

As Introduced

**129th General Assembly
Regular Session
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S. B. No. 154

Senator Smith

Cosponsor: Senator Schiavoni

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A B I L L

To amend sections 4510.01 and 4511.093 and to enact 1
sections 4508.022 and 4511.204 of the Revised Code 2
to prohibit driving a vehicle while using an 3
electronic wireless communication device to write, 4
send, or read a text-based communication and to 5
establish the violation as a secondary traffic 6
offense. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4510.01 and 4511.093 be amended and 8
sections 4508.022 and 4511.204 of the Revised Code be enacted to 9
read as follows: 10

Sec. 4508.022. The classroom instruction required by division 11
(C) of section 4508.02 of the Revised Code shall include 12
information regarding the dangers of text messaging or using an 13
electronic wireless communication device while driving. The 14
information may be obtained from research findings by the national 15
highway traffic safety administration or other sources used as 16
part of an approved driver training curriculum. 17

Sec. 4510.01. As used in this title and in Title XXIX of the 18

Revised Code: 19

(A) "Cancel" or "cancellation" means the annulment or 20
termination by the bureau of motor vehicles of a driver's license, 21
commercial driver's license, temporary instruction permit, 22
probationary license, or nonresident operating privilege because 23
it was obtained unlawfully, issued in error, altered, or willfully 24
destroyed, or because the holder no longer is entitled to the 25
license, permit, or privilege. 26

(B) "Drug abuse offense," "cocaine," and "L.S.D." have the 27
same meanings as in section 2925.01 of the Revised Code. 28

(C) "Ignition interlock device" means a device approved by 29
the director of public safety that connects a breath analyzer to a 30
motor vehicle's ignition system, that is constantly available to 31
monitor the concentration by weight of alcohol in the breath of 32
any person attempting to start that motor vehicle by using its 33
ignition system, and that deters starting the motor vehicle by use 34
of its ignition system unless the person attempting to start the 35
vehicle provides an appropriate breath sample for the device and 36
the device determines that the concentration by weight of alcohol 37
in the person's breath is below a preset level. 38

(D) "Immobilizing or disabling device" means a device 39
approved by the director of public safety that may be ordered by a 40
court to be used by an offender as a condition of limited driving 41
privileges. "Immobilizing or disabling device" includes an 42
ignition interlock device, and any prototype device that is used 43
according to protocols designed to ensure efficient and effective 44
monitoring of limited driving privileges granted by a court to an 45
offender. 46

(E) "Moving violation" means any violation of any statute or 47
ordinance that regulates the operation of vehicles, streetcars, or 48
trackless trolleys on the highways or streets. "Moving violation" 49

does not include a violation of section 4511.204 or 4513.263 of 50
the Revised Code or a substantially equivalent municipal 51
ordinance, a violation of any statute or ordinance regulating 52
pedestrians or the parking of vehicles, vehicle size or load 53
limitations, vehicle fitness requirements, or vehicle 54
registration. 55

(F) "Municipal OVI ordinance" and "municipal OVI offense" 56
have the same meanings as in section 4511.181 of the Revised Code. 57

(G) "Prototype device" means any testing device to monitor 58
limited driving privileges that has not yet been approved or 59
disapproved by the director of public safety. 60

(H) "Suspend" or "suspension" means the permanent or 61
temporary withdrawal, by action of a court or the bureau of motor 62
vehicles, of a driver's license, commercial driver's license, 63
temporary instruction permit, probationary license, or nonresident 64
operating privilege for the period of the suspension or the 65
permanent or temporary withdrawal of the privilege to obtain a 66
license, permit, or privilege of that type for the period of the 67
suspension. 68

(I) "Controlled substance" and "marihuana" have the same 69
meanings as in section 3719.01 of the Revised Code. 70

Sec. 4511.093. (A)(1) No law enforcement officer who stops 71
the operator of a motor vehicle in the course of an authorized 72
sobriety or other motor vehicle checkpoint operation or a motor 73
vehicle safety inspection shall issue a ticket, citation, or 74
summons for a secondary traffic offense unless in the course of 75
the checkpoint operation or safety inspection the officer first 76
determines that an offense other than a secondary traffic offense 77
has occurred and either places the operator or a vehicle occupant 78
under arrest or issues a ticket, citation, or summons to the 79
operator or a vehicle occupant for an offense other than a 80

secondary offense. 81

(2) A law enforcement agency that operates a motor vehicle 82
checkpoint for an express purpose related to a secondary traffic 83
offense shall not issue a ticket, citation, or summons for any 84
secondary traffic offense at such a checkpoint, but may use such a 85
checkpoint operation to conduct a public awareness campaign and 86
distribute information. 87

(B) As used in this section, "secondary traffic offense" 88
means a violation of division (A) or (F)(2) of section 4507.05, 89
division (B)(1)(a) or (b) or (E) of section 4507.071, division (A) 90
of section 4511.204, division (C) or (D) of section 4511.81, 91
division (A)(3) of section 4513.03, or division (B) of section 92
4513.263 of the Revised Code. 93

Sec. 4511.204. (A) No person shall drive a motor vehicle, 94
trackless trolley, or streetcar on any street, highway, or 95
property open to the public for vehicular traffic while using an 96
electronic wireless communication device to write, send, or read a 97
text-based communication. 98

(B) Division (A) of this section does not apply to any of the 99
following: 100

(1) A person using an electronic wireless communication 101
device in that manner for emergency purposes, including an 102
emergency contact with a law enforcement agency, hospital or 103
health care provider, fire department, or other similar emergency 104
agency or entity; 105

(2) A person operating a public safety vehicle who uses an 106
electronic wireless communication device in that manner in the 107
course and scope of the person's duties; 108

(3) A person who reads, selects, or enters a telephone number 109
or name in an electronic wireless communication device for the 110

purpose of making or receiving a telephone call; 111

(4) A person using an electronic wireless communication 112
device whose motor vehicle is in a stationary position, with the 113
transmission in the park or neutral setting or with the engine or 114
power to the motor off, and who is outside a lane of travel. 115

(C) Notwithstanding any provision of law to the contrary, no 116
law enforcement officer shall cause an operator of an automobile 117
being operated on any street or highway to stop the automobile for 118
the sole purpose of determining whether a violation of division 119
(A) of this section has been or is being committed or for the sole 120
purpose of issuing a ticket, citation, or summons for a violation 121
of that nature or causing the arrest of or commencing a 122
prosecution of a person for a violation of that nature, and no law 123
enforcement officer shall view the interior or visually inspect 124
any automobile being operated on any street or highway for the 125
sole purpose of determining whether a violation of that nature has 126
been or is being committed. 127

(D)(1) Except as otherwise provided in division (D)(2) or (3) 128
of this section, whoever violates division (A) of this section 129
shall be fined two hundred dollars. 130

(2) If the offender previously has been convicted of or 131
pleaded guilty to a violation of division (A) of this section, the 132
offender shall be fined five hundred dollars. 133

(3) If the offender previously has been convicted of or 134
pleaded guilty to two or more violations of division (A) of this 135
section, the offender shall perform one hundred hours of 136
supervised community service work. 137

(4)(a) Whenever a law enforcement officer issues a ticket, 138
citation, or summons to an offender charging the offender with a 139
violation of this section, the officer shall indicate on the 140
ticket, citation, or summons if at the time of the violation the 141

offender was involved in a motor vehicle accident with another 142
motor vehicle, a pedestrian, or any object. If the law enforcement 143
officer makes such an indication on the ticket, citation, or 144
summons, the offender is not permitted to enter a written plea of 145
guilty and waive the offender's right to contest the citation in a 146
trial but instead shall appear in person in the proper court to 147
answer the charge; in all other circumstances, the offender may 148
enter a written plea of guilty and waive the right to contest the 149
citation in a trial. 150

(b) If the trier of fact finds that the offender was involved 151
in a motor vehicle accident at the time of the violation of this 152
section, the court, in addition to any other penalties it is 153
required or permitted by law to impose, shall impose a class seven 154
license suspension of the offender's driver's license, commercial 155
driver's license, temporary instruction permit, probationary 156
license, or nonresident operating privilege and shall impose the 157
suspension for six months. 158

(E) As used in this section: 159

(1) "Electronic wireless communication device" includes any 160
of the following: 161

(a) A wireless telephone; 162

(b) A text-messaging device; 163

(c) A personal digital assistant; 164

(d) A computer; 165

(e) Any other substantially similar wireless device. 166

(2) "Text-based communication" includes any of the following: 167

(a) A text message; 168

(b) An instant message; 169

(c) Electronic mail; 170

(d) Other similar means of communicating text or data using 171
an electronic wireless communication device. 172

Section 2. That existing sections 4510.01 and 4511.093 of the 173
Revised Code are hereby repealed. 174