

By: Turner

H.B. No. 520

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the use of a wireless communication device while  
3 operating a motor vehicle; creating an offense and providing  
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 545, Transportation Code, is amended by  
7 adding Subchapter H-1 to read as follows:

8 SUBCHAPTER H-1. USE OF WIRELESS COMMUNICATION DEVICE

9 Sec. 545.381. DEFINITIONS. In this subchapter:

10 (1) "Hands-free device" means speakerphone capability  
11 or a telephone attachment or other piece of equipment, regardless  
12 of whether permanently installed in the motor vehicle, that allows  
13 use of a wireless communication device without use of either of the  
14 operator's hands.

15 (2) "Text-based communication" includes:

16 (A) a text message;

17 (B) an instant message;

18 (C) an e-mail; or

19 (D) another type of written electronic message.

20 (3) "Wireless communication device" means a device  
21 that uses a commercial mobile service, as defined by 47 U.S.C.  
22 Section 332.

23 Sec. 545.382. APPLICABILITY. This subchapter does not  
24 apply to:

1           (1) an operator of an authorized emergency vehicle  
2 using a wireless communication device while acting in an official  
3 capacity; or

4           (2) an operator who is licensed by the Federal  
5 Communications Commission while operating a radio frequency device  
6 other than a wireless communication device.

7           Sec. 545.383. PREEMPTION. This subchapter does not preempt  
8 a local ordinance, rule, or regulation adopted by a local authority  
9 relating to the use of a wireless communication device by the  
10 operator of a motor vehicle that is consistent with or more  
11 stringent than the provisions of this subchapter.

12           Sec. 545.384. USE OF WIRELESS COMMUNICATION DEVICE TO SEND  
13 TEXT-BASED COMMUNICATION WHILE OPERATING MOTOR VEHICLE WHEN MINOR  
14 PRESENT; OFFENSE. (a) An operator commits an offense if the  
15 operator uses at least one hand to read, write, or send a text-based  
16 communication with a wireless communication device while operating  
17 a motor vehicle, other than a passenger bus, when a person under 18  
18 years of age is in the vehicle unless the vehicle is stopped.

19           (b) An offense under this section is a misdemeanor  
20 punishable by a fine of not more than \$100, unless it is shown on the  
21 trial of the offense that the defendant has been previously  
22 convicted at least one time of an offense under this section, in  
23 which event the offense is punishable by a fine of not more than  
24 \$200.

25           (c) The Texas Department of Transportation shall post a sign  
26 at each point at which an interstate highway or U.S. highway enters  
27 this state that informs an operator that:

1           (1) the use of a wireless communication device to  
2 read, write, or send a text-based communication while operating a  
3 motor vehicle when a person under 18 years of age is in the vehicle  
4 is prohibited in this state; and

5           (2) the operator is subject to a fine if the operator  
6 violates the prohibition.

7           (d) It is a defense to prosecution under this section that  
8 the operator used a wireless communication device:

9           (1) in conjunction with a hands-free device;

10           (2) to navigate using a global positioning system or  
11 navigation service;

12           (3) to report illegal activity or summon emergency  
13 help;

14           (4) to read a text-based communication that the person  
15 reasonably believes concerns an emergency; or

16           (5) to relay information between the operator and a  
17 dispatcher in the course of the operator's occupational duties, if  
18 the device was affixed to the vehicle.

19           Sec. 545.385. USE OF WIRELESS COMMUNICATION DEVICE WHILE  
20 OPERATING PASSENGER BUS WITH A MINOR PASSENGER; OFFENSE. (a) An  
21 operator commits an offense if the operator uses a wireless  
22 communication device while operating a passenger bus with a  
23 passenger who is under 18 years of age on the bus unless the bus is  
24 stopped.

25           (b) It is an affirmative defense to prosecution of an  
26 offense under this section that the wireless communication device  
27 was used to make an emergency call to:

1           (1) an emergency response service, including a rescue,  
2 emergency medical, or hazardous material response service;

3           (2) a hospital;

4           (3) a fire department;

5           (4) a health clinic;

6           (5) a medical doctor's office;

7           (6) an individual to administer first aid treatment;

8 or

9           (7) a police department.

10           Sec. 545.386. USE OF WIRELESS COMMUNICATION DEVICE WHILE  
11 OPERATING MOTOR VEHICLE ON SCHOOL PROPERTY OR IN SCHOOL CROSSING  
12 ZONE; OFFENSE. (a) An operator commits an offense if the operator  
13 uses a wireless communication device while operating a motor  
14 vehicle on the property of a public elementary, middle, junior  
15 high, or high school for which a local authority has designated a  
16 school crossing zone, during the time a reduced speed limit is in  
17 effect for the school crossing zone, unless:

18           (1) the vehicle is stopped; or

19           (2) the operator uses the device with a hands-free  
20 device.

21           (b) An operator commits an offense if the operator uses a  
22 wireless communication device while operating a motor vehicle in a  
23 school crossing zone unless:

24           (1) the vehicle is stopped; or

25           (2) the operator uses the wireless communication  
26 device with a hands-free device.

27           (c) It is an affirmative defense to prosecution of an

1 offense:

2 (1) under this section that the wireless communication  
3 device was used to make an emergency call to:

4 (A) an emergency response service, including a  
5 rescue, emergency medical, or hazardous material response service;

6 (B) a hospital;

7 (C) a fire department;

8 (D) a health clinic;

9 (E) a medical doctor's office;

10 (F) an individual to administer first aid  
11 treatment; or

12 (G) a police department; or

13 (2) under Subsection (b) that:

14 (A) the offense was committed in a school  
15 crossing zone located in the jurisdiction of a local authority  
16 other than a local authority that is in compliance with Subsection  
17 (e); and

18 (B) a sign required by Subsection (d) was not  
19 posted at the time of the offense.

20 (d) Except as provided by Subsection (e), a local authority  
21 that enforces Subsection (b) shall post a warning sign at each  
22 entrance to a school crossing zone in the jurisdiction of the local  
23 authority. The local authority shall pay the costs associated with  
24 posting the signs. The department shall adopt standards that:

25 (1) allow for the signs to be attached to existing  
26 signs at a minimal cost; and

27 (2) require that the signs inform an operator that:

1           (A) the use of a wireless communication device is  
2 prohibited in the school crossing zone; and

3           (B) the operator is subject to a fine if the  
4 operator uses a wireless communication device in the school  
5 crossing zone.

6           (e) A local authority that by ordinance or rule prohibits  
7 the use of a wireless communication device while operating a motor  
8 vehicle throughout the jurisdiction of the local authority is not  
9 required to post a warning sign required by Subsection (d) if the  
10 local authority:

11           (1) posts warning signs that are readable to an  
12 operator traveling at the applicable speed limit at each point at  
13 which a state highway, U.S. highway, or interstate highway enters  
14 the jurisdiction of the local authority and that state:

15           (A) that an operator is prohibited from using a  
16 wireless communication device while operating a motor vehicle in  
17 the jurisdiction of the local authority; and

18           (B) that the operator is subject to a fine if the  
19 operator uses a wireless communication device while operating a  
20 motor vehicle in the jurisdiction of the local authority; and

21           (2) subject to applicable United States Department of  
22 Transportation Federal Highway Administration rules, posts a  
23 message that complies with Subdivision (1) on any dynamic message  
24 sign operated by the local authority located on a state highway,  
25 U.S. highway, or interstate highway.

26           Sec. 545.387. USE OF WIRELESS COMMUNICATION DEVICE BY  
27 PERSON UNDER 18 YEARS OF AGE WHILE OPERATING A MOTOR VEHICLE;

1 OFFENSE. (a) A person under 18 years of age commits an offense if  
2 the person operates a motor vehicle while using a wireless  
3 communication device, except in case of emergency.

4 (b) A person under 17 years of age who holds a restricted  
5 motorcycle license or moped license commits an offense if the  
6 person operates a motorcycle or moped while using a wireless  
7 communication device, except in case of emergency.

8 (c) A peace officer may not stop a vehicle or detain the  
9 operator of a vehicle for the sole purpose of determining whether  
10 the operator of the vehicle has violated this section.

11 (d) This section does not apply to a person operating a  
12 motor vehicle while accompanied in the manner required by Section  
13 521.222(d)(2) for the holder of an instruction permit.

14 SECTION 2. Sections 545.424(a), (b), and (f), 545.425, and  
15 545.4252, Transportation Code, are repealed.

16 SECTION 3. The change in law made by this Act applies only  
17 to an offense committed on or after the effective date of this Act.  
18 An offense committed before the effective date of this Act is  
19 governed by the law in effect on the date the offense was committed,  
20 and the former law is continued in effect for that purpose. For  
21 purposes of this section, an offense was committed before the  
22 effective date of this Act if any element of the offense occurred  
23 before that date.

24 SECTION 4. This Act takes effect September 1, 2017.