

1 SB313
2 128295-1
3 By Senators Brewbaker, Bussman, Allen, Smith, Pittman,
4 Williams, Dial and Waggoner
5 RFD: Education
6 First Read: 31-MAR-11

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8 SYNOPSIS: This bill would specifically prohibit the
9 use of cell phones and certain other associated
10 technology by school bus drivers.

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

24 The purpose or effect of this bill would be
25 to require a new or increased expenditure of local
26 funds within the meaning of the amendment. However,
27 the bill does not require approval of a local

1 governmental entity or enactment by a 2/3 vote to
2 become effective because it comes within one of the
3 specified exceptions contained in the amendment.
4

5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 Relating to public K-12 education; to prohibit the
10 use of cell phones by school bus drivers; and in connection
11 therewith would have as its purpose or effect the requirement
12 of a new or increased expenditure of local funds within the
13 meaning of Amendment 621 of the Constitution of Alabama of
14 1901, now appearing as Section 111.05 of the Official
15 Recompilation of the Constitution of Alabama of 1901, as
16 amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. (a) For the purposes of this section, the
19 following terms shall have the following meanings:

20 (1) ADDITIONAL TECHNOLOGY. Any technology that
21 provides access to digital media including, but not limited
22 to, cameras, electronic mail, music, the Internet, and games.

23 (2) EMERGENCY SITUATION. Circumstances such as
24 medical concerns, unsafe road conditions, matters of public
25 safety, or mechanical problems that create a risk of harm for
26 the operator or the passengers of a school bus.

1 (3) MOBILE TELEPHONE. Includes, but is not limited
2 to, all of the following:

3 a. A device with which a user engages in
4 communication using at least one hand.

5 b. A device that has an internal feature or
6 function, or that is equipped with an attachment or addition,
7 whether or not permanently part of the mobile telephone, by
8 which a user engages in a call without the use of either hand,
9 whether or not the use of either hand is necessary to
10 activate, deactivate, or initiate a function of such
11 telephone.

12 c. A citizens band radio, a citizens band radio
13 hybrid, or any other two-way radio.

14 (4) SCHOOL BUS. Every motor vehicle owned by a
15 public, private, or parochial school or school district or
16 operated under contract or hire for a public, private, or
17 parochial school or school district and used for the
18 transportation of children to or from school or
19 school-sponsored activities.

20 (b) Except as otherwise provided in this section, no
21 person shall operate a school bus on a public or private
22 street or highway or a public or private vehicular area while
23 using a mobile telephone or any additional technology
24 associated with a mobile telephone while the school bus is in
25 motion. This prohibition does not apply to the use of a mobile
26 telephone or additional technology associated with a mobile
27 telephone in an appropriately secured, stationary school bus

1 parked in a safe area off of a public or private street or
2 highway or a public or private vehicular area.

3 (c) This section may not be construed as authorizing
4 the seizure or forfeiture of a mobile telephone or additional
5 technology, unless otherwise provided by law.

6 (d) This section does not prohibit the use of a
7 mobile telephone or additional technology associated with a
8 mobile telephone for the sole purpose of communicating in an
9 emergency situation.

10 (e) No local government may pass any ordinance
11 regulating the use of mobile telephones or additional
12 technology associated with a mobile telephone by the operator
13 of a school bus.

14 (f) Violation of this section shall be a Class C
15 misdemeanor, punishable by a fine of not more than five
16 hundred dollars (\$500), and shall result in the assessment of
17 not more than 2 points per offense on the operator's driver's
18 license record. Failure to comply with this section does not
19 constitute negligence per se or contributory negligence by the
20 operator in any action for the recovery of damages arising out
21 of the operation, ownership, or maintenance of a school bus.

22 (g) Any school bus driver employed by a public
23 school system who is convicted of a repeat offense under this
24 section, in addition to the fines and points provided in
25 subsection (f), shall be subject to the suspension or
26 revocation of his or her school bus driver certificate as
27 issued by the State Department of Education. The decision to

1 suspend or revoke a school bus driver certificate shall be
2 made by the State Superintendent of Education in accordance
3 with Section 16-23-5, Code of Alabama 1975, and rules
4 promulgated by the State Board of Education.

5 Section 2. Although this bill would have as its
6 purpose or effect the requirement of a new or increased
7 expenditure of local funds, the bill is excluded from further
8 requirements and application under Amendment 621, now
9 appearing as Section 111.05 of the Official Recompilation of
10 the Constitution of Alabama of 1901, as amended, because the
11 bill defines a new crime or amends the definition of an
12 existing crime.

13 Section 3. This act shall become effective
14 immediately following its passage and approval by the
15 Governor, or its otherwise becoming law.