

As Introduced

130th General Assembly
Regular Session
2013-2014

H. B. No. 637

Representative Damschroder

Cosponsors: Representatives Bishoff, Barborak, Perales, Lundy, Derickson,
Sheehy

—

A B I L L

To amend sections 4511.093, 4511.204, and 4511.205 of
the Revised Code to prohibit the use of an
electronic wireless communications device in a
school zone during hours when children are present
outside or in a construction zone during hours of
actual work and to make driving a vehicle while
using a handheld electronic wireless
communications device to write, send, or read a
text-based communication a primary rather than
secondary traffic offense.

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

Section 1. That sections 4511.093, 4511.204, and 4511.205 of
the Revised Code be amended to read as follows:

Sec. 4511.093. (A)(1) No law enforcement officer who stops
the operator of a motor vehicle in the course of an authorized
sobriety or other motor vehicle checkpoint operation or a motor
vehicle safety inspection shall issue a ticket, citation, or
summons for a secondary traffic offense unless in the course of
the checkpoint operation or safety inspection the officer first

determines that an offense other than a secondary traffic offense
has occurred and either places the operator or a vehicle occupant
under arrest or issues a ticket, citation, or summons to the
operator or a vehicle occupant for an offense other than a
secondary offense.

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

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

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

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

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

(2) A person driving a public safety vehicle who uses a

handheld electronic wireless communications device in that manner 49
in the course of the person's duties; 50

(3) A person using a handheld electronic wireless 51
communications device in that manner whose motor vehicle is in a 52
stationary position and who is outside a lane of travel; 53

(4) A person reading, selecting, or entering a name or 54
telephone number in a handheld electronic wireless communications 55
device for the purpose of making or receiving a telephone call; 56

(5) A person receiving wireless messages on a device 57
regarding the operation or navigation of a motor vehicle; 58
safety-related information, including emergency, traffic, or 59
weather alerts; or data used primarily by the motor vehicle; 60

(6) A person receiving wireless messages via radio waves; 61

(7) A person using a device for navigation purposes; 62

(8) A person conducting wireless interpersonal communication 63
with a device that does not require manually entering letters, 64
numbers, or symbols or reading text messages, except to activate, 65
deactivate, or initiate the device or a feature or function of the 66
device; 67

(9) A person operating a commercial truck while using a 68
mobile data terminal that transmits and receives data; 69

(10) A person using a handheld electronic wireless 70
communications device in conjunction with a voice-operated or 71
hands-free device feature or function of the vehicle. 72

~~(C) Notwithstanding any provision of law to the contrary, no 73
law enforcement officer shall cause an operator of an automobile 74
being operated on any street or highway to stop the automobile for 75
the sole purpose of determining whether a violation of division 76
(A) of this section has been or is being committed or for the sole 77
purpose of issuing a ticket, citation, or summons for a violation 78~~

~~of that nature or causing the arrest of or commencing a~~ 79
~~prosecution of a person for a violation of that nature, and no law~~ 80
~~enforcement officer shall view the interior or visually inspect~~ 81
~~any automobile being operated on any street or highway for the~~ 82
~~sole purpose of determining whether a violation of that nature has~~ 83
~~been or is being committed.~~ 84

~~(D)~~(C) Whoever violates division (A) of this section is 85
guilty of a minor misdemeanor. 86

~~(E)~~(D) This section shall not be construed as invalidating, 87
preempting, or superseding a substantially equivalent municipal 88
ordinance that prescribes penalties for violations of that 89
ordinance that are greater than the penalties prescribed in this 90
section for violations of this section. 91

~~(F)~~(E) A prosecution for a violation of this section does not 92
preclude a prosecution for a violation of a substantially 93
equivalent municipal ordinance based on the same conduct. However, 94
if an offender is convicted of or pleads guilty to a violation of 95
this section and is also convicted of or pleads guilty to a 96
violation of a substantially equivalent municipal ordinance based 97
on the same conduct, the two offenses are allied offenses of 98
similar import under section 2941.25 of the Revised Code. 99

~~(G)~~(F) As used in this section: 100

(1) "Electronic wireless communications device" includes any 101
of the following: 102

(a) A wireless telephone; 103

(b) A text-messaging device; 104

(c) A personal digital assistant; 105

(d) A computer, including a laptop computer and a computer 106
tablet; 107

(e) Any other substantially similar wireless device that is 108

designed or used to communicate text. 109

(2) "Voice-operated or hands-free device" means a device that 110
allows the user to vocally compose or send, or to listen to a 111
text-based communication without the use of either hand except to 112
activate or deactivate a feature or function. 113

(3) "Write, send, or read a text-based communication" means 114
to manually write or send, or read a text-based communication 115
using an electronic wireless communications device, including 116
manually writing or sending, or reading communications referred to 117
as text messages, instant messages, or electronic mail. 118

Sec. 4511.205. (A) No holder of a temporary instruction 119
permit who has not attained the age of eighteen years and no 120
holder of a probationary driver's license shall drive a motor 121
vehicle on any street, highway, or property used by the public for 122
purposes of vehicular traffic or parking while using in any manner 123
an electronic wireless communications device. 124

(B) Division No person shall use an electronic wireless 125
communications device in any manner while operating a motor 126
vehicle in either of the following circumstances: 127

(1) On any street or highway in a school zone as defined in 128
division (B)(1)(c) of section 4511.21 of the Revised Code during 129
school recess and while children are going to or leaving school 130
during the opening or closing hours; or 131

(2) In a construction zone as defined in division (C) of 132
section 5501.27 of the Revised Code during hours of actual work 133
within the construction zone. 134

Division (B) of this section does not apply to the holder of 135
a temporary instruction permit who has not yet attained the age of 136
eighteen years or the holder of a probationary driver's license; 137
such persons are subject to division (A) of this section. 138

(C) Divisions (A) and (B) of this section ~~does~~ do not apply 139
to ~~either~~ any of the following: 140

(1) A person using an electronic wireless communications 141
device for emergency purposes, including an emergency contact with 142
a law enforcement agency, hospital or health care provider, fire 143
department, or other similar emergency agency or entity; 144

(2) A person using an electronic wireless communications 145
device whose motor vehicle is in a stationary position and the 146
motor vehicle is outside a lane of travel; 147

(3) A person using a navigation device in a voice-operated or 148
hands-free manner who does not manipulate the device while 149
driving. 150

(C)(1) Except as provided in division (C)(2) of this section, 151
whoever violates division (A) of this section shall be fined one 152
hundred fifty dollars. In addition, the court shall impose a class 153
seven suspension of the offender's driver's license or permit for 154
a definite period of sixty days. 155

(2) If the person previously has been adjudicated a 156
delinquent child or a juvenile traffic offender for a violation of 157
division (A) of this section, whoever violates division (A) of 158
this section shall be fined three hundred dollars. In addition, 159
the court shall impose a class seven suspension of the person's 160
driver's license or permit for a definite period of one year. 161

(3) Whoever violates division (B) of this section is guilty 162
of a minor misdemeanor. 163

(D)(1) The filing of a sworn complaint against a person for a 164
violation of division (A) of this section does not preclude the 165
filing of a sworn complaint for a violation of a substantially 166
equivalent municipal ordinance for the same conduct. However, if a 167
person is adjudicated a delinquent child or a juvenile traffic 168
offender for a violation of division (A) of this section and is 169

also adjudicated a delinquent child or a juvenile traffic offender 170
for a violation of a substantially equivalent municipal ordinance 171
for the same conduct, the two offenses are allied offenses of 172
similar import under section 2941.25 of the Revised Code. 173

(2) A prosecution for a violation of division (B) of this 174
section does not preclude a prosecution for a violation of a 175
substantially equivalent municipal ordinance based on the same 176
conduct. However, if an offender is convicted of or pleads guilty 177
to a violation of division (B) of this section and is also 178
convicted of or pleads guilty to a violation of a substantially 179
equivalent municipal ordinance based on the same conduct, the two 180
offenses are allied offenses of similar import under section 181
2941.25 of the Revised Code. 182

(E) As used in this section, "electronic wireless 183
communications device" includes any of the following: 184

(1) A wireless telephone; 185

(2) A personal digital assistant; 186

(3) A computer, including a laptop computer and a computer 187
tablet; 188

(4) A text-messaging device; 189

(5) Any other substantially similar electronic wireless 190
device that is designed or used to communicate via voice, image, 191
or written word. 192

Section 2. That existing sections 4511.093, 4511.204, and 193
4511.205 of the Revised Code are hereby repealed. 194