



Ohio Legislative Service Commission

Bill Analysis

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H.B. 261

128th General Assembly
(As Introduced)

Rep. DeBose

BILL SUMMARY

- Prohibits any person from driving a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic while text messaging or typing on a mobile communication device, subject to certain exceptions.
- Provides that such a violation is a "secondary stop traffic offense," thereby prohibiting a law enforcement officer from stopping a motor vehicle solely because the officer sees the vehicle driver text messaging or typing on a mobile communication device while driving.
- Provides that a person who is involved in a motor vehicle accident with another motor vehicle, a pedestrian, or any object and who was driving while text messaging or typing on a mobile communication device at the time of the accident cannot enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead is required to appear in person in the proper court to answer the charge.
- Provides that the offense of driving a motor vehicle while text messaging or typing on a mobile communication device is not a moving violation for purposes of the driver's license point system.

CONTENT AND OPERATION

Driving a motor vehicle while text messaging or typing on a mobile communication device

Prohibition

The bill prohibits any person from driving a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic

while text messaging or typing on a mobile communication device (R.C. 4511.204(A)). As used in the bill, "mobile communication device" includes a wireless telephone, a text-messaging device, a personal digital assistant, a computer, and any other substantially similar wireless device that is designed or used to communicate text or data. (R.C. 4511.204(E).) This new prohibition does not apply to either of the following:

(1) A person using a mobile communication device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person operating a public safety vehicle who uses a mobile communication device in that manner in the course of the person's duties. (R.C. 4511.204(B).)

Secondary stop traffic offense status

The bill establishes a violation of the new prohibition as what is known as a "secondary stop traffic offense." The bill provides that notwithstanding any provision of law to the contrary, a law enforcement officer cannot cause the operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether the offense of driving a motor vehicle while text messaging or typing on a mobile communication device has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for such a violation or causing the arrest of or commencing a prosecution of a person for such a violation. In addition, a law enforcement officer cannot view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether such an offense has been or is being committed. Thus, a law enforcement officer cannot stop a motor vehicle solely because the officer sees the vehicle driver text messaging or typing on a mobile communication device while driving; the officer must have another valid reason to stop the motor vehicle in order to issue a citation, summons, or ticket to the vehicle driver for the offense of driving while text messaging or typing on a mobile communication device. (R.C. 4511.204(C).)

Penalties

Whoever commits the offense of driving while text messaging or typing on a mobile communication device must be fined \$250 (R.C. 4511.204(D)(1)). Whenever a law enforcement officer issues a ticket, citation, or summons to an offender charging the offender with such a violation, the officer is required to indicate on the ticket, citation, or summons 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 the law enforcement officer makes such an indication, the offender is not permitted to enter a written plea of guilty and waive the offender's right to contest the citation in a trial but instead is

required to appear in person in the proper court to answer the charge. In all other circumstances, the offender is permitted to enter a written plea of guilty and waive the right to contest the citation in a trial. (R.C. 4511.204(D)(2)(a).)

If the trier of fact finds that the offender was involved in a motor vehicle accident at the time the offender was text messaging or typing while driving, the 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; the suspension period must be six months (R.C. 4511.204(D)(2)(b)).

Driving a motor vehicle while text messaging or typing on a mobile communication device is not a moving violation

The bill provides that the offense of driving a motor vehicle while text messaging or typing on a mobile communication device is not a moving violation for purposes of the driver's license point system (R.C. 4510.01(E)). Thus, a person who pleads guilty to or is convicted of committing such an offense does not have any points assessed against the person's driver's license by the Bureau of Motor Vehicles.

HISTORY

ACTION	DATE
Introduced	08-04-09

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