

**SB301 INTRODUCED**



1 NGEM8T-1  
2 By Senator Waggoner  
3 RFD: Judiciary  
4 First Read: 09-May-23  
5  
6 2023 Regular Session



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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 and would provide additional clarifications and exceptions on the prohibition, including specifying that the prohibition does not apply to: (1) the use of an earpiece, headphone device, or device worn on a wrist to conduct voice-based communications; (2) voice-based communications that are automatically converted by the device to be sent as a message in a written form; and (3) the use of the device for navigation of the vehicle or for global positioning system purposes.

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.



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29                   Section 111.05 of the Constitution of Alabama of  
30                   2022, prohibits a general law whose purpose or effect  
31                   would be to require a new or increased expenditure of  
32                   local funds from becoming effective with regard to a  
33                   local governmental entity without enactment by a 2/3  
34                   vote unless: it comes within one of a number of  
35                   specified exceptions; it is approved by the affected  
36                   entity; or the Legislature appropriates funds, or  
37                   provides a local source of revenue, to the entity for  
38                   the purpose.

39                   The purpose or effect of this bill would be to  
40                   require a new or increased expenditure of local funds  
41                   within the meaning of the amendment. However, the bill  
42                   does not require approval of a local governmental  
43                   entity or enactment by a 2/3 vote to become effective  
44                   because it comes within one of the specified exceptions  
45                   contained in the amendment.

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A BILL

TO BE ENTITLED

AN ACT

52                   Relating to motor vehicles; to add Section 32-5A-350.1  
53                   to the Code of Alabama 1975, to further provide for the  
54                   prohibition against using a wireless telecommunications device  
55                   while operating a motor vehicle; to further provide for the  
56                   prohibition; to further provide exceptions; to further provide



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57 criminal penalties for a violation; to provide a warning  
58 period for a violation; to amend Section 32-5A-351, Code of  
59 Alabama 1975, to further provide for the assessment of  
60 administrative penalties; to repeal Section 32-5A-350, Code of  
61 Alabama 1975; and in connection therewith would have as its  
62 purpose or effect the requirement of a new or increased  
63 expenditure of local funds within the meaning of Section  
64 111.05 of the Constitution of Alabama of 2022.

65 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

72 §32-5A-350.1

73 (a) As used in this section, the following terms have  
74 the following meanings:

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

78 (2) UTILITY SERVICES. Includes electric, natural gas,  
79 water, waste-water, cable, telephone, or telecommunications  
80 services or the repair, location, relocation, improvement, or  
81 maintenance of utility poles, transmission structures, pipes,  
82 wires, fibers, cables, easements, rights of way, or associated  
83 infrastructure.

84 (3) WIRELESS TELECOMMUNICATIONS DEVICE. A cellular





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113 that such prohibition shall not apply to either of the  
114 following:

115 a. A voice-based communication that is automatically  
116 converted by the device to be sent as a message in a written  
117 form.

118 b. The use of the device for navigation of the vehicle  
119 or for global positioning system purposes.

120 (3) Watch a video or movie on a wireless  
121 telecommunications device or stand-alone electronic device  
122 other than watching data related to the navigation of the  
123 vehicle.

124 (4) Record or broadcast a video on a wireless  
125 telecommunications device or stand-alone electronic device;  
126 provided that the prohibition shall not apply to electronic  
127 devices used for the sole purpose of continuously recording or  
128 broadcasting video within or outside of the motor vehicle.

129 (d) While operating a commercial motor vehicle on any  
130 highway of this state, no individual shall do any of the  
131 following:

132 (1) Use more than a single button on a wireless  
133 telecommunications device to initiate or terminate a  
134 voice-communication.

135 (2) Reach for a wireless telecommunications device or  
136 stand-alone electronic device in such a manner that requires  
137 the driver to no longer be in a seated driving position  
138 properly restrained by a safety belt.

139 (e) Each violation of this section shall constitute a  
140 separate offense.



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141 (f) (1) Except as provided for in subdivision (2), any  
142 person convicted of violating this section shall be guilty of  
143 a Class C misdemeanor which shall be punished as follows:

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

149 b. For a second conviction within the previous 24-month  
150 period of time, as measured from the dates any previous  
151 convictions were obtained to the date the current conviction  
152 is obtained, a fine of not more than one hundred dollars  
153 (\$100).

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

159 (2) Any person appearing before a court for a first  
160 charge of violating subdivision (c) (1) who produces in court a  
161 device or proof of purchase of a device that would allow the  
162 person to comply with the subdivision in the future shall not  
163 be guilty of the offense. The court shall require the person  
164 to affirm that they have not previously utilized the privilege  
165 under this subdivision.

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

168 (g) A person may not be placed under custodial arrest







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

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

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

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

210 Section 6. This act shall become effective immediately  
211 following its passage and approval by the Governor, or its  
212 otherwise becoming law.