A BILL TO BE ENTITLED

AN ACT
relating to the creation of an offense for use of a handheld wireless communication device for text-based communication while operating a motor vehicle.

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

SECTION 1. This Act may be cited as the Alex Brown Memorial Act.

SECTION 2. The heading to Section 545.425, Transportation Code, is amended to read as follows:

Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE GENERALLY; OFFENSE.

SECTION 3. Section 545.425(a)(1), Transportation Code, is amended to read as follows:

(1) "Hands-free device" means speakerphone capability, [or a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a wireless communication device or in a [the] motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands, except to activate or deactivate a function of the wireless communication device or hands-free device.

SECTION 4. Subchapter I, Chapter 545, Transportation Code, is amended by adding Section 545.4251 to read as follows:

Sec. 545.4251. USE OF WIRELESS COMMUNICATION DEVICE TO SEND
TEXT-BASED COMMUNICATIONS; OFFENSE. (a) In this section:

(1) "Handheld wireless communication device" means a wireless communication device, as defined by Section 545.425, that is portable. The term does not include:

(A) a citizens band radio or citizens band radio hybrid; or

(B) a commercial two-way radio communication device.

(2) "Text-based communication" means a communication that is designed or intended to be composed with at least one hand on a handheld wireless communication device and that is transmitted between wireless communication devices for the purpose of manually communicating in a nonspoken manner with another person in a written medium. The term includes:

(A) a text message;

(B) an instant message;

(C) an e-mail; or

(D) another type of electronic message.

(b) An operator commits an offense if the operator uses a handheld wireless communication device to read, write, or send a text-based communication while operating a motor vehicle unless the vehicle is stopped.

(c) It is a defense to prosecution under Subsection (b) that:

(1) the operator used a handheld wireless communication device:

(A) to read, select, or enter a telephone number
or name for the purpose of making a telephone call;

(B) in conjunction with voice-operated technology, a push-to-talk function, or a hands-free device, as defined by Section 545.425; or

(C) to navigate using a global positioning system or navigation service; or

(2) the handheld wireless communication device:

(A) was used by the operator to relay information between the operator and a dispatcher in the course of the operator's occupational duties; and

(B) was affixed to the vehicle.

(d) It is an exception to the application of Subsection (b) that the operator is:

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

(2) an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a handheld wireless communication device; or

(3) an operator of a moving motor vehicle using a handheld wireless communication device to report illegal activity or summon emergency help.

(e) Except as provided by Subsection (f), this section preempts all local ordinances, rules, or regulations that are inconsistent with specific provisions of this section adopted by a political subdivision of this state relating to the use of a wireless communication device by the operator of a motor vehicle.
(f) A political subdivision of this state may adopt a local ordinance, rule, or regulation relating to an operator using a handheld wireless communication device to read, write, or send a text-based communication while operating a motor vehicle that is more stringent than this section.

SECTION 5. This Act takes effect September 1, 2013.