

1 HB35
2 113756-4
3 By Representatives McClendon, Shiver, Hammon, Williams (J),
4 Fincher, Barton, Wren, Love, McMillan, Canfield, Ward, Drake,
5 Clouse, Allen, Davis, Hubbard, Gipson, Mask, Ball, Wood,
6 Sanderford, McCutcheon, Baker (A), Bridges, Grimes, Faust,
7 Williams (P) and Hill
8 RFD: Public Safety
9 First Read: 12-JAN-10
10 PFD: 09/23/2009

1 similar wireless device that is readily removable from a
2 vehicle and is used to write, send, or read text or data
3 through manual input. The term "wireless telecommunication
4 device" does not include a device which is voice-operated and
5 which allows the user to send or receive a text based
6 communication without the use of either hand except to
7 activate or deactivate a feature or function.

8 (2) WRITE, SEND, OR READ A TEXT-BASED COMMUNICATION.

9 Using a wireless telecommunication device to manually
10 communicate with any person using text-based communication,
11 including, but not limited to, communications referred to as a
12 text message, instant message, or electronic mail. The term
13 does not include reading, selecting, or entering a telephone
14 number or name in a cell or wireless telephone or
15 communication device for the purpose of making a telephone
16 call.

17 (b) A person may not operate a motor vehicle on a
18 public road, street, or highway in Alabama while using a
19 wireless telecommunication device to write, send, or read a
20 text-based communication or while ~~manually operating~~ inputting
21 data into a handheld global positioning system (GPS) device or
22 similar handheld navigation device.

23 (c) A person who violates subsection (b) is subject
24 to fines as follows:

25 (1) Twenty-five dollars (\$25) for a first violation.

26 (2) Fifty dollars (\$50) for a second violation.

1 (3) Seventy-five dollars (\$75) for a third or
2 subsequent violation.

3 ~~(d) A person shall not be assessed court costs upon~~
4 ~~a conviction pursuant to this section.~~

5 (e) Law enforcement officers enforcing this section
6 may treat a violation of this section as the primary or sole
7 reason for issuing a citation to a driver or may enforce this
8 section as a secondary violation of the driver.

9 Section 2. ~~A violation of this act shall not result,~~
10 ~~in and of itself, in an increase or cancellation in the~~
11 ~~automobile insurance of the person convicted of the violation,~~
12 ~~and a violation of this act shall not be reported to the~~
13 ~~automobile insurance provider of a violator.~~

14 Section 3. A conviction of this act shall be entered
15 on the driving record of any individual charged under this act
16 as a one-point violation.

17 Section 4. ~~(a) In any case brought by a law~~
18 ~~enforcement officer employed by the Department of Public~~
19 ~~Safety, 60 percent of the funds generated shall be allocated~~
20 ~~to the Department of Public Safety, Law Enforcement Division.~~
21 ~~The remaining 40 percent of the funds shall be allocated to~~
22 ~~the State General Fund.~~

23 (a) One hundred percent of the funds shall be
24 allocated to the State General Fund.

25 (b) A violation of this act shall not constitute
26 probable cause for a search of the vehicle involved. A law

1 enforcement officer may not search or inspect a motor vehicle,
2 its contents, the driver, or a passenger solely because of a
3 violation of this act.

4 (c) Each state, county, and municipal law
5 enforcement agency shall maintain statistical information on
6 traffic stops made pursuant to this act on minority groups and
7 report that information monthly to the Department of Public
8 Safety and the Attorney General.

9 Section 5. Although this bill would have as its
10 purpose or effect the requirement of a new or increased
11 expenditure of local funds, the bill is excluded from further
12 requirements and application under Amendment 621, now
13 appearing as Section 111.05 of the Official Recompilation of
14 the Constitution of Alabama of 1901, as amended, because the
15 bill defines a new crime or amends the definition of an
16 existing crime.

17 Section 6. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-ferred to the House of Representa-tives committee on Public Safety 12-JAN-10

Read for the second time and placed on the calendar with 1 substitute and 14-JAN-10

Read for the third time and passed as amended 19-JAN-10

Greg Pappas
Clerk