

SB301 ENROLLED



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



SB301 Enrolled

1 Enrolled, An Act,

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5 Relating to motor vehicles; to add Section 32-5A-350.1

6 to the Code of Alabama 1975, to further provide for the

7 prohibition against using a wireless telecommunications device

8 while operating a motor vehicle; to further provide for the

9 prohibition; to further provide exceptions; to further provide

10 criminal penalties for a violation; to provide a warning

11 period for a violation; to amend Section 32-5A-351, Code of

12 Alabama 1975, to further provide for the assessment of

13 administrative penalties; to repeal Section 32-5A-350, Code of

14 Alabama 1975; and in connection therewith would have as its

15 purpose or effect the requirement of a new or increased

16 expenditure of local funds within the meaning of Section

17 111.05 of the Constitution of Alabama of 2022.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 2 of this act shall be known and may

20 be cited as the Representative Koven L. "K.L." Brown Act and

21 is enacted in memory of Leah Grace Tarvin and CiCi Lunsford

22 and Jay Kendall.

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

24 of Chapter 5A of Title 32, Code of Alabama 1975, to read as

25 follows:

26 §32-5A-350.1

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

28 the following meanings:



SB301 Enrolled

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

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

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

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

54 (c) A person operates a vehicle in a distracted manner
55 in violation of this section if the person is observed
56 crossing in and out of a traffic lane without using a turn



SB301 Enrolled

57 signal, swerving, or otherwise operating the vehicle in an
58 impaired manner while doing any of the following:

59 (1) Physically holding a wireless telecommunications
60 device.

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

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

69 a. A voice-based communication that is automatically
70 converted by the device to be sent as a message in a written
71 form.

72 b. The use of the device for navigation of the vehicle
73 or for global positioning system purposes.

74 (4) Watch a video or movie on a wireless
75 telecommunications device or stand-alone electronic device
76 other than watching data related to the navigation of the
77 vehicle.

78 (5) Record or broadcast a video on a wireless
79 telecommunications device or stand-alone electronic device;
80 provided that the prohibition shall not apply to electronic
81 devices used for the sole purpose of continuously recording or
82 broadcasting video within or outside of the motor vehicle.

83 (6) Use more than a single button or swipe of a finger
84 on a wireless telecommunications device to initiate or



SB301 Enrolled

85 terminate a voice-communication.

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

90 (d) Each violation of this section shall constitute a
91 separate offense.

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

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

100 b. For a second conviction within the previous 24-month
101 period of time, as measured from the dates any previous
102 convictions were obtained to the date the current conviction
103 is obtained, a fine of not more than one hundred dollars
104 (\$100).

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

110 (2) Any person appearing before a court for a first
111 charge of violating subdivision (c) (1) who produces in court a
112 device or proof of purchase of a device that would allow the



SB301 Enrolled

113 person to comply with the subdivision in the future shall not
114 be guilty of the offense. The court shall require the person
115 to affirm that they have not previously utilized the privilege
116 under this subdivision.

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

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

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

123 (1) The use of a wireless telecommunications device to
124 obtain emergency services, including, but not limited to, an
125 emergency call to a law enforcement agency, healthcare
126 provider, fire department, or other emergency services agency
127 or entity.

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

131 (3) The use of a wireless telecommunications device as
132 a global positioning or navigation system to receive driving
133 directions; provided, however, the manual input of navigation
134 coordinates while operating a motor vehicle is a violation of
135 this article.

136 (4) The use of an earpiece, a headphone device,
137 steering wheel controls, speaker phone or any voice-activated
138 technology, or other device worn on the person or mounted onto
139 the dashboard, center console, windshield, or other part of
140 the vehicle to conduct substantially hands-free voice-based



SB301 Enrolled

141 wireless communications.

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

145 (6) The use of a wireless telecommunications device by
146 an employee or contractor of a utility services provider
147 within the scope of his or her employment while responding to
148 a utility emergency or performing other critical utility
149 services.

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

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

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

162 a. The device is mounted to the vehicle, including the
163 windshield, dashboard, or center console of the vehicle, and
164 the device does not create an unsafe obstruction of the
165 person's view of the road.

166 b. The person's hand is used to activate or deactivate
167 a feature or function of the device with the motion of one
168 swipe or tap of the person's finger, and the swipe or tap does



SB301 Enrolled

169 not activate the camera, video, or gaming features or
170 functions for viewing, recording, amusement, or other
171 non-navigational functions, other than functions or features
172 related to the transportation of persons or property for
173 compensation or payment of a fee.

174 (10) The use of a wireless telecommunications device by
175 a licensed physician while responding to an emergency medical
176 situation.

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

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

184 "§32-5A-351

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

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

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

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

196 Section 5. Although this bill would have as its purpose



SB301 Enrolled

197 or effect the requirement of a new or increased expenditure of
198 local funds, the bill is excluded from further requirements
199 and application under Section 111.05 of the Constitution of
200 Alabama of 2022, because the bill defines a new crime or
201 amends the definition of an existing crime.

202 Section 6. This act shall become effective immediately
203 following its passage and approval by the Governor, or its
204 otherwise becoming law.



SB301 Enrolled

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB301
Senate 24-May-23
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 06-Jun-23

Senate concurred in House amendment 06-Jun-23

By: Senator Waggoner