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SYNOPSIS:

Under existing law, a person is prohibited from using a wireless telecommunications device to write, send, or read a text-based communication while operating a motor vehicle, with exceptions.

This bill would further provide prohibitions against the use of a wireless telecommunications device while operating a motor vehicle and would provide various exceptions on the prohibition.

This bill would further provide for the criminal penalties associated with a violation.

Under existing law, a conviction for using a wireless telecommunications device to write, send, or read a text-based communication is a two-point violation on the individual's driving record.

This bill would revise the points received for a violation.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or



29 provides a local source of revenue, to the entity for
30 the purpose.

31 The purpose or effect of this bill would be to
32 require a new or increased expenditure of local funds
33 within the meaning of the amendment. However, the bill
34 does not require approval of a local governmental
35 entity or enactment by a 2/3 vote to become effective
36 because it comes within one of the specified exceptions
37 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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44 Relating to motor vehicles; to add Section 32-5A-350.1
45 to the Code of Alabama 1975, to further provide for the
46 prohibition against using a wireless telecommunications device
47 while operating a motor vehicle; to further provide for the
48 prohibition; to further provide exceptions; to further provide
49 criminal penalties for a violation; to provide a warning
50 period for a violation; to amend Section 32-5A-351, Code of
51 Alabama 1975, to further provide for the assessment of
52 administrative penalties; to repeal Section 32-5A-350, Code of
53 Alabama 1975; and in connection therewith would have as its
54 purpose or effect the requirement of a new or increased
55 expenditure of local funds within the meaning of Section
56 111.05 of the Constitution of Alabama of 2022.



57 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

58 Section 1. Section 2 of this act shall be known and may
59 be cited as the Representative Koven L. "K.L." Brown Act and
60 is enacted in memory of Leah Grace Tarvin and CiCi Lunsford
61 and Jay Kendall.

62 Section 2. Section 32-5A-350.1 is added to Article 16
63 of Chapter 5A of Title 32, Code of Alabama 1975, to read as
64 follows:

65 §32-5A-350.1

66 (a) As used in this section, the following terms have
67 the following meanings:

68 (1) STAND-ALONE ELECTRONIC DEVICE. A device other than
69 a wireless telecommunications device which stores audio or
70 video data files to be retrieved on demand by a user.

71 (2) UTILITY SERVICES. Includes electric, natural gas,
72 water, waste-water, cable, telephone, or telecommunications
73 services or the repair, location, relocation, improvement, or
74 maintenance of utility poles, transmission structures, pipes,
75 wires, fibers, cables, easements, rights of way, or associated
76 infrastructure.

77 (3) WIRELESS TELECOMMUNICATIONS DEVICE. A cellular
78 telephone, a portable telephone, a text-messaging device, a
79 personal digital assistant, a stand-alone computer, a global
80 positioning system receiver, or substantially similar portable
81 wireless device that is used to initiate or receive
82 communication, information, or data. The term shall not
83 include a radio, citizens band radio, citizens band radio
84 hybrid, commercial two-way radio communication device or its



85 functional equivalent, subscription-based emergency
86 communication device, prescribed medical device, amateur or
87 ham radio device, or in-vehicle security, navigation, safety,
88 or remote diagnostics system.

89 (b) A person shall exercise due care in operating a
90 motor vehicle on the highways of this state and shall not
91 engage in any actions prohibited by law which shall distract
92 the person from the safe operation of the vehicle.

93 (c) While operating a motor vehicle on any highway of
94 this state, no person shall do any of the following:

95 (1) Physically hold a wireless telecommunications
96 device if any of the following also occur: The motor vehicle
97 crosses in or out of a traffic lane without using a turn
98 signal, the vehicle swerves, or the vehicle is otherwise
99 operated in an impaired manner.

100 (2) Physically hold or support, with any part of his or
101 her body, a stand-alone electronic device.

102 (3) Write, send, or read any text-based communication,
103 including but not limited to a text message, instant message,
104 e-mail, or Internet data on a wireless telecommunications
105 device or stand-alone electronic device; provided, however,
106 that such prohibition shall not apply to either of the
107 following:

108 a. A voice-based communication that is automatically
109 converted by the device to be sent as a message in a written
110 form.

111 b. The use of the device for navigation of the vehicle
112 or for global positioning system purposes.



113 (4) Watch a video or movie on a wireless
114 telecommunications device or stand-alone electronic device
115 other than watching data related to the navigation of the
116 vehicle.

117 (5) Record or broadcast a video on a wireless
118 telecommunications device or stand-alone electronic device;
119 provided that the prohibition shall not apply to electronic
120 devices used for the sole purpose of continuously recording or
121 broadcasting video within or outside of the motor vehicle.

122 (6) Use more than a single button or swipe of a finger
123 on a wireless telecommunications device to initiate or
124 terminate a voice-communication.

125 (7) Reach for a wireless telecommunications device or
126 stand-alone electronic device in such a manner that requires
127 the driver to no longer be in a seated driving position
128 properly restrained by a safety belt.

129 (d) Each violation of this section shall constitute a
130 separate offense.

131 (e) (1) Except as provided for in subdivision (2), any
132 person convicted of violating this section shall be guilty of
133 a Class C misdemeanor which shall be punished as follows:

134 a. For a first conviction to a charge of violating this
135 section within the previous 24-month period of time, as
136 measured from the dates any previous convictions were obtained
137 to the date the current conviction is obtained, a fine of not
138 more than fifty dollars (\$50).

139 b. For a second conviction within the previous 24-month
140 period of time, as measured from the dates any previous



141 convictions were obtained to the date the current conviction
142 is obtained, a fine of not more than one hundred dollars
143 (\$100).

144 c. For a third or subsequent conviction within the
145 previous 24-month period of time, as measured from the dates
146 any previous convictions were obtained to the date the current
147 conviction is obtained, a fine of not more than one hundred
148 fifty dollars (\$150).

149 (2) Any person appearing before a court for a first
150 charge of violating subdivision (c)(1) who produces in court a
151 device or proof of purchase of a device that would allow the
152 person to comply with the subdivision in the future shall not
153 be guilty of the offense. The court shall require the person
154 to affirm that they have not previously utilized the privilege
155 under this subdivision.

156 (3) No court costs may be assessed for a violation of
157 this section.

158 (f) A person may not be placed under custodial arrest
159 solely for a violation of this section.

160 (g) This section does not apply when the prohibited
161 conduct occurred under any of the following conditions:

162 (1) The use of a wireless telecommunications device to
163 obtain emergency services, including, but not limited to, an
164 emergency call to a law enforcement agency, healthcare
165 provider, fire department, or other emergency services agency
166 or entity.

167 (2) The use of a wireless telecommunications device
168 while the motor vehicle is parked on the shoulder of the



169 highway, road, or street.

170 (3) The use of a wireless telecommunications device as
171 a global positioning or navigation system to receive driving
172 directions; provided, however, the manual input of navigation
173 coordinates while operating a motor vehicle is a violation of
174 this article.

175 (4) The use of an earpiece, a headphone device,
176 steering wheel controls, speaker phone or any voice-activated
177 technology, or other device worn on the person or mounted onto
178 the dashboard, center console, windshield, or other part of
179 the vehicle to conduct substantially hands-free voice-based
180 wireless communications.

181 (5) The use of a continuous recording device that
182 operates within or outside the vehicle, including, but not
183 limited to, a dash camera or backup camera.

184 (6) The use of a wireless telecommunications device by
185 an employee or contractor of a utility services provider
186 within the scope of his or her employment while responding to
187 a utility emergency or performing other critical utility
188 services.

189 (7) The use of a wireless telecommunications device by
190 a law enforcement officer, emergency medical services
191 personnel, ambulance operator, firefighter, volunteer
192 firefighter, or other similarly employed public safety first
193 responder during the performance of his or her official
194 duties.

195 (8) The use of an ignition interlock device, as defined
196 in Section 32-5A-191.4.



197 (9) For an individual 18 years of age or older, the use
198 of a wireless telecommunications device in a manner that
199 requires the physical use of the person's hand while operating
200 a motor vehicle if both of the following occur:

201 a. The device is mounted to the vehicle, including the
202 windshield, dashboard, or center console of the vehicle, and
203 the device does not create an unsafe obstruction of the
204 person's view of the road.

205 b. The person's hand is used to activate or deactivate
206 a feature or function of the device with the motion of one
207 swipe or tap of the person's finger, and the swipe or tap does
208 not activate the camera, video, or gaming features or
209 functions for viewing, recording, amusement, or other
210 non-navigational functions, other than functions or features
211 related to the transportation of persons or property for
212 compensation or payment of a fee.

213 (10) The use of a wireless telecommunications device by
214 a licensed physician while responding to an emergency medical
215 situation.

216 (h) Beginning on the effective date of this act, and
217 continuing for 12 months thereafter, for any violation of this
218 section, a law enforcement officer may only issue a written
219 warning. No points shall be entered on the driving record of
220 any individual who receives a warning under this subsection.

221 Section 3. Section 32-5A-351, Code of Alabama 1975, is
222 amended to read as follows:

223 "§32-5A-351

224 (a) A first conviction of this article shall be entered



225 on the driving record of any individual charged under this
226 article as a one-point violation.

227 (b) A second conviction of this article shall be
228 entered on the driving record of any individual charged under
229 this article as a two-point violation.

230 (c) A third or subsequent conviction of this article
231 shall be entered on the driving record of any individual
232 charged under this article as a three-point violation."

233 Section 4. Section 32-5A-350, Code of Alabama 1975,
234 relating to texting while driving, is repealed.

235 Section 5. Although this bill would have as its purpose
236 or effect the requirement of a new or increased expenditure of
237 local funds, the bill is excluded from further requirements
238 and application under Section 111.05 of the Constitution of
239 Alabama of 2022, because the bill defines a new crime or
240 amends the definition of an existing crime.

241 Section 6. This act shall become effective immediately
242 following its passage and approval by the Governor, or its
243 otherwise becoming law.