

2020 Regular Session

SENATE BILL NO. 404

BY SENATOR LUNEAU

MOTOR VEHICLES. Prohibits use of a hand-held telecommunications device by a person when operating a motor vehicle on a public roadway. (8/1/20)

1 AN ACT

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

6 Be it enacted by the Legislature of Louisiana:

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

8 ~~§300.5. Use of certain wireless telecommunications devices for text messaging and~~
9 ~~social networking prohibited~~

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

17 ~~(2) No person shall operate any motor vehicle upon any public road or~~

1 highway of this state while using a wireless telecommunications device to access,
2 read, or post to a social networking site.

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

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

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

22 B. The provisions of Paragraph (A)(1) of this Section shall not apply to the
23 following:

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

26 (2) An operator of a moving motor vehicle using a wireless
27 telecommunications device to:

28 (a) Report illegal activity.

29 (b) Summon medical or other emergency help.

1 ~~(e) Prevent injury to a person or property.~~

2 ~~(d) Relay information between a transit or for-hire operator and that~~
3 ~~operator's dispatcher, in which the device is permanently affixed to the 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 **Use of wireless telecommunications devices prohibited; exceptions**

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

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

28 **(2) "Engage in a call" means talking or listening during a voice**
29 **transmission on a wireless telecommunications device or manually entering**

1 names or phone numbers to initiate a call.

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

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

18 B.(1) Except as provided in Subsection C of this Section, no person shall
19 operate any wireless telecommunications device while operating a motor vehicle
20 upon any public road or highway.

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

22 (a) Engaging in a call.

23 (b) Writing, sending, or reading a text-based communication.

24 (c) Accessing, reading, or posting to a social networking site.

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

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

29 (f) Using any other application or feature of such a device by making

1 manual entries of letters, numbers, symbols, or any combination thereof.

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

4 (a) A law enforcement officer.

5 (b) A firefighter.

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

7 (2) The provisions of Subsection B of this Section shall not apply to a
8 person who uses a wireless telecommunications device to do any of the
9 following:

10 (a) Report a traffic collision, medical emergency, other emergency, or
11 serious road hazard.

12 (b) Report a situation in which the person believes that an individual is
13 in jeopardy of serious injury or death.

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

17 (d) Navigate using a global positioning system.

18 (e) Operate a wireless telecommunications device while the motor vehicle
19 is lawfully parked.

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

21 (2)(a) The first violation of the provisions of this Section shall be
22 punishable by a fine of not more than one hundred dollars or community
23 service.

24 (b) The second violation shall be punishable by a fine of not more than
25 three hundred dollars.

26 (c) A third or subsequent violation shall be punishable by a fine of not
27 more than three hundred dollars and a suspension of the person's driver's
28 license for a period of thirty days.

29 (d) If a person is involved in a collision at the time of the violation, then

1 the fine shall be equal to double the amount of the standard fine imposed in this
 2 Subsection. The law enforcement officer investigating the collision shall indicate
 3 on the written accident report that the person was using a wireless
 4 telecommunications device at the time of the collision.

5 (3) Use of a wireless telecommunications device for any of the purposes
 6 provided for in Subsection C of this Section shall be an affirmative defense to
 7 a violation of this Section and the alleged violator may produce documentary
 8 or other evidence in support of this defense.

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

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Xavier I. Alexander.

DIGEST

SB 404 Original

2020 Regular Session

Luneau

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 telecommunication 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-way 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 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 to 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, to 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 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

Effective August 1, 2020.

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