

1 HB35
2 113756-2
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

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8 SYNOPSIS: Currently, there is no specific prohibition
9 against operating a motor vehicle while electronic
10 text messaging.

11 This bill would prohibit a person from
12 operating a motor vehicle while text messaging or
13 operating a handheld global positioning system
14 (GPS); would provide penalties; and would provide
15 exceptions.

16 Amendment 621 of the Constitution of Alabama
17 of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of
19 Alabama of 1901, as amended, prohibits a general
20 law whose purpose or effect would be to require a
21 new or increased expenditure of local funds from
22 becoming effective with regard to a local
23 governmental entity without enactment by a 2/3 vote
24 unless: it comes within one of a number of
25 specified exceptions; it is approved by the
26 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT

14
15 Relating to the operation of motor vehicles; to
16 prohibit any person from operating a motor vehicle on a public
17 street, road, or highway while also text messaging on a
18 handheld cell phone or other handheld wireless
19 telecommunication device or while manually operating a
20 handheld global positioning system (GPS) device or similar
21 navigation device; to provide penalties; to provide
22 exceptions; and in connection therewith would have as its
23 purpose or effect the requirement of a new or increased
24 expenditure of local funds within the meaning of Amendment 621
25 of the Constitution of Alabama of 1901, now appearing as
26 Section 111.05 of the Official Recompilation of the
27 Constitution of Alabama of 1901, as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. (a) For purposes of this act, the
3 following words have the following meanings:

4 (1) WIRELESS TELECOMMUNICATION DEVICE. A handheld
5 cellular telephone, a text-messaging device, a personal
6 digital assistant, a stand alone computer, or any other
7 similar wireless device that is readily removable from a
8 vehicle and is used to write, send, or read text or data
9 through manual input.

10 (2) WRITE, SEND, OR READ A TEXT-BASED COMMUNICATION.
11 Using a wireless telecommunication device to manually
12 communicate with any person using text-based communication,
13 including, but not limited to, communications referred to as a
14 text message, instant message, or electronic mail. The term
15 does not include reading, selecting, or entering a telephone
16 number or name in a cell or wireless telephone or
17 communication device for the purpose of making a telephone
18 call.

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

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

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

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

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

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

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

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

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

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

24 (b) A violation of this act shall not constitute
25 probable cause for a search of the vehicle involved. A law
26 enforcement officer may not search or inspect a motor vehicle,

1 its contents, the driver, or a passenger solely because of a
2 violation of this act.

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

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

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