

1 HB6  
2 194994-1  
3 By Representative Farley  
4 RFD: Public Safety and Homeland Security  
5 First Read: 05-MAR-19  
6 PFD: 01/10/2019

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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 or video 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; and law enforcement and other first  
11 responders during the performance of official  
12 duties.

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

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

23 Amendment 621 of the Constitution of Alabama  
24 of 1901, now appearing as Section 111.05 of the  
25 Official Recompilation of the Constitution of  
26 Alabama of 1901, as amended, prohibits a general  
27 law whose purpose or effect would be to require a

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

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

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
20

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

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

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 32-5A-350 and 32-5A-351, Code of  
15 Alabama 1975, are amended to read as follows:

16 "§32-5A-350.

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

19 "(1) STANDALONE ELECTRONIC DEVICE. A device other  
20 than a wireless telecommunication device that stores audio or  
21 video data files to be retrieved on demand by a user.

22 "(2) TEXT-BASED COMMUNICATION. The term includes,  
23 but is not limited to, a text message, instant message,  
24 e-mail, or Internet data on a wireless telecommunication  
25 device or standalone electronic device.

26 "(3) UTILITY SERVICES. Electric, natural gas, water,  
27 wastewater, cable, telephone, or telecommunication services or

1 the repair, location, relocation, improvement, or maintenance  
2 of utility poles, transmission structures, pipes, wires,  
3 fibers, cables, easements, rights of way, or associated  
4 infrastructures.

5 ~~"(1)(4)~~ WIRELESS TELECOMMUNICATION DEVICE. A  
6 handheld cellular telephone, a portable telephone, a  
7 text-messaging device, a personal digital assistant, a stand  
8 alone standalone computer, a global positioning system  
9 receiver, or any other similar ~~wireless~~ device that is readily  
10 removable from a vehicle and is used to ~~write, send, or read~~  
11 ~~text or data through manual input~~ initiate or receive  
12 communication, information, or data. The term ~~"wireless~~  
13 ~~telecommunication device"~~ does not include a device which is  
14 ~~voice-operated and which allows the user to send or receive a~~  
15 ~~text-based communication without the use of either hand except~~  
16 ~~to activate or deactivate a feature or function~~ does not  
17 include a radio, citizens band radio, citizens band radio  
18 hybrid, commercial two-way radio communication device or its  
19 functional equivalent, subscription-based emergency  
20 communication device, prescribed medical device, amateur or  
21 ham radio device, or in-vehicle security, navigation, or  
22 remote diagnostics system.

23 ~~"(2) WRITE, SEND, OR READ A TEXT-BASED~~  
24 ~~COMMUNICATION.~~ Using a ~~wireless telecommunication device to~~  
25 ~~manually communicate with any person using text-based~~  
26 ~~communication, including, but not limited to, communications~~  
27 ~~referred to as a text message, instant message, or electronic~~

1 ~~mail. The term does not include reading, selecting, or~~  
2 ~~entering a telephone number or name in a cell or wireless~~  
3 ~~telephone or communication device for the purpose of making a~~  
4 ~~telephone call.~~

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

9           "(1) using Use a wireless telecommunication device  
10 or standalone electronic device to write, send, or read a  
11 text-based communication.

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

15           "(3) Use a wireless telecommunication device or  
16 standalone electronic device to watch, record, or capture a  
17 photograph or video.

18           "(c) Each violation of this section is a separate  
19 offense.

20           "~~(c)~~ (d) A person who violates subsection (b) is  
21 subject to fines as follows:

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

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

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

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

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

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

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

18           "(3) ~~An individual using~~ The use of a wireless  
19 ~~communication~~ telecommunication device as a global positioning  
20 or navigation system to receive driving directions ~~which has~~  
21 ~~been pre-programmed with the desired coordinates. The~~  
22 ~~programming of;~~ provided, however, the manual input of  
23 navigation coordinates while operating a vehicle ~~remains~~ is a  
24 violation of this section.

25           "(4) The use of an earpiece, headphone device,  
26 steering wheel controls, or other device worn on the person to  
27 conduct voice-based communication; provided, however, the



1 exemption provided in this subdivision only applies if the  
2 voice-based communication does not require the use of more  
3 than a single button to initiate or terminate the voice-based  
4 communication.

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

8 "(6) The use of a wireless telecommunication device  
9 by an employee or contractor of a utility services provider  
10 within the scope of his or her employment while responding to  
11 a utility emergency.

12 "(7) The use of a wireless telecommunication device  
13 or standalone electronic device by a law enforcement officer,  
14 firefighter, emergency medical services personnel, ambulance  
15 operator, or other similarly employed public safety first  
16 responder during the performance of official duties.

17 "§32-5A-351.

18 "(a) A first or second conviction of ~~this article~~  
19 Section 32-5A-350 shall be entered on the driving record of  
20 any ~~the~~ individual charged ~~under this article~~ as a two-point  
21 violation.

22 "(b) A third or subsequent conviction of Section  
23 32-5A-350 shall be entered on the driving record of the  
24 individual charged as a three-point violation."

25 Section 2. Although this bill would have as its  
26 purpose or effect the requirement of a new or increased  
27 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now  
2 appearing as Section 111.05 of the Official ReCompilation of  
3 the Constitution of Alabama of 1901, as amended, because the  
4 bill defines a new crime or amends the definition of an  
5 existing crime.

6 Section 3. This act shall become effective on the  
7 first day of the third month following its passage and  
8 approval by the Governor, or its otherwise becoming law.