

Legislative Analysis



MOBILE ELECTRONIC DEVICES

Phone: (517) 373-8080
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House Bill 4277 (proposed substitute H-1)
Sponsor: Rep. Mari Manoogian

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4278 (proposed substitute H-1)
Sponsor: Rep. Mike Mueller

House Bill 4279 as introduced
Sponsor: Rep. Joseph N. Bellino, Jr.

Committee: Judiciary
Complete to 5-3-21

SUMMARY:

Taken together, House Bills 4277, 4278, and 4279 would amend the Michigan Vehicle Code to revise prohibitions and penalties regarding a driver's use of electronic devices while driving.

House Bill 4277 would amend section 602b of the code, which now prohibits a person from reading, manually typing, or sending a text message on a wireless two-way communication device located in his or her hand or lap while operating a commercial motor vehicle or school bus or while operating a noncommercial motor vehicle that is moving.

The bill would instead prohibit a person from using a *mobile electronic device* while *operating* a motor vehicle or a school bus.

Mobile electronic device would mean a handheld or portable electronic device capable of providing wireless data or voice communication between two or more individuals, or providing amusement, and would include all of the following:

- A cell phone.
- A broadband personal communication device.
- A two-way messaging device.
- A text messaging device.
- A pager.
- An electronic device that can receive or transmit text or character-based images, access or store data, or connect to the internet.
- A personal digital assistant.
- A laptop computer.
- A computer tablet.
- A stand-alone computer.
- A portable computing device.
- A mobile device with a touchscreen display that is designed to be worn.

- An electronic game.
- Equipment that is capable of playing a video, taking photographs, capturing images, or recording or transmitting video.
- Any similar device that is readily removable from a vehicle and is used to write, send, or read text or data or capture images or video through manual input.

Mobile electronic device would not include a radio designed for the Citizens Band Service or Amateur Radio Service of the Federal Communications Commission or a commercial two-way radio communications device or equipment permanently installed in a motor vehicle.

Operate would mean to drive or assume physical control of a motor vehicle on a public way, street, road, or highway, including operation while temporarily stationary because of traffic, road conditions, a traffic light, or a stop sign.

Operate would not include a motor vehicle that is lawfully parked or an automated vehicle with an SAE level 3, 4 or 5 automated driving system that performs dynamic driving tasks in automated mode, as referenced in the Society of Automotive Engineers, Inc. International Standard J3016, 2014 edition.

Exceptions

The prohibition described above would not apply to the following:

- The use of a mobile electronic device by a law enforcement officer, firefighter, emergency medical technician, paramedic, operator of an emergency vehicle, or similarly engaged paid or volunteer public safety first responder in the performance of his or her official duties.
- The use of a mobile electronic device by a public utility employee or contractor while responding to a public utility emergency.
- The use of a mobile electronic device for emergencies, such as contacting 9-1-1 or calling a law enforcement agency, health care provider, fire department, or other emergency services entity to report any of the following:
 - A fire, traffic accident, serious road hazard, or hazardous materials emergency.
 - Another motor vehicle operator who is driving recklessly or unsafely.
 - A crime.
- The use of a GPS or navigational system feature of a mobile electronic device as long as information is not being entered by hand.
- Selecting a name or telephone number in a mobile electronic device to make or receive a telephone call or otherwise activating or deactivating a feature or function of a mobile electronic device.
- The use of a mobile electronic device in a voice-operated or hands-free mode if the operator does not use his or her hands to operate the device, except to activate or deactivate a feature or function of the device.
- The use of a mobile electronic device that is integrated into a motor vehicle and uses interfaces that are permanently installed on the vehicle.

Other prohibitions

The bill would also prohibit a person from operating a motor vehicle or school bus while doing any of the following:

- Accessing, reading, or posting to a *social networking site*.
- Viewing, recording, or transmitting a video on a mobile electronic device. This prohibition would not apply to a mobile electronic device used for the sole purpose of continuously recording or broadcasting video inside or outside of a motor vehicle or school bus.

Social networking site would mean any web-based service that allows individuals to construct a profile within a founded system and communicate with other users of the site for social or amusement purposes.

Penalties and enforcement

Currently, an individual who violates section 602b is responsible for a civil infraction and must be ordered to pay a civil fine of \$100 for a first violation and \$200 for a second or subsequent violation.

Under the bill, an individual responsible for a first violation would have to be ordered to pay a \$100 civil fine or perform 16 hours of community service. An individual responsible for a second or subsequent offense would have to be ordered to pay a \$250 civil fine or perform 24 hours of community service, or both. If the individual was involved in an accident at the time of his or her violation of the section, these civil fine amounts would have to be doubled and an officer investigating the accident would have to note in a written accident report that the individual was using a mobile electronic device at the time of the accident.

The court could suspend, for up to 90 days, the driver's license of an individual found responsible for three or more civil infractions under section 602b in a three-year period.

A law enforcement officer enforcing section 602b could treat a violation of the section as the primary or sole reason for issuing a citation to a driver. However, a law enforcement officer could not search a motor vehicle or a driver or passenger in the vehicle solely because of a violation of section 602b.

MCL 257.602b

House Bill 4278 would amend section 320a of the code to provide for the assessment of one point against the driver's license record of an individual for his or her second violation of using a mobile electronic device while operating a motor vehicle or a school bus. Two points would be entered for a third or subsequent such violation.

MCL 257.320a

House Bill 4279 would amend sections 602c and 732 of the code.

Section 602c currently prohibits an individual with a level 1 or level 2 graduated driver's license from using a cell phone while operating a motor vehicle. This prohibition does not apply to an individual who is using a voice-operated system that is integrated into the motor vehicle. The bill would remove this exception. The bill would also provide that compliance with the prohibition in section 602c is in addition to the requirements of section 602b.

Section 732 currently exempts violations of section 602b or 602c from being entered by the secretary of state on an individual's master driving record. The bill would eliminate this exemption.

MCL 257.602c and 257.732

Effectiveness provisions

Each bill would take effect 90 days after the date of its enactment.

The bills are all tie-barred to one another, which means that none of them could take effect unless all of them were enacted.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on the state and on local units of government. The fiscal impact on local court systems would depend on how provisions of the bills affected caseloads and related administrative costs. As provided in the Vehicle Code for civil infractions under the code, civil fine revenues would be applied to the support of public and county law libraries.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.