

1 HB2
2 133084-1
3 By Representative McClendon
4 RFD: Public Safety and Homeland Security
5 First Read: 07-FEB-12
6 PFD: 09/15/2011

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8 SYNOPSIS: Currently, there is no specific prohibition
9 against operating a motor vehicle while electronic
10 text messaging.

11 This bill would prohibit a person from
12 operating a motor vehicle while text messaging;
13 would provide penalties; and would provide
14 exceptions.

15 Amendment 621 of the Constitution of Alabama
16 of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, prohibits a general
19 law whose purpose or effect would be to require a
20 new or increased expenditure of local funds from
21 becoming effective with regard to a local
22 governmental entity without enactment by a 2/3 vote
23 unless: it comes within one of a number of
24 specified exceptions; it is approved by the
25 affected entity; or the Legislature appropriates
26 funds, or provides a local source of revenue, to
27 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.
8

9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 Relating to the operation of motor vehicles; to
14 prohibit any person from operating a motor vehicle on a public
15 street, road, or highway while also text messaging on a
16 handheld cell phone or other handheld wireless
17 telecommunication device; to provide penalties; to provide
18 exceptions; and in connection therewith would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds within the meaning of Amendment 621
21 of the Constitution of Alabama of 1901, now appearing as
22 Section 111.05 of the Official Recompilation of the
23 Constitution of Alabama of 1901, as amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. (a) For purposes of this act, the
26 following words have the following meanings:

1 (1) WIRELESS TELECOMMUNICATION DEVICE. A handheld
2 cellular telephone, a text-messaging device, a personal
3 digital assistant, a stand alone computer, or any other
4 similar wireless device that is readily removable from a
5 vehicle and is used to write, send, or read text or data
6 through manual input. The term "wireless telecommunication
7 device" does not include a device which is voice-operated and
8 which allows the user to send or receive a text-based
9 communication without the use of either hand except to
10 activate or deactivate a feature or function.

11 (2) WRITE, SEND, OR READ A TEXT-BASED COMMUNICATION.
12 Using a wireless telecommunication device to manually
13 communicate with any person using text-based communication,
14 including, but not limited to, communications referred to as a
15 text message, instant message, or electronic mail. The term
16 does not include reading, selecting, or entering a telephone
17 number or name in a cell or wireless telephone or
18 communication device for the purpose of making a telephone
19 call.

20 (b) A person may not operate a motor vehicle on a
21 public road, street, or highway in Alabama while using a
22 wireless telecommunication device to write, send, or read a
23 text-based communication.

24 (c) A person who violates subsection (b) is subject
25 to fines as follows:

26 (1) Twenty-five dollars (\$25) for a first violation.

27 (2) Fifty dollars (\$50) for a second violation.

1 (3) Seventy-five dollars (\$75) for a third or
2 subsequent violation.

3 (d) Law enforcement officers enforcing this section
4 may treat a violation of this section as the primary or sole
5 reason for issuing a citation to a driver.

6 Section 2. A conviction of this act shall be entered
7 on the driving record of any individual charged under this act
8 as a two-point violation.

9 Section 3. (a) In any case brought by a law
10 enforcement officer employed by the Department of Public
11 Safety all funds shall be allocated to the State General Fund.

12 (b) Each state, county, and municipal law
13 enforcement agency shall maintain statistical information on
14 traffic stops made pursuant to this act on minority groups and
15 report that information monthly to the Department of Public
16 Safety.

17 Section 4. Although this bill would have as its
18 purpose or effect the requirement of a new or increased
19 expenditure of local funds, the bill is excluded from further
20 requirements and application under Amendment 621, now
21 appearing as Section 111.05 of the Official Recompilation of
22 the Constitution of Alabama of 1901, as amended, because the
23 bill defines a new crime or amends the definition of an
24 existing crime.

25 Section 5. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

