

SB301 ENGROSSED



1 NGEM8T-2
2 By Senator Waggoner
3 RFD: Judiciary
4 First Read: 09-May-23
5 2023 Regular Session



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A BILL
TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

Section 2. Section 32-5A-350.1 is added to Article 16



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29 of Chapter 5A of Title 32, Code of Alabama 1975, to read as
30 follows:

31 §32-5A-350.1

32 (a) As used in this section, the following terms have
33 the following meanings:

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

37 (2) UTILITY SERVICES. Includes electric, natural gas,
38 water, waste-water, cable, telephone, or telecommunications
39 services or the repair, location, relocation, improvement, or
40 maintenance of utility poles, transmission structures, pipes,
41 wires, fibers, cables, easements, rights of way, or associated
42 infrastructure.

43 (3) WIRELESS TELECOMMUNICATIONS DEVICE. A cellular
44 telephone, a portable telephone, a text-messaging device, a
45 personal digital assistant, a stand-alone computer, a global
46 positioning system receiver, or substantially similar portable
47 wireless device that is used to initiate or receive
48 communication, information, or data. The term shall not
49 include a radio, citizens band radio, citizens band radio
50 hybrid, commercial two-way radio communication device or its
51 functional equivalent, subscription-based emergency
52 communication device, prescribed medical device, amateur or
53 ham radio device, or in-vehicle security, navigation, safety,
54 or remote diagnostics system.

55 (b) A person shall exercise due care in operating a
56 motor vehicle on the highways of this state and shall not



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57 engage in any actions prohibited by law which shall distract
58 the person from the safe operation of the vehicle.

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

61 (1) Physically hold a wireless telecommunications
62 device if any of the following also occur: The motor vehicle
63 crosses in or out of a traffic lane without using a turn
64 signal, the vehicle swerves, or the vehicle is otherwise
65 operated in an impaired manner.

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

68 (3) Write, send, or read any text-based communication,
69 including but not limited to a text message, instant message,
70 e-mail, or Internet data on a wireless telecommunications
71 device or stand-alone electronic device; provided, however,
72 that such prohibition shall not apply to either of the
73 following:

74 a. A voice-based communication that is automatically
75 converted by the device to be sent as a message in a written
76 form.

77 b. The use of the device for navigation of the vehicle
78 or for global positioning system purposes.

79 (4) Watch a video or movie on a wireless
80 telecommunications device or stand-alone electronic device
81 other than watching data related to the navigation of the
82 vehicle.

83 (5) Record or broadcast a video on a wireless
84 telecommunications device or stand-alone electronic device;



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85 provided that the prohibition shall not apply to electronic
86 devices used for the sole purpose of continuously recording or
87 broadcasting video within or outside of the motor vehicle.

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

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

95 (d) Each violation of this section shall constitute a
96 separate offense.

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

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

105 b. For a second conviction within the previous 24-month
106 period of time, as measured from the dates any previous
107 convictions were obtained to the date the current conviction
108 is obtained, a fine of not more than one hundred dollars
109 (\$100).

110 c. For a third or subsequent conviction within the
111 previous 24-month period of time, as measured from the dates
112 any previous convictions were obtained to the date the current



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113 conviction is obtained, a fine of not more than one hundred
114 fifty dollars (\$150).

115 (2) Any person appearing before a court for a first
116 charge of violating subdivision (c)(1) who produces in court a
117 device or proof of purchase of a device that would allow the
118 person to comply with the subdivision in the future shall not
119 be guilty of the offense. The court shall require the person
120 to affirm that they have not previously utilized the privilege
121 under this subdivision.

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

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

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

128 (1) The use of a wireless telecommunications device to
129 obtain emergency services, including, but not limited to, an
130 emergency call to a law enforcement agency, healthcare
131 provider, fire department, or other emergency services agency
132 or entity.

133 (2) The use of a wireless telecommunications device
134 while the motor vehicle is parked on the shoulder of the
135 highway, road, or street.

136 (3) The use of a wireless telecommunications device as
137 a global positioning or navigation system to receive driving
138 directions; provided, however, the manual input of navigation
139 coordinates while operating a motor vehicle is a violation of
140 this article.



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141 (4) The use of an earpiece, a headphone device,
142 steering wheel controls, speaker phone or any voice-activated
143 technology, or other device worn on the person or mounted onto
144 the dashboard, center console, windshield, or other part of
145 the vehicle to conduct substantially hands-free voice-based
146 wireless communications.

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

150 (6) The use of a wireless telecommunications device by
151 an employee or contractor of a utility services provider
152 within the scope of his or her employment while responding to
153 a utility emergency or performing other critical utility
154 services.

155 (7) The use of a wireless telecommunications device by
156 a law enforcement officer, emergency medical services
157 personnel, ambulance operator, firefighter, volunteer
158 firefighter, or other similarly employed public safety first
159 responder during the performance of his or her official
160 duties.

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

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

167 a. The device is mounted to the vehicle, including the
168 windshield, dashboard, or center console of the vehicle, and



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169 the device does not create an unsafe obstruction of the
170 person's view of the road.

171 b. The person's hand is used to activate or deactivate
172 a feature or function of the device with the motion of one
173 swipe or tap of the person's finger, and the swipe or tap does
174 not activate the camera, video, or gaming features or
175 functions for viewing, recording, amusement, or other
176 non-navigational functions, other than functions or features
177 related to the transportation of persons or property for
178 compensation or payment of a fee.

179 (10) The use of a wireless telecommunications device by
180 a licensed physician while responding to an emergency medical
181 situation.

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

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

189 "§32-5A-351

190 (a) A first conviction of this article shall be entered
191 on the driving record of any individual charged under this
192 article as a one-point violation.

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

196 (c) A third or subsequent conviction of this article



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197 shall be entered on the driving record of any individual
198 charged under this article as a three-point violation."

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

201 Section 5. Although this bill would have as its purpose
202 or effect the requirement of a new or increased expenditure of
203 local funds, the bill is excluded from further requirements
204 and application under Section 111.05 of the Constitution of
205 Alabama of 2022, because the bill defines a new crime or
206 amends the definition of an existing crime.

207 Section 6. This act shall become effective immediately
208 following its passage and approval by the Governor, or its
209 otherwise becoming law.



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212 Senate

213 Read for the first time and referred09-May-23
214 to the Senate committee on Judiciary

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216 Read for the second time and placed17-May-23
217 on the calendar:

218 3 amendments

219
220 Read for the third time and passed24-May-23
221 as amended

222 Yeas 30

223 Nays 0

224 Abstains 0

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Patrick Harris,
Secretary.