



H.B. 274

126th General Assembly

(As Introduced)

Reps. Barrett, Allen, Book, Brown, Chandler, Domenick, Flowers, Harwood, Healy, Mitchell, Reidelbach, Sayre, S. Smith, Sykes, Taylor, Ujvagi, Woodard

BILL SUMMARY

- Prohibits any person who holds a temporary instruction permit from operating a motor vehicle while simultaneously operating a mobile telephone, unless the vehicle is stationary.
- Prohibits any person from operating a motor vehicle while simultaneously operating a mobile telephone that is not capable of being operated in a hands-free manner or is capable of such operation but is not being so operated, other than to report an emergency.
- Provides additional penalties that must be imposed if a person pleads guilty to or is convicted of a violation of one of the mobile telephone/motor vehicle operation prohibitions and the trier of fact finds by proof beyond a reasonable doubt that the violation was the proximate cause of a motor vehicle accident between the person's motor vehicle and another motor vehicle, a pedestrian, or any object.
- Prohibits a law enforcement officer from stopping a motor vehicle for the sole purpose of determining whether a violation of one of the mobile telephone/motor vehicle operation prohibitions has been or is being committed or for the sole purpose of issuing a ticket for such a violation or causing the arrest of or commencing a prosecution of a person for such a violation.
- Requires the State Highway Patrol to compile monthly statistics relating to motor vehicle accidents that troopers investigate and in which the investigating trooper reasonably determines mobile telephone use by any

person involved in the accident was a material factor in the cause of the accident.

- Prohibits the operation of a motor vehicle while the attention of the operator is diverted to an unreasonable degree from the duty of operating the motor vehicle in a safe manner by a distraction within the motor vehicle.

CONTENT AND OPERATION

Operating a motor vehicle while simultaneously operating a mobile telephone

Prohibitions

The bill prohibits any person who holds a temporary instruction permit from operating a motor vehicle on any street, highway, or public or private property open for vehicular travel or parking while simultaneously operating a mobile telephone, unless the motor vehicle is stationary (sec. 4511.204(A)). The bill also prohibits *any* person from so operating a motor vehicle, except in emergency situations, while operating a mobile telephone that is not capable of being operated in a hands-free manner or that is capable of being operated in a hands-free manner but in fact is not being operated in that manner, unless the vehicle is stationary (sec. 4511.204(B)).¹

Exception for emergency situations

The bill specifically permits a person other than a person who holds a temporary instruction permit and who holds a valid driver's license or commercial driver's license to operate a motor vehicle while simultaneously operating a mobile telephone to report a situation that is hazardous to motor vehicle travel, a motor vehicle accident, an imminent threat of suffering death or serious physical harm, or any other dangerous or emergency situation (sec. 4511.204(C)).

Personal appearance

The bill provides that whenever a law enforcement officer issues a ticket to an offender charging the offender with a violation of one of the mobile telephone/motor vehicle operation prohibitions, the officer must indicate on the ticket if at the time of the violation the offender was involved in a motor vehicle accident with another motor vehicle, a pedestrian, or any object. If this is the case, the offender cannot enter a written plea of guilty and waive the offender's right to

¹ *In addition to motor vehicles, the bill also applies to trackless trolleys and streetcars.*

contest the citation in a trial but instead must appear in person in the proper court to answer the charge. (Sec. 4511.204(D)(2).)

If a law enforcement officer issues a ticket to an offender charging the offender with a violation of one of the mobile telephone/motor vehicle operation prohibitions and the officer does not make an indication on the ticket described in the preceding paragraph, the offender is not required to appear in person to answer the charge but instead may enter a written plea of guilty and waive the person's right to contest the citation in a trial (sec. 4511.204(D)(4)).

Penalties for violations of the prohibitions

Fines and jail terms. A violation of any of these mobile telephone/motor vehicle operation prohibitions generally is a minor misdemeanor.² If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one of a number of specified motor vehicle or traffic offenses, the offense is a fourth-degree misdemeanor.³ If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two or more of the specified motor vehicle or traffic offenses, the offense is a third-degree misdemeanor.⁴ (Sec. 4511.204(D)(1).)

Points. If the offender is convicted of violating one of the mobile telephone/motor vehicle operation prohibitions and if the trier of fact finds by proof beyond a reasonable doubt that the violation was the proximate cause of the motor vehicle accident, this fact must be noted in the abstract of the case that is sent to the Bureau of Motor Vehicles. Upon receipt of the abstract, the Bureau must assess two points against the person's driver's license. If there was no accident at the time of the violation, no points are assessed. (Sec. 4510.036(C)(13)(a) and (b) and 4511.204(D)(2).)

Driver's license suspension. In a case involving an offender who is convicted of violating one of the mobile telephone/motor vehicle operation prohibitions and who was involved in a motor vehicle accident with another motor vehicle, a pedestrian, or any object, if the motor vehicle accident resulted in the death of any person and if the trier of fact finds by proof beyond a reasonable doubt that the violation was the proximate cause of the motor vehicle accident, the

² Punishable by a fine of not more than \$150 but no jail term.

³ Punishable by a fine of not more than \$250, a jail term of not more than 30 days, or both.

⁴ Punishable by a fine of not more than \$500, a jail term of not more than 60 days, or both.

court, in addition to any other penalties it is required or permitted by law to impose, is required to impose a Class Seven license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege and the suspension must be for one year. (Sec. 4511.204(D)(3).)

Statewide uniformity

The bill states that it is the policy of Ohio to promote uniform general laws regarding the use of mobile telephones in motor vehicles that recognize the safety value of mobile telephones when used in a reasonable manner. It prohibits any political subdivision from adopting or enacting any ordinance or resolution that restricts the use of mobile telephones in motor vehicles more stringently than does the bill. (Sec. 4511.204(E).)

Secondary enforcement only

The bill provides that notwithstanding any provision of law to the contrary, no law enforcement officer may cause a motor vehicle operator to stop the motor vehicle for the sole purpose of determining whether a violation of one of the mobile telephone/motor vehicle operation prohibitions has been or is being committed or for the sole purpose of issuing a ticket for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature. In addition, the bill prohibits any law enforcement officer from viewing the interior or visually inspecting any motor vehicle for the sole purpose of determining whether a violation of that nature has been or is being committed. (Sec. 4511.204(F).)

Compilation of data by the State Highway Patrol

Under the bill, the State Highway Patrol must compile monthly data and statistics relating to motor vehicle accidents that troopers investigate and in which the investigating trooper reasonably determines that mobile telephone use by any person involved in the accident was a material factor in the cause of the accident. The State Highway Patrol must make the data and statistics available as with any other public record, and the Department of Public Safety or State Highway Patrol may include the data and statistics in any publication that it issues. (Sec. 4511.204(G).)

New offense of "inattentive driving"

The bill enacts the new offense of "inattentive driving" and defines it to mean operating a motor vehicle while the attention of the operator is diverted to an unreasonable degree from the duty of operating the motor vehicle in a safe manner

by a distraction within the motor vehicle, including any of the following distractions:

- (1) Using any device not necessary for the operation of the motor vehicle, including a computer or facsimile machine, but not including a mobile telephone or citizens band radio;
- (2) Attending to personal hygiene;
- (3) Eating or drinking;
- (4) Physically attending to a passenger;
- (5) Watching a television or video display located in the vehicle. (Sec. 4511.205(A).)

The bill prohibits any person from operating a motor vehicle on any street, highway, or public or private property open for vehicular travel or parking in a manner that constitutes inattentive driving. A violation of this prohibition generally is a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one of a number of specified motor vehicle or traffic offenses, the offense is a fourth-degree misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two or more of the specified motor vehicle or traffic offenses, the offense is a third-degree misdemeanor. (Sec. 4511.205(B) and (C).)

Delayed effective date of some of the bill's provisions

The bill provides that except for the provision requiring the State Highway Patrol to compile certain data and statistics (sec. 4511.204(G)), the provisions relating to mobile telephone/motor vehicle operation will take effect three years after the bill's overall effective date. The reason for the delay is that many existing mobile telephones are not capable of hands-free operation, and the three-year period will allow the mobile telephone industry to develop less expensive hands-free mobile telephones and related hands-free accessories, and will allow Ohioans with existing mobile telephone contracts to complete their contracts and acquire a new telephone that is capable of hands-free operation.

The provision requiring the State Highway Patrol to compile certain data and statistics takes effect on the earliest date permitted by law (the 91st day after the act is filed with the Secretary of State). (Section 4.) The provisions relating to the new offense of inattentive driving also will take effect on that date.

"Kim and Kathy Seager Act"

The bill provides that, if enacted, the resulting act will be known as "The Kim and Kathy Seager Act." (Section 3.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-24-05	p. 869

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