

**SB239 INTRODUCED**



1 SB239  
2 G5R1666-1  
3 By Senator Waggoner  
4 RFD: Judiciary  
5 First Read: 19-Mar-24



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SYNOPSIS:

Under existing law, certain actions must be taken for an individual to be found to have operated a vehicle in a distracted manner.

This bill would change these required elements.

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

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



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to motor vehicles; to amend Section 2 of Act 2023-478, 2023 Regular Session, now appearing as Section 32-5A-350.1, Code of Alabama 1975, to change the elements required for an individual to have operated a vehicle in a distracted manner; 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 Act 2023-478, 2023 Regular Session, now appearing as Section 32-5A-350.1, Code of Alabama 1975, is amended to read as follows:

"§32-5A-350.1

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

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

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



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57 or associated infrastructure.

58 (3) WIRELESS TELECOMMUNICATIONS DEVICE. A cellular  
59 telephone, portable telephone, text-messaging device, personal  
60 digital assistant, stand-alone computer, global positioning  
61 system receiver, or substantially similar portable wireless  
62 device that is used to initiate or receive communication,  
63 information, or data. The term shall not include a radio,  
64 citizens band radio, citizens band radio hybrid, commercial  
65 two-way radio communication device or its functional  
66 equivalent, subscription-based emergency communication device,  
67 prescribed medical device, amateur or ham radio device, or  
68 in-vehicle security, navigation, safety, or remote diagnostics  
69 system.

70 (b) An individual shall exercise due care in operating  
71 a motor vehicle on the highways of this state and shall not  
72 engage in any actions prohibited by law which shall distract  
73 the individual from the safe operation of the vehicle.

74 (c) An individual operates a vehicle in a distracted  
75 manner in violation of this section if the individual is  
76 observed ~~crossing in and out of a traffic lane without using a~~  
77 ~~turn signal, swerving, or otherwise operating the vehicle in~~  
78 ~~an impaired manner while~~ doing any of the following:

79 (1) Physically holding a wireless telecommunications  
80 device.

81 (2) Physically holding or supporting, with any part of  
82 his or her body, a stand-alone electronic device.

83 (3) Writing, sending, or reading any text-based  
84 communication, including    but not limited to    a text message,



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85 instant message, e-mail, or Internet data on a wireless  
86 telecommunications device or stand-alone electronic device;  
87 provided, however, that ~~such~~ this prohibition shall not apply  
88 to either of the following:

89 a. A voice-based communication that is automatically  
90 converted by the device to be sent as a message in a written  
91 form.

92 b. The use of the device for navigation of the vehicle  
93 or for global positioning system purposes.

94 (4) Watching a video or movie on a wireless  
95 telecommunications device or stand-alone electronic device  
96 other than watching data related to the navigation of the  
97 vehicle.

98 (5) Recording or broadcasting a video on a wireless  
99 telecommunications device or stand-alone electronic device;  
100 provided that the prohibition shall not apply to electronic  
101 devices used for the sole purpose of continuously recording or  
102 broadcasting video within or outside of the motor vehicle.

103 (6) Using more than a single button or swipe of a  
104 finger on a wireless telecommunications device to initiate or  
105 terminate a voice-communication.

106 (7) Reaching for a wireless telecommunications device  
107 or stand-alone electronic device in such a manner that  
108 requires the driver to no longer be in a seated driving  
109 position properly restrained by a safety belt.

110 (d) Each violation of this section shall constitute a  
111 separate offense.

112 (e) (1) Except as provided for in subdivision (2), any



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113 person convicted of violating this section shall be guilty of  
114 a Class C misdemeanor which shall be punished as follows:

115 a. For a first conviction ~~to a charge~~ of violating this  
116 section within the previous 24-month period of time, as  
117 measured from the dates on which any previous convictions were  
118 obtained to the date on which the current conviction is  
119 obtained, a fine of not more than fifty dollars (\$50).

120 b. For a second conviction within the previous 24-month  
121 period of time, as measured from the dates ~~of~~ on which any  
122 previous convictions were obtained to the date ~~of~~ on which the  
123 current conviction is obtained, a fine of not more than one  
124 hundred dollars (\$100).

125 c. For a third or subsequent conviction within the  
126 previous 24-month period of time, as measured from the dates  
127 ~~of~~ on which any previous convictions were obtained to the date  
128 ~~of~~ on which the current conviction is obtained, a fine of not  
129 more than one hundred fifty dollars (\$150).

130 (2) Any individual appearing before a court for a first  
131 charge of violating subdivision (c)(1) who produces in court a  
132 device or proof of purchase of a device that would allow the  
133 individual to comply with the subdivision in the future shall  
134 not be guilty of the offense. The court shall require the  
135 individual to affirm that they have not previously utilized  
136 the privilege under this subdivision.

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

139 (f) An individual may not be placed under custodial  
140 arrest solely for a violation of this section.



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

143 (1) Using a wireless telecommunications device to  
144 obtain emergency services, including, but not limited to, an  
145 emergency call to a law enforcement agency, health\_care  
146 provider, fire department, or other emergency services agency  
147 or entity.

148 (2) Using a wireless telecommunications device while  
149 the motor vehicle is parked on the shoulder of the highway,  
150 road, or street.

151 (3) Using a wireless telecommunications device as a  
152 global positioning or navigation system to receive driving  
153 directions; provided, however, the manual input of navigation  
154 coordinates while operating a motor vehicle is a violation of  
155 this article.

156 (4) Using an earpiece, a headphone device, steering  
157 wheel controls, speaker phone or any voice-activated  
158 technology, or other device worn on the person or mounted onto  
159 the dashboard, center console, windshield, or other part of  
160 the vehicle to conduct substantially hands-free voice-based  
161 wireless communications.

162 (5) Using a continuous recording device that operates  
163 within or outside the vehicle, including, but not limited to,  
164 a dash camera or backup camera.

165 (6) ~~Using~~ The use of a wireless telecommunications  
166 device by an employee or contractor of a utility services  
167 provider within the scope of his or her employment while  
168 responding to a utility emergency or performing other critical



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169 utility services.

170 (7) ~~Using~~ The use of a wireless telecommunications  
171 device by a law enforcement officer, emergency medical  
172 services personnel, ambulance operator, firefighter, volunteer  
173 firefighter, or other similarly employed public safety first  
174 responder during the performance of his or her official  
175 duties.

176 (8) Using an ignition interlock device, as defined in  
177 Section 32-5A-191.4.

178 (9) For an individual 18 years of age or older, using a  
179 wireless telecommunications device in a manner that requires  
180 the physical use of the individual's hand while operating a  
181 motor vehicle if both of the following occur:

182 a. The device is mounted to the vehicle, including the  
183 windshield, dashboard, or center console of the vehicle, and  
184 the device does not create an unsafe obstruction of the  
185 individual's view of the road.

186 b. The individual's hand is used to activate or  
187 deactivate a feature or function of the device with the motion  
188 of one swipe or tap of the individual's finger, and the swipe  
189 or tap does not activate the camera, video, or gaming features  
190 or functions for viewing, recording, amusement, or other  
191 non-navigational functions, other than functions or features  
192 related to the transportation of individuals or property for  
193 compensation or payment of a fee.

194 (10) ~~Using~~ The use of a wireless telecommunications  
195 device by a licensed physician while responding to an  
196 emergency medical situation.





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197           (h) Beginning on June 14, 2023, and continuing for 12  
198 months thereafter, for any violation of this section, a law  
199 enforcement officer may only issue a written warning. No  
200 points shall be entered on the driving record of any  
201 individual who receives a warning under this subsection.

202           Section 2. Although this bill would have as its purpose  
203 or effect the requirement of a new or increased expenditure of  
204 local funds, the bill is excluded from further requirements  
205 and application under Section 111.05 of the Constitution of  
206 Alabama of 2022, because the bill defines a new

207           Section 3. This act shall become effective on October  
208 1, 2024.