours within a school zone on~~
23 ~~such public road or highway.~~

24 (2) Operating a wireless telecommunications device shall include:

25 ~~(1)~~ (a) Engaging in a call.

26 ~~(2)~~ (b) Writing, sending, or reading a text-based communication.

27 ~~(3)~~ (c) Accessing, reading, or posting to a social networking site.

28 (d) Accessing, viewing, posting, editing, or creating a video, photograph, or
29 other image.

1 (e) Accessing, reading, viewing, composing, browsing, transmitting, saving,
 2 or retrieving electronic data from any application other than media.

3 (f) Using any other application or feature of such a device by making manual
 4 entries of letters, numbers, symbols, or any combination thereof.

5 C.(1) The provisions of Subsection B of this Section shall not apply to any
 6 of the following persons while they are performing their official duties:

7 (a) A law enforcement officer.

8 (b) A firefighter.

9 (c) An operator of an authorized emergency vehicle.

10 ~~€.~~ (2) The provisions of Subsection B of this Section shall not apply to a
 11 person who uses a wireless telecommunications device ~~and to~~ does ~~do~~ any of the
 12 following:

13 ~~(1)~~ (a) ~~Reports~~ Report a traffic collision, medical emergency, other
 14 emergency, or serious road hazard.

15 ~~(2)~~ (b) ~~Reports~~ Report a situation in which the person believes that an
 16 individual ~~his personal safety~~ is in jeopardy of serious injury or death.

17 ~~(3) Reports or averts the perpetration or potential perpetration of a criminal~~
 18 ~~act against the driver or another person.~~

19 (c) Relay information between a transit or for-hire operator, including a
 20 transportation network company driver, and that operator's dispatcher, in which the
 21 device is affixed to the vehicle.

22 (d) Navigate using a global positioning system.

23 ~~(4)~~ (e) ~~Operates~~ Operate a wireless telecommunications device while the
 24 motor vehicle is lawfully parked.

25 ~~(5) Uses a wireless telecommunications device in an official capacity as an~~
 26 ~~operator of an authorized emergency vehicle.~~

27 D.(1) Any violation of this Section shall constitute a moving violation.

28 (2)(a) The first violation of the provisions of this Section shall be punishable
 29 by a fine of not more than ~~five~~ one hundred dollars or community service.

1 (b) ~~Each subsequent~~ The second violation shall be punishable by a fine of
 2 not more than ~~one thousand dollars and a suspension of driver's license for a sixty-~~
 3 ~~day period.~~ three hundred dollars and the third violation shall be punishable by a fine
 4 of not more than three hundred dollars and a suspension of the person's driver's
 5 license for a period of thirty days.

6 (c) If a person is involved in a collision at the time of the violation, then the
 7 fine shall be equal to double the amount of the standard fine imposed in this
 8 Subsection. The ~~and the~~ law enforcement officer investigating the collision shall
 9 indicate on the written accident report that the person was using a wireless
 10 telecommunications device at the time of the collision.

11 (3) ~~Use of a wireless telecommunications device for any of the purposes~~
 12 provided for in Subsection C of this Section shall be an affirmative defense ~~against~~
 13 ~~an alleged~~ to a violation of this Section and the alleged violator for the person may
 14 ~~to produce documentary or other evidence in support of this defense that the wireless~~
 15 ~~telecommunications device that is the basis of the alleged violation was used for~~
 16 ~~emergency purposes as provided in Subsection C of this Section.~~

17 ~~E. The provisions of this Section shall only apply within a school zone upon~~
 18 ~~a public road or highway during posted hours when signs are located in a visible~~
 19 ~~manner in each direction that indicate the use of a hand-held wireless~~
 20 ~~communications device is prohibited while operating a motor vehicle.~~

21 Section 2. R.S. 32:300.6, 300.7, and 300.8 are hereby repealed in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 229 Reengrossed 2019 Regular Session Huval

Abstract: Modifies provisions applicable to the use of a wireless communications device while operating a motor vehicle.

Present law prohibits the use of wireless telecommunications devices in school zones.

Proposed law extends the prohibition to include general usage of wireless telecommunications devices while driving.

Present law defines the term "engage in a call" as talking or listening on a wireless telecommunications device.

Proposed law modifies present law by defining the term "engage in a call" as talking or listening during a voice transmission on a wireless telecommunications device or manually entering names or phone numbers to initiate a call.

Present law specifies that a "wireless telecommunications device" does not include any device or component that is permanently affixed to a motor vehicle, a hands-free wireless telephone, an electronic communication device used hands-free, citizen band radios, citizen band radio hybrids, commercial two-way radio communication devices, two-radio transmitters or receivers used by licensees of the Federal Communication Commission in the Amateur Radio Service, or electronic communication devices with push-to-talk functions.

Proposed law modifies present law by adding that a "wireless telecommunications device" also does not include a cellular telephone used hands-free and removing a hands-free wireless telephone from the exclusion.

Present law specifies that operating a wireless telecommunications device includes engaging in a call; writing, sending, or reading a text-based communication; and accessing, reading, or posting to a social networking site.

Proposed law adds to present law accessing, viewing, posting, editing, or creating a video, photograph, or other image; accessing, reading, viewing, composing, browsing, transmitting, saving, or retrieving electronic data from any application other than media; and the use of any other application or feature of such a device by making manual entries of letters, numbers, symbols, or any combination thereof.

Proposed law provides exceptions for operating a wireless telecommunications device while operating a motor vehicle upon any public road or highway for law enforcement officers, firefighters, and operators of authorized emergency vehicles.

Present law provides exceptions for operating a wireless telecommunications device while operating a motor vehicle upon any public road or highway for a person who uses a wireless telecommunications device: to report a traffic collision, medical emergency, or serious road hazard; to report a situation in which the person believes his personal safety is in jeopardy; to report or avert the perpetration or potential perpetration of a criminal act against the driver or another person; or while the motor vehicle is parked.

Proposed law modifies the exception in present law by specifying that it applies to a person using a wireless telecommunications device: to report other emergencies; to report a situation in which the person believes that an individual is in jeopardy of serious injury or death; to relay information between a transit or for-hire operator, including a transportation network company driver, and that operator's dispatcher, in which the device is affixed to the vehicle; and to navigate using a global positioning system. Proposed law removes the exceptions for a person using a wireless telecommunications device to: report a situation in which the person believes their personal safety is in jeopardy; or report or avert the perpetration or potential perpetration of a criminal act against the driver or another person.

Present law provides that the first violation of present law is punishable by a fine of not more than \$500.

Proposed law modifies present law by reducing the fine from \$500 to \$100 and adds an option for community service as a penalty.

Present law provides that each subsequent violation is punishable by a fine of not more than \$1,000 and a 60-day driver's license suspension.

Proposed law modifies present law providing that a second violation is punishable by a fine of not more than \$300, and a third violation is punishable by a fine of not more than \$300 with a 30-day driver's license suspension.

Present law establishes an affirmative defense against an alleged violation of present law by allowing the person to produce documentary or other evidence that the wireless telecommunications device that is the basis of the alleged violation was used for emergency purposes as provided for in present law.

Proposed law modifies present law by specifying that use of a wireless telecommunications device for any of the exceptions provided for in present law is an affirmative defense to a violation of present law in support of which the alleged violator may produce documentary or other evidence.

Present law specifies that the provisions of present law only apply within a school zone upon a public road or highway during posted hours when signs are located in a visible manner in each direction that indicate the use of a hand-held wireless communications device is prohibited while operating a motor vehicle.

Proposed law repeals present law.

(Amends R.S. 32:300.5; Repeals R.S. 32:300.6, 300.7, and 300.8)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Make a technical change.
2. Expand "operating a wireless telecommunications device" to include accessing, viewing, posting, editing, or creating a video, photograph, or other image, and accessing, reading, viewing, composing, browsing, transmitting, saving, or retrieving electronic data from any application other than media.
3. Reduce the fine for a first violation from \$500 to \$200.
4. Add second and third violations and remove reference to each subsequent violation.
5. Reduce the fine for a second subsequent violation from \$1,000 to \$300 and specify that the third violation will incur a fine of up to \$300 and lowers the driver's license suspension from 60 days to 30 days.
6. Remove language referencing whether the violation is the legal cause of a collision when considering whether a person involved in a collision at the time of the violation will be fined equal to double the amount of the standard fine imposed in present law.

The House Floor Amendments to the engrossed bill:

1. Reduce the fine for a first violation from \$200 to \$100 and adds an option for community service as a penalty.
2. Clarify that a wireless telecommunications device shall not mean a cellular telephone used hands-free and removes a hands-free capable wireless telephone from the exclusion.