



# Ohio Legislative Service Commission

## Bill Analysis

Joseph G. Aninao

### H.B. 637

130th General Assembly  
(As Introduced)

**Reps.** Damschroder, Bishoff, Barborak, Perales, Lundy, Derickson, Sheehy

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## BILL SUMMARY

- Provides for primary enforcement of the state texting while driving prohibition rather than secondary enforcement as under current law.
- Because of the change from secondary to primary enforcement, permits a law enforcement officer to cause the operator of a motor vehicle to stop the vehicle solely because the officer observed the operator commit the offense of texting while driving.
- Prohibits any person from using an electronic wireless communications device (e.g. a cellular phone) while operating a motor vehicle on a street or highway in a school zone during restricted hours, or in a construction zone during hours of actual work within the zone.

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## CONTENT AND OPERATION

### Primary enforcement of the state offense of texting while driving

The bill provides for primary enforcement of the state texting while driving prohibition. That provision prohibits a person from driving on a street, highway, or other specified property while using a handheld electronic wireless communications device to write, send, or read a text-based communication.<sup>1</sup> Current law permits only secondary enforcement of this offense.

"Primary enforcement" of a traffic offense means a law enforcement officer may cause the operator of a motor vehicle to stop the vehicle solely because the officer

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

observed the operator commit that offense. Most traffic offenses are primary enforcement offenses.

"Secondary enforcement" of a traffic offense means a law enforcement officer cannot cause the operator of a motor vehicle to stop the vehicle because the officer observed the operator commit that offense unless the officer has some other valid reason to stop the motor vehicle. The other valid reason could be that the officer observed the vehicle operator commit an additional traffic offense, such as failure to yield the right-of-way. The bill eliminates the provision of law that provides for secondary enforcement of the offense of texting while driving.<sup>2</sup>

### **Using a wireless device in a school or construction zone**

The bill prohibits any person from using an electronic wireless communications device in any manner while operating a motor vehicle in either of the following circumstances:

- (1) On any street or highway in a school zone during school recess and while children are going to or leaving school during the opening or closing hours; or
- (2) In a construction zone during hours of actual work within the construction zone.<sup>3</sup>

Whoever violates this prohibition is guilty of a minor misdemeanor, which is punishable by a fine of not more than \$150 (no jail term is possible).<sup>4</sup>

The prohibition does not apply to any of the following:

- (1) A person using an electronic wireless communications device for emergency purposes;
- (2) A person using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel; and
- (3) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving.<sup>5</sup>

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<sup>2</sup> R.C. 4511.093(B) and 4511.204(C).

<sup>3</sup> R.C. 4511.205(B)(1) and (2).

<sup>4</sup> R.C. 4511.205(D)(3).

<sup>5</sup> R.C. 4511.205(C)(1) to (3).



A prosecution for a violation of the prohibition does not preclude a prosecution of a substantially equivalent municipal ordinance based on the same conduct. If an offender is convicted of or pleads guilty to the state prohibition and the municipal ordinance, the two offenses are allied offenses of similar import.<sup>6</sup> In that circumstance, the offender only may be convicted of one of the offenses.<sup>7</sup>

These provisions do not apply to the holder of a temporary instruction permit who is not age 18 or the holder of a probationary driver's license. Subject to the same exceptions specified above, such persons are subject to an existing law that prohibits such persons from driving while using an electronic wireless communications device.<sup>8</sup>

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## HISTORY

ACTION	DATE
Introduced	10-14-14

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<sup>6</sup> R.C. 4511.205(D)(2).

<sup>7</sup> R.C. 2941.25.

<sup>8</sup> R.C. 4511.205(A).

