

1 HB404
2 199198-1
3 By Representative Brown (K)
4 RFD: Public Safety and Homeland Security
5 First Read: 11-APR-19

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8 SYNOPSIS: Under existing law, a person is prohibited
9 from using a wireless telecommunication device to
10 write, send, or read text or data while operating a
11 motor vehicle, with exceptions. This bill would
12 include a standalone electronic device within the
13 prohibition against writing, sending, or reading a
14 text-based communication while operating a motor
15 vehicle.

16 This bill would prohibit a person from
17 holding or otherwise using his or her body to
18 support a wireless communication device or
19 standalone electronic device while operating a
20 motor vehicle.

21 This bill would prohibit a person from using
22 a wireless telecommunication device or standalone
23 electronic device to watch, record, or capture a
24 photograph, video, or audio while operating a motor
25 vehicle.

1 Under existing law, certain uses of a
2 wireless telecommunication device are exempted from
3 the restrictions in existing law.

4 This bill would add the following to the
5 list of activities exempted from the section: Hands
6 free voice-based communications, with an exception;
7 continuous recording devices, including dash
8 cameras and backup cameras; utility service
9 employees or contractors responding to a utility
10 emergency; law enforcement and other first
11 responders during the performance of official
12 duties; and the use of an ignition interlock
13 device.

14 Existing law levies a criminal fine for a
15 violation based on the number of prior convictions
16 of the section. This bill would increase the fine
17 authorized.

18 Existing law provides that a conviction is
19 reflected on the person's driving record as a
20 two-point violation. This bill would provide that a
21 third or subsequent violation of the section would
22 be reflected on the person's driving record as a
23 three-point violation.

24 Amendment 621 of the Constitution of Alabama
25 of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a
2 new or increased expenditure of local funds from
3 becoming effective with regard to a local
4 governmental entity without enactment by a 2/3 vote
5 unless: it comes within one of a number of
6 specified exceptions; it is approved by the
7 affected entity; or the Legislature appropriates
8 funds, or provides a local source of revenue, to
9 the entity for the purpose.

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

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 Relating to texting while driving; to establish
23 CiCi's Law; to amend Sections 32-5A-350 and 32-5A-351, Code of
24 Alabama 1975, to further provide for the prohibition against
25 writing, sending, or reading a text-based communication while
26 operating a motor vehicle; to prohibit a person from holding
27 or otherwise using his or her body from supporting a wireless

1 communication device or standalone electronic device while
2 operating a motor vehicle; to prohibit a person from using a
3 wireless telecommunication device or standalone electronic
4 device to watch, record, or capture a photograph, video, or
5 audio while operating a motor vehicle; to further provide
6 exemptions; to increase the fine authorized; to provide
7 further for administrative penalties for a violation; and in
8 connection therewith would have as its purpose or effect the
9 requirement of a new or increased expenditure of local funds
10 within the meaning of Amendment 621 of the Constitution of
11 Alabama of 1901, now appearing as Section 111.05 of the
12 Official Recompilation of the Constitution of Alabama of 1901,
13 as amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. This act shall be known and may be cited
16 as CiCi's Law.

17 Section 2. Sections 32-5A-350 and 32-5A-351, Code of
18 Alabama 1975, are amended to read as follows:

19 "§32-5A-350.

20 "(a) For purposes of this article, the following
21 words have the following meanings:

22 "(1) STANDALONE ELECTRONIC DEVICE. A device other
23 than a wireless telecommunication device that stores audio,
24 video, or other data files to be retrieved on demand by a
25 user.

26 "(2) TEXT-BASED COMMUNICATION. The term includes,
27 but is not limited to, a text message, instant message,

1 e-mail, or Internet data on a wireless telecommunication
2 device or standalone electronic device.

3 "(3) UTILITY SERVICES. Electric, natural gas, water,
4 wastewater, cable, telephone, or telecommunication services or
5 the repair, location, relocation, improvement, or maintenance
6 of utility poles, transmission structures, pipes, wires,
7 fibers, cables, easements, rights of way, or associated
8 infrastructures.

9 "~~(1)~~(4) WIRELESS TELECOMMUNICATION DEVICE. A
10 handheld cellular telephone, a portable telephone, a
11 text-messaging device, a personal digital assistant, a stand
12 alone standalone computer, a global positioning system
13 receiver, or any other similar wireless device that is readily
14 removable from a vehicle and is used to write, send, or read
15 text or data through manual input initiate or receive
16 communication, information, or data. The term "wireless
17 telecommunication device" does not include a device which is
18 voice-operated and which allows the user to send or receive a
19 text-based communication without the use of either hand except
20 to activate or deactivate a feature or function does not
21 include a radio, citizens band radio, citizens band radio
22 hybrid, commercial two-way radio communication device or its
23 functional equivalent, subscription-based emergency
24 communication device, prescribed medical device, amateur or
25 ham radio device, or in-vehicle security, navigation, or
26 remote diagnostics system.

1 "~~(2) WRITE, SEND, OR READ A TEXT-BASED~~
2 COMMUNICATION. Using a wireless telecommunication device to
3 manually communicate with any person using text-based
4 communication, including, but not limited to, communications
5 referred to as a text message, instant message, or electronic
6 mail. The term does not include reading, selecting, or
7 entering a telephone number or name in a cell or wireless
8 telephone or communication device for the purpose of making a
9 telephone call.

10 "(b) ~~A~~ Except as provided in subsection (f), a
11 person may not ~~operate~~ do any of the following while operating
12 a motor vehicle on a public road, street, or highway in
13 Alabama ~~while~~:

14 "(1) using Use a wireless telecommunication device
15 or standalone electronic device to write, send, or read a
16 text-based communication.

17 "(2) Physically hold or otherwise support with any
18 part of the person's body a wireless telecommunication device
19 or standalone electronic device.

20 "(3) Use a wireless telecommunication device or
21 standalone electronic device to watch, record, or capture a
22 photograph, video, or audio.

23 "(c) Each violation of this section is a separate
24 offense.

25 "~~(c)~~ (d) A person who violates subsection (b) is
26 guilty of a traffic violation and shall receive a fine subject
27 to fines as follows:

1 "~~(1) Twenty-five dollars (\$25) for~~ For a first
2 violation, a fine of fifty dollars (\$50).

3 "~~(2) Fifty dollars (\$50) for~~ For a second violation,
4 a fine of one hundred dollars (\$100).

5 "~~(3) Seventy-five dollars (\$75) for~~ For a third or
6 subsequent violation, a fine of one hundred fifty dollars
7 (\$150).

8 "~~(d)~~ (e) Law enforcement officers enforcing this
9 section may treat a violation of this section as the primary
10 or sole reason for issuing a citation to a driver.

11 "~~(e)~~ (f) The following uses of wireless
12 ~~communication~~ telecommunication devices shall not be subject
13 to the restrictions in this section:

14 "(1) ~~An individual using~~ The use of a wireless
15 ~~communication~~ telecommunication device to obtain emergency
16 services including, but not limited to, an emergency call to a
17 law enforcement agency, health care provider, fire department,
18 or other emergency services agency or entity.

19 "(2) ~~An individual using~~ The use of a wireless
20 ~~communication~~ telecommunication device while the motor vehicle
21 is parked on the shoulder of the highway, road, or street.

22 "(3) ~~An individual using~~ The use of a wireless
23 ~~communication~~ telecommunication device as a global positioning
24 or navigation system to receive driving directions ~~which has~~
25 ~~been pre-programmed with the desired coordinates. The~~
26 ~~programming of;~~ provided, however, the manual input of

1 navigation coordinates while operating a vehicle ~~remains~~ is a
2 violation of this section.

3 "(4) The use of an earpiece, headphone device,
4 steering wheel controls, or other device worn on the person to
5 conduct voice-based communication; provided, however, the
6 exemption provided in this subdivision only applies if the
7 voice-based communication does not require the use of more
8 than a single button to initiate or terminate the voice-based
9 communication.

10 "(5) The use of continuous recording devices that
11 operate within or outside the vehicle, including, but not
12 limited to, dash cameras and backup cameras.

13 "(6) The use of a wireless telecommunication device
14 by an employee or contractor of a utility services provider
15 within the scope of his or her employment while responding to
16 a utility emergency.

17 "(7) The use of a wireless telecommunication device
18 or standalone electronic device by a law enforcement officer,
19 firefighter, emergency medical services personnel, ambulance
20 operator, or other similarly employed public safety first
21 responder during the performance of official duties.

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

24 "§32-5A-351.

25 "(a) A first or second conviction of ~~this article~~
26 Section 32-5A-350 shall be entered on the driving record of

1 ~~any the~~ individual charged ~~under this article~~ as a two-point
2 violation.

3 "(b) A third or subsequent conviction of Section
4 32-5A-350 shall be entered on the driving record of the
5 individual charged as a three-point violation."

6 Section 3. Although this bill would have as its
7 purpose or effect the requirement of a new or increased
8 expenditure of local funds, the bill is excluded from further
9 requirements and application under Amendment 621, now
10 appearing as Section 111.05 of the Official Recompilation of
11 the Constitution of Alabama of 1901, as amended, because the
12 bill defines a new crime or amends the definition of an
13 existing crime.

14 Section 4. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.