



# Ohio Legislative Service Commission

## Bill Analysis

Linda S. Crawford

### Sub. H.B. 99\*

129th General Assembly

(As Reported by S. Highways and Transportation)

**Reps.** Damschroder and Garland, Antonio, Boyd, Celeste, Clyde, DeGeeter, Derickson, Dovilla, Fende, Goyal, Grossman, Hackett, Heard, Hottinger, Mallory, Murray, Okey, Pillich, Ruhl, Stebelton, Stinziano, Szollosi, Winburn, Yuko, Anielski, Barnes, Boose, Bubp, Budish, Fedor, Gerberry, C. Hagan, R. Hagan, Hayes, Johnson, Letson, Luckie, Lundy, McClain, McGregor, Newbold, O'Brien, Slaby, Weddington, Batchelder

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## BILL SUMMARY

- Prohibits driving a vehicle while using a handheld electronic communications device to write, send, or read a text-based communication and makes the violation a secondary traffic offense with ten exemptions, including using the device for emergency purposes, a person driving a public safety vehicle who uses such a device in the course of the person's duties, and using a device for navigation purposes.
- Prohibits a person under 18 from using, in any manner, an electronic wireless communications device while driving, with three exemptions: (1) use in an emergency, (2) when the person's vehicle is stationary and is outside a lane of travel, and (3) using a hands-free navigation device and if the person does not manipulate the device while driving.
- Provides that for the first six months after the effective date of the bill no ticket, citation, or summons may be issued for a violation of both prohibitions established by the bill, only a warning that provides information about the prohibitions.
- Requires the classroom portion of driver's education to include instruction in the dangers of driving while using an electronic communications device to write, send, or read a text-based communication.

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\* This analysis was prepared before the report of the Senate Highways and Transportation Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

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## CONTENT AND OPERATION

### Prohibition against texting while driving for all persons

The bill prohibits a person from driving a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication.<sup>1</sup> For purposes of this prohibition, the bill defines "electronic wireless communications device" to include a wireless telephone, text-messaging device, personal digital assistant, computer (including a laptop computer and a computer tablet), and any other substantially similar wireless device that is designed or used to communicate text.<sup>2</sup> "Write, send, or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or electronic mail.<sup>3</sup>

Under the bill, a violation of this prohibition is a "secondary traffic offense." 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 using a handheld electronic wireless 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.<sup>4</sup> As a secondary traffic offense, a law enforcement agency also is prohibited from issuing a ticket for this violation at vehicle checkpoints unless there is another violation.<sup>5</sup>

The bill declares that the prohibition against texting on a handheld device does not apply to any of the following:<sup>6</sup>

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<sup>1</sup> R.C. 4511.204(A).

<sup>2</sup> R.C. 4511.204(F)(1).

<sup>3</sup> R.C. 4511.204(F)(3).

<sup>4</sup> R.C. 4511.204(C).

<sup>5</sup> R.C. 4511.093.

<sup>6</sup> R.C. 4511.204(B).

(1) A person using a handheld electronic wireless communications 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 driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;

(3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;

(4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a telephone call;

(5) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle;

(6) A person receiving wireless messages via radio waves;

(7) A person using a device for navigation purposes;

(8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;

(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;

(10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.

The bill defines "voice-operated or hands-free device" to mean a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate or deactivate a feature or function.

Under the bill, whoever violates the prohibition against texting or reading a text while driving is guilty of a minor misdemeanor.<sup>7</sup> The penalty for a minor misdemeanor is a fine of not more than \$150.<sup>8</sup>

The bill establishes that its provisions in regard to texting on a handheld device are not to be construed as invalidating, preempting, or superseding a substantially equivalent municipal ordinance that prescribes penalties for violations of that ordinance that are greater than the penalties prescribed in the bill for violations of the bill's prohibitions.<sup>9</sup>

### **Prohibition against using electronic devices for juvenile drivers**

The bill prohibits any person under 18 who holds a temporary instruction permit and any person who holds a probationary driver's license (under age 18) from driving a motor vehicle on any street, highway, or property used by the public for purposes of vehicular traffic or parking while using in any manner an electronic wireless communications device. For purposes of this prohibition, the bill defines "electronic wireless communications device" to include any of the following: (1) a wireless telephone, (2) a personal digital assistant, (3) a computer (including a laptop and a computer tablet), (4) a text-messaging device, and (5) any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word.<sup>10</sup>

The prohibition against those under 18 using an electronic wireless communication device while driving does not apply under the following situations: (1) the person is using the device 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) the person is using the device while the vehicle is in a stationary position, and the motor vehicle is outside a lane of travel, or (3) the person is using a navigation device in a voice-operated or hands-free manner and does not manipulate the device while driving.<sup>11</sup>

A person who violates the prohibition against those under 18 using an electronic wireless communication device while driving is subject to a fine of \$150 and a 60-day

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<sup>7</sup> R.C. 4511.204(D).

<sup>8</sup> R.C. 2929.28, not in the bill.

<sup>9</sup> R.C. 4511.204(E).

<sup>10</sup> R.C. 4511.205(A) and (D).

<sup>11</sup> R.C. 4511.205(B).

license suspension on a first offense. On a subsequent offense, the fine is \$300 and the license suspension is for one year.<sup>12</sup>

### **Warning period**

For the six-month period commencing on the bill's effective date, no law enforcement officer may issue to the operator of any motor vehicle being operated upon a street or highway within this state a ticket, citation, or summons for violating either of the prohibitions created by the bill, and no officer may cause the arrest of or commence a prosecution of a person for such a violation. Instead, during that period of time the law enforcement officer must issue to such an operator a written warning, informing the operator of the existence of the prohibition and that after the date that is six months after the bill's effective date, a law enforcement officer who observes that the operator of a motor vehicle has committed or is committing a violation of either prohibition will be authorized to issue a ticket, citation, or summons to that operator for that violation or to cause the arrest of or commence a prosecution of such an operator for a violation of that prohibition.<sup>13</sup>

### **Driver education**

Additionally, the bill requires the Director of Public Safety to include in the rules governing driver's education for persons under 18, a requirement for classroom instruction in the dangers of driving while using an electronic wireless communications device to write, send, or read a text-based communication.<sup>14</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	02-15-11
Reported, H. Transportation, Public Safety & Homeland Security	04-05-11
Passed House (88-10)	06-28-11
Reported, S. Highways & Transportation	---

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<sup>12</sup> R.C. 4511.205(C).

<sup>13</sup> Section 3.

<sup>14</sup> R.C. 4508.02(C).

