

1 HB74  
2 204276-1  
3 By Representative Brown (K)  
4 RFD: Public Safety and Homeland Security  
5 First Read: 04-FEB-20  
6 PFD: 02/03/2020

1  
2  
3  
4  
5  
6  
7  
8       SYNOPSIS:               Under existing law, a person is prohibited  
9                               from using a wireless telecommunications device to  
10                              write, send, or read a text-based communication  
11                              while operating a motor vehicle, with exceptions.

12                             This bill would prohibit a person from using  
13                             a wireless telecommunications device to watch,  
14                             record, or capture a photograph or video while  
15                             operating a motor vehicle, physically holding a  
16                             wireless telecommunications device while operating  
17                             a motor vehicle, and engaging in a voice-based  
18                             communication while operating a motor vehicle.

19                             Under existing law, certain uses of a  
20                             wireless telecommunications device are exempted  
21                             from the restrictions that apply while operating a  
22                             motor vehicle.

23                             This bill would further provide for those  
24                             exemptions.

25                             This bill would also increase the fine  
26                             authorized for a violation.

1                   This bill would also require the Secretary  
2 of the Alabama State Law Enforcement Agency to  
3 include on the uniform accident report whether a  
4 TNC driver was involved in the accident and require  
5 the secretary to report certain information  
6 regarding traffic accidents involving a TNC driver  
7 to the Public Service Commission and the  
8 Legislature.

9                   Under existing law, a conviction for using a  
10 wireless telecommunications device to write, send,  
11 or read a text-based communication is a two-point  
12 violation on the individual's driving record.

13                   This bill would provide that on a third or  
14 subsequent conviction the individual would receive  
15 a three-point violation on the individual's driving  
16 record.

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

1 funds, or provides a local source of revenue, to  
2 the entity for the purpose.

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

10  
11 A BILL  
12 TO BE ENTITLED  
13 AN ACT  
14

15 Relating to motor vehicles; to amend and renumber  
16 Sections 32-5A-351 and 32-5A-352, Code of Alabama 1975, and to  
17 add Sections 32-5A-353 to 32-5A-358, inclusive, to the Code of  
18 Alabama 1975, to provide further for administrative penalties  
19 issued for a violation; to prohibit the use of a wireless  
20 telecommunications device to write, send, or read a text-based  
21 communication or to watch, record, or capture a photograph or  
22 video while operating a motor vehicle; to prohibit the use of  
23 a handheld wireless telecommunications device to engage in a  
24 voice-based communication; to prohibit an individual from  
25 physically holding a wireless telecommunications device while  
26 operating a motor vehicle; to provide further for exceptions;  
27 to amend Section 32-10-8, Code of Alabama 1975, providing

1 further for uniform accident reports; to provide certain  
2 reporting requirements; to repeal Section 32-5A-350, Code of  
3 Alabama 1975; and in connection therewith would have as its  
4 purpose or effect the requirement of a new or increased  
5 expenditure of local funds within the meaning of Amendment 621  
6 of the Constitution of Alabama of 1901, now appearing as  
7 Section 111.05 of the Official ReCompilation of the  
8 Constitution of Alabama of 1901, as amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 32-5A-353 to 32-5A-358,  
11 inclusive, are added to Article 16 of Chapter 5A of Title 32,  
12 Code of Alabama 1975, to read as follows:

13 §32-5A-353.

14 This article shall be known and may be cited as CiCi  
15 and Jay's Law.

16 §32-5A-354.

17 As used in this article, the following words shall  
18 have the following meanings:

19 (1) TEXT-BASED COMMUNICATION. The term includes, but  
20 is not limited to, a text message, instant message, e-mail, or  
21 Internet data on a wireless telecommunications device.

22 (2) UTILITY SERVICES. Electric, natural gas, water,  
23 wastewater, cable, telephone, or telecommunications services  
24 or the repair, location, relocation, improvement, or  
25 maintenance of utility poles, transmission structures, pipes,  
26 wires, fibers, cables, easements, rights-of-way, or associated  
27 infrastructures.

1           (3) WIRELESS TELECOMMUNICATIONS DEVICE. A cellular  
2 telephone, text-messaging device, personal digital assistant,  
3 standalone computer, or any other substantially similar  
4 wireless device that is used to initiate or receive a wireless  
5 communication with another person. The term does not include a  
6 radio, citizens band radio, citizens band radio hybrid,  
7 commercial two-way radio communication device or its  
8 functional equivalent, subscription-based emergency  
9 communication device, prescribed medical device, amateur or  
10 ham radio device, or in-vehicle security, navigation, or  
11 remote diagnostic system.

12           §32-5A-355.

13           Except as provided in Section 32-5A-356, a person  
14 may not operate a motor vehicle on a public road, street, or  
15 highway while doing any of the following:

16           (1) Using a wireless telecommunications device to  
17 write, send, or read a text-based communication.

18           (2) Using a wireless telecommunications device to  
19 watch, record, or capture a photograph or video.

20           (3) Using a handheld wireless telecommunications  
21 device to engage in a voice-based communication.

22           (4) Physically holding or otherwise supporting with  
23 any part of his or her body a wireless telecommunications  
24 device.

25           §32-5A-356.

26           The following uses of a wireless telecommunications  
27 device are not subject to the restrictions of this article:

1           (1) The use of a wireless telecommunications device  
2 to obtain emergency services, including, but not limited to,  
3 an emergency call to a law enforcement agency, health care  
4 provider, fire department, or other emergency services agency  
5 or entity.

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

9           (3) The use of a wireless telecommunications device  
10 as a global positioning or navigation system to receive  
11 driving directions; provided, however, the manual input of  
12 navigation coordinates while operating a motor vehicle is a  
13 violation of this article.

14           (4) The use of an earpiece, a headphone device,  
15 steering wheel controls, or other device worn on the person or  
16 mounted onto the dashboard, center console, windshield, or  
17 other part of the vehicle to conduct substantially hands-free  
18 voice-based wireless communications.

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

22           (6) The use of a wireless telecommunications device  
23 by an employee or contractor of a utility services provider  
24 within the scope of his or her employment while responding to  
25 a utility emergency or performing other critical utility  
26 services.

1           (7) The use of a wireless telecommunications device  
2 by a law enforcement officer, emergency medical services  
3 personnel, ambulance operator, or other similarly employed  
4 public safety first responder during the performance of his or  
5 her official duties.

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

8           (9) For persons 18 years of age or older who are  
9 engaged in the transportation of persons or property for  
10 compensation or payment of a fee, the use of a wireless  
11 telecommunications device in a manner that requires the  
12 physical use of a person's hand while operating a motor  
13 vehicle if both of the following occur:

14           a. The device is mounted to the vehicle, including  
15 the windshield, dashboard, or center console of the vehicle,  
16 and the device does not create an unsafe obstruction of the  
17 person's view of the road.

18           b. The person's hand is used to activate or  
19 deactivate a feature or function of the device with the motion  
20 of one swipe or tap of the person's finger, and the swipe or  
21 tap does not activate the camera, video, or gaming features or  
22 functions for viewing, recording, amusement, or other  
23 non-navigational functions, other than functions or features  
24 related to the transportation of persons or property for  
25 compensation or payment of a fee.



1           (10) The use of a wireless telecommunications device  
2 by a licensed physician while responding to an emergency  
3 medical situation.

4           §32-5A-357.

5           (a) A law enforcement officer enforcing this article  
6 may treat a violation of the article as the primary or sole  
7 reason for issuing a citation to the operator of a motor  
8 vehicle.

9           (b) A law enforcement officer enforcing this article  
10 may not search a motor vehicle or the operator or passenger of  
11 the motor vehicle solely because of a violation of this  
12 article.

13           (c) A law enforcement officer may not use a  
14 violation of this article to establish probable cause for any  
15 other violation.

16           §32-5A-358.

17           A person who violates this article is guilty of a  
18 traffic infraction and is subject to the following fines:

19           (1) On a first violation, a fine of one hundred  
20 dollars (\$100).

21           (2) On a second violation, a fine of two hundred  
22 dollars (\$200).

23           (3) On a third or subsequent violation, a fine of  
24 three hundred dollars (\$300).

25           Section 2. Sections 32-5A-351 and 32-5A-352, Code of  
26 Alabama 1975, are amended and renumbered to read as follows:

27           "~~§32-5A-351.~~ §32-5A-359.

1           "(a) A first or second conviction of this article  
2 Section 32-5A-355 shall be entered on the driving record of  
3 any the individual charged under this article as a two-point  
4 violation.

5           "(b) A third or subsequent conviction of Section  
6 32-5A-355 shall be entered on the driving record of the  
7 individual charged as a three-point violation.

8           "~~§32-5A-352.~~ §32-5A-360.

9           "(a) In any case brought by a law enforcement  
10 officer employed by the ~~Department of Public Safety~~ Alabama  
11 State Law Enforcement Agency, all fines shall be allocated to  
12 the State General Fund.

13           "(b) Each state, county, and municipal law  
14 enforcement agency shall maintain statistical information on  
15 all traffic stops made pursuant to this article, including  
16 traffic stops made on minority groups, and shall report that  
17 information on a monthly basis to the ~~Department of Public~~  
18 Safety Alabama State Law Enforcement Agency.

19           "(c) No count costs may be imposed solely in  
20 connection with the prosecution of a violation of this  
21 article."

22           Section 3. Section 32-10-8, Code of Alabama 1975, is  
23 amended to read as follows:

24           "§32-10-8.

25           "(a) The ~~director~~ Secretary of the Alabama State Law  
26 Enforcement Agency shall prepare and upon request supply to  
27 police departments, coroners, sheriffs, garages, and other

1 suitable agencies or individuals, uniform accident report  
2 forms required under this chapter. The required written  
3 accident report or citation to be made by persons involved in  
4 accidents or charged with a moving violation and by  
5 investigating officers shall call for sufficiently detailed  
6 information, to disclose with reference to a traffic accident,  
7 including, but not limited to, the location of the accident,  
8 probable cause, injuries to persons, property damage, deaths  
9 of persons, the registration of vehicles involved including  
10 license numbers, the name, address, and driver's license  
11 number of the operator, highway design and maintenance,  
12 including lighting, markings, and road surface, ~~and~~ the names  
13 and addresses of any witnesses, and whether the operator was  
14 operating as a TNC driver, as defined under Section 32-7C-1,  
15 at the time of the traffic accident.

16 "(b) Every accident report required to be made in  
17 writing shall be made on the uniform accident report form  
18 approved and supplied by the ~~director~~ Secretary of the Alabama  
19 State Law Enforcement Agency and shall contain all available  
20 information required therein."

21 Section 4. The Secretary of the Alabama State Law  
22 Enforcement Agency shall review all accident reports prepared  
23 under Section 32-10-8, Code of Alabama 1975, and report the  
24 number and probable cause of accidents involving a person  
25 operating as a TNC driver, as defined under Section 32-7C-1,  
26 Code of Alabama 1975. The secretary shall annually provide the  
27 report to the Public Service Commission and the Legislature

1 not later than the third legislative day of the regular  
2 session.

3 Section 5. Section 32-5A-350, Code of Alabama 1975,  
4 is repealed.

5 Section 6. Although this bill would have as its  
6 purpose or effect the requirement of a new or increased  
7 expenditure of local funds, the bill is excluded from further  
8 requirements and application under Amendment 621, now  
9 appearing as Section 111.05 of the Official Recompilation of  
10 the Constitution of Alabama of 1901, as amended, because the  
11 bill defines a new crime or amends the definition of an  
12 existing crime.

13 Section 7. This act shall become effective on the  
14 first day of the third month following its passage and  
15 approval by the Governor, or its otherwise becoming law.