



February 24, 2020

SUMMARY OF ORIGINAL BILL: : Repeals Public Chapter 412 (2019), which prohibits the use of hand-held telephones while driving and returns the affected provisions of the law to their prior versions.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Revenue – Net Impact –
Exceeds \$360,700/FY20-21 and Subsequent Years

Decrease Local Revenue – Net Impact – \$45,600/FY20-21 and Subsequent Years

SUMMARY OF AMENDMENT (015205): Adds language to the bill that specifies if a violation occurs in a work zone when employees of the Department of Transportation (TDOT) or construction workers are present or in a marked school zone when a warning flasher or flashers are in operation, the fine is \$500. Specifies that if a driver's failure to exercise due care is a result of the use of a mobile telephone, the fine is \$500.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

**Increase State Revenue – Net Impact –
Exceeds \$578,600/FY20-21 and Subsequent Years**

Decrease Local Revenue – Net Impact – \$45,600/FY20-21 and Subsequent Years

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 55-8-199(d), a person, while operating a motor vehicle on any road or highway in this state, shall not physically hold or support, with any part of the person's body, wireless telecommunications device, with certain groups of people exempt.
- A violation is a Class C misdemeanor, subject only to imposition of a fine not to exceed \$50. However, if the violation is the person's third or subsequent offense or if the violation results in an accident, the fine is \$100 or if the violation occurs in a work zone, it is \$200. Any person violating this section is subject to the imposition of court costs not to exceed \$10.

- Since the hands-free law went into effect on July 1, 2019, the Tennessee Highway Patrol (THP) has issued more than 7,500 citations. The total citations issued by local law enforcement are unknown.
- It can be reasonably assumed that a full fiscal year would result in at least 12,000 citations issued between the THP and local law enforcement.
- California was one of the first states to pass similar legislation. According to the California Office of Traffic Safety's *Observational Study of Handheld Cellphone and Texting Use Among California Drivers 2017 Summary Report*, hand-held cellphone usage fell from 7.6 percent to 3.6 percent in one year following the passage of the law.
- Given the above information and the increasing access to hands-free technology, it is reasonably estimated there will be an approximant 50 percent reduction in the use of and citations issued for talking on a hand-held mobile telephone under existing law by FY20-21, resulting in an expected minimum of 6,000 citations (12,000 x 50%) issued in FY20-21 and subsequent years.
- It can be reasonably estimated that all law enforcement agencies that issue citations for the offense charge the maximum allowed fine of \$50 for first and second violations, and \$100 for third and subsequent violations and those resulting in an accident, and \$200 for violations that occur in a work or school zone.
- It is reasonably projected that approximately five percent of the estimated 6,000 citations issued, or 300 total, will be issued for violations occurring within a work or school zone.
- According to the Department of Safety's *Tennessee Distracted Driver Crashes by Year & County Report*, there was an average of 24,180 traffic crashes caused by distracted driving between 2015 and 2017.
- The exact cause of distraction is not available, but it can be reasonably estimated that at least 10 percent, or 2,418, were caused by talking on a hand-held mobile telephone.
- Therefore, it is estimated that at least 3,282 simple citations (6,000 – 300 – 2,418), 300 school zone citations, and 2,418 accident citations will not be issued under this legislation.
- Twenty percent of fines are assumed to go unpaid due to indigence.
- The decrease in state revenue from citations in FY20-21 and subsequent years is estimated to be at least \$372,720 $\{[(3,282 \times \$50) + (2,418 \times \$100) + (300 \times \$200)] \times 80\%$ }.
- Under the provisions of Tenn. Code Ann. § 55-8-199(c), a violation is subject to the imposition of court costs up to \$10. It can be reasonably estimated that the court cost imposed will be \$10.
- In FY20-21 and subsequent years, the total decrease in local revenue is estimated to exceed \$48,000 $[(\$10 \times 6,000) \times 80\%]$.
- Under this legislation, it is an offense, punishable by a fine not to exceed \$50 and \$10 court costs to operate a motor vehicle in any marked school zone in this state, when a warning flasher or flashers are in operation, and talking on a mobile telephone that is equipped with a hands-free device while the vehicle is in motion.
- The state revenue as a result of these citations in FY20-21 and subsequent years will exceed \$12,000 $[(300 \times \$50) \times 80\%]$.
- The local revenue as a result of these citations in FY20-21 and subsequent years will exceed \$2,400 $[(300 \times \$10) \times 80\%]$.

- This results in an impact that exceeds a \$360,720 (\$372,720 - \$12,000) decrease in state revenue and a \$45,600 decrease (\$48,000 - \$2,400) in local revenue in FY20-21 and subsequent years.
- Any decrease to the workload of the courts or law enforcement officers, as a result of this legislation, is estimated not to be significant.
- There were approximately 1,723 texting while driving citations issued each fiscal year. It is unknown how many of those occur in a work zone when TDOT employees or construction workers are present or in a marked school zone when a warning flasher or flashers are in operation.
- It can be reasonably assumed that they account for at least 10 percent, or 172.
- The increase in state revenue as a result of these citations in FY20-21 and subsequent years is estimated to exceed \$68,800 [(172 x \$500) x 80%].
- Pursuant to Tenn. Code Ann. § 55-8-136(c), it is a Class C misdemeanor offense to fail to exercise due care by operating the vehicle at a safe speed, by maintaining a safe lookout, by keeping the vehicle under proper control and by devoting full time and attention to operating the vehicle, under the existing circumstances as necessary in order to be able to see and to avoid endangering life, limb or property and to see and avoid colliding with any other vehicle or person, or any road sign, guard rail or any fixed object either legally using or legally parked or legally placed, upon any roadway, within or beside the roadway right-of-way including, but not limited to, any adjacent sidewalk, bicycle lane, shoulder or berm.
- A Class C misdemeanor offense is punishable by not greater than 30 days in jail or a fine not to exceed \$50 or both. It is assumed that all of these offenses are punished by fine only.
- Assuming that at least 10 percent, or 2,418, of traffic crashes caused by distracted driving are a result of a hand-held mobile telephone, in FY20-21 and subsequent years, the increase in state revenue from these citations is estimated to be \$870,480 {[((\$500 - \$50) x 2,418) x 80%]}.
- The net recurring increase in state revenue in FY20-21 and subsequent years exceeds \$578,560 [(\$870,480 + \$68,800) - \$360,720].

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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