

2020 Regular Session

HOUSE BILL NO. 771

BY REPRESENTATIVE HUVAL

MTR VEHICLE/VIOLATIONS: Provides relative to the operation of a motor vehicle while using wireless telecommunication devices

1 AN ACT

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

7 Be it enacted by the Legislature of Louisiana:

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

9 ~~§300.5. Use of certain wireless telecommunications devices for text messaging and~~  
10 ~~social networking prohibited~~

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

18 ~~(2) No person shall operate any motor vehicle upon any public road or~~  
19 ~~highway of this state while using a wireless telecommunications device to access,~~  
20 ~~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~~  
3           ~~vehicle.~~

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

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

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

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

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

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

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

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

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

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

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

25           (2) Operating a "wireless telecommunications device" shall ~~include~~ mean  
26          any of the following:

- 27           ~~(1)~~(a) Engaging in a call.
- 28           ~~(2)~~(b) Writing, sending, or reading a text-based communication.
- 29           ~~(3)~~(c) Accessing, reading, or posting to a social networking site.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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

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

5           (f) Using any application or feature of a wireless telecommunications device  
6           by making manual entries of letters, numbers, symbols, commands, or any  
7           combination thereof.

8           (g) Holding or physically supporting a wireless telecommunications device  
9           in either or both hands or with any part of the body, except for an earpiece or  
10           headphone device or a device worn on the wrist to talk or listen during a voice  
11           transmission.

12           C.(1) The provisions of Subsection B of this Section shall not apply to any  
13           of the following in the performance of their official duties:

14           (a) A law enforcement officer.

15           (b) A firefighter.

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

17           ~~C.~~(2) The provisions of Subsection B of this Section shall not apply to a  
18           person who uses a wireless telecommunications device ~~and does to do~~ do any of the  
19           following:

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

22           ~~(2)(b) Reports~~ Report a situation in which the person believes a person ~~his~~  
23           ~~personal safety~~ is in jeopardy of serious injury or death.

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

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

1            (d) View data or images related to navigation of a motor vehicle using a  
2            hands-free global positioning system.

3            ~~(4)(e) Operates~~ Operate a wireless telecommunications device while the  
4            motor vehicle is lawfully stationary and not in violation of any other law, or lawfully  
5            parked.

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

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

9            (2)(a) The first violation of the provisions of this Section shall be punishable  
10           by a fine of not more than ~~five~~ one hundred dollars or less than twenty-five dollars.

11           (b) ~~Each subsequent~~ The second violation shall be punishable by a fine of  
12           not more than ~~one thousand~~ three hundred dollars ~~and a suspension of driver's license~~  
13           ~~for a sixty-day period~~ but not less than one hundred dollars.

14           (c) The third violation shall be punishable by a fine of not more than three  
15           hundred dollars but not less than one hundred dollars and shall include the  
16           suspension of the person's driver's license for a period of thirty days.

17           ~~(e)(d)~~ If a person the operator of a motor vehicle is involved in a ~~collision~~  
18           ~~crash~~ at the time of the violation, ~~then~~ the fine shall be equal to double the amount  
19           of the standard fine imposed in this Subsection, ~~and the~~ The law enforcement officer  
20           investigating the ~~collision~~ crash shall indicate on the written accident report that the  
21           ~~person~~ operator of a motor vehicle was using a wireless telecommunications device  
22           at the time of the ~~collision~~ crash.

23           (3) ~~It~~ Use of a wireless telecommunications device for any purpose provided  
24           for in Subsection C of this Section shall be an affirmative defense ~~against an alleged~~  
25           to a violation of this Section in support of which ~~for the~~ operator of a motor vehicle  
26           ~~person to~~ may produce documentary or other evidence ~~that the wireless~~  
27           ~~telecommunications device that is the basis of the alleged violation was used for~~  
28           ~~emergency purposes as provided in Subsection C of this Section.~~



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 any other electronic device or any other substantially similar portable wireless device used to create, edit, or view video or other images. Proposed law modifies present law by removing a hands-free wireless telephone from the exclusion.

Present law defines the term "write, send, or read a text-based communication" as using a wireless telecommunications device to manually communicate with any person by text-based communication including but not limited to a text message, instant message, or electronic mail.

Proposed law modifies present law by defining the term "write, send, or read a text-based communication" to include other text-based applications used to manually communicate with any person and removes the use of a wireless telecommunications device to manually communicate with any person by text-based communication.

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; using any application or feature of such a device by making manual entries of letters, numbers, symbols, or any combination thereof; and holding or physically supporting a wireless telecommunications device in either or both hands or with any part of the body, except for an earpiece, headphone device, or a wrist device to talk or listen during a voice transmission.

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; to view data or images to navigate using a hands-free global positioning system; and to operate a device for a purpose other than texting while the motor vehicle is lawfully stationary and not in violation of any other law. 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 to report or avert the perpetration or potential perpetration of a criminal act against the driver or another person.

Present law requires the first violation be punishable by a fine of not more than \$500.

Proposed law modifies present law by reducing the fine for a first violation from \$500 to a fine of \$100 but not less than \$25.



Present law requires each subsequent violation be punishable by a fine of not more than \$1000 and a 60-day driver's license suspension.

Proposed law modifies present law to provide that a second violation is punishable by a fine of \$300 but not less than \$100. Proposed law requires the third violation be punishable by a fine of not more than \$300 but not less than \$100 and to include a 30-day driver's license suspension.

Present law requires a person involved in a collision at the time of the violation to be fined double the amount of the standard fine imposed. Present law requires the law enforcement officer investigating the collision to indicate on a written report that the person was using a wireless telecommunications device at the time of the collision.

Proposed law modifies the double fine imposed in present law to be designated for the operator of a motor vehicle involved in a crash at the time of the violation.

Proposed law requires law enforcement officers to issue a written warning for any violation occurring before Jan. 1, 2021.

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 prohibits law enforcement, based solely on a violation of this law, from doing any of the following: seizing, searching, viewing, or requiring the forfeiture of a wireless telecommunications device; searching or requesting to search a motor vehicle, motor vehicle operator, or passenger; and making a custodial arrest except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine.

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 and makes prohibitions applicable to intrastate travel subject to enumerated exceptions.

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