

HOUSE BILL REPORT

ESB 5160

As Reported by House Committee On:
Transportation

Title: An act relating to the use of a wireless communications device while operating a motor vehicle.

Brief Description: Restricting use of wireless communications devices in moving motor vehicles.

Sponsors: Senators Eide, Swecker, Berkey and Regala.

Brief History:

Committee Activity:

Transportation: 2/15/06, 2/23/06 [DPA].

Brief Summary of Engrossed Bill
(As Amended by House Committee)

- The holder of either an intermediate driver's license or an instruction permit may not operate a motor vehicle while using a wireless communication device except in the case of an emergency.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended. Signed by 15 members: Representatives Murray, Chair; Wallace, Vice Chair; Appleton, Clibborn, Dickerson, Flannigan, Hudgins, Jarrett, Kilmer, Lovick, Sells, Simpson, B. Sullivan, Upthegrove and Wood.

Minority Report: Do not pass. Signed by 13 members: Representatives Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Buck, Curtis, Ericksen, Hankins, Holmquist, Morris, Nixon, Rodne, Schindler, Shabro and Takko.

Staff: David Munnecke (786-7315).

Background:

Current law does not explicitly address cell phone usage while driving. However, the Washington State Patrol, through its equipment standards, has adopted a rule which allows the usage of hands free wireless communication devices while driving motor vehicles. Additionally, under current law, when Washington State Patrol officers observe dangerous driving behavior by a motor vehicle operator using a cell phone, they may cite the driver for second-degree negligent driving.

An individual who is at least 15 years of age, submits a proper application, and is enrolled in an approved traffic safety program may be issued a driver's instruction permit by the Department of Licensing upon passage of the appropriate examination. An individual who is at least 15 and one-half years of age may also be issued a driver's instruction permit by the Department of Licensing upon passage of the appropriate examination.

A person holding an instruction permit may drive a motor vehicle, other than a motorcycle, if they have immediate possession of the permit and an approved instructor or a licensed driver with at least five years of driving experience occupies the seat beside the driver.

Washington's Intermediate Driver's License (IDL) law prohibits drivers who hold an IDL from carrying passengers under 20 years of age in their car for the first six months after issuance of the license, unless the passenger is an immediate family member. During the remaining period of the IDL (up to the age of 18), the driver may not carry more than three non-family member passengers under the age of 20.

Drivers who hold an IDL are also prohibited from driving between 1:00 a.m. and 5:00 a.m. unless a licensed driver 25 or older is also in the vehicle. Driving for agricultural purposes is an exception to the late night hours driving restriction.

Beginning with the issuance of the IDL and until the age of 18:

If a driver commits a driving violation, or a violation of license restrictions, the driver is sent a warning letter by the Department of Licensing. If two driving violations are committed a letter suspending the driver for six months (or until age 18, whichever is shorter) is sent to the driver. For a third driving violation the driver is suspended until age 18. The driver's parents also receive a copy of any warning or suspension letter sent to the driver.

After a year of driving safely without a driving violation, offense or collision, the driving restrictions expire and will not be reimposed. However, the driver is still subject to receiving the intermediate license warning letter and license suspension penalties until age 18. Driving with a suspended IDL is a misdemeanor.

Summary of Amended Bill:

The holder of either an IDL or an instruction permit may not operate a motor vehicle while using a wireless communication device unless the holder is using the device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property.

The violation of the IDL restriction on using a wireless communication device is a primary infraction, unlike other violations of the IDL restrictions.

A wireless communication device is defined as hand-held portable voice or data device used for commercial mobile services.

Amended Bill Compared to Original Bill:

The amended bill eliminates the prohibition on the use of wireless communication devices while operating a motor vehicle unless used in conjunction with a hands-free device.

The amended bill prohibits the holder of either an IDL or an instruction permit from operating a motor vehicle while using a wireless communication device unless the holder is using the device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property.

Appropriation: None.

Fiscal Note: Requested on February 15, 2006.

Effective Date of Amended Bill: The bill takes effect on July 1, 2006.

Testimony For: (In support of original bill) The wireless industry is supportive of this bill because of the uniformity that it provides. It only creates a secondary infraction, so you have to violate another law before you can be penalized for using a cell phone without a hands-free device. Large companies and government entities are starting to put restrictions on the use of cell phones while driving. This bill makes driving safer because it allows people to keep two hands on the wheel. This is becoming more important as the number of drivers on the road continues to grow and their patience and consideration diminishes.

The difference between a cell phone and other distractions that a driver is faced with is that those other distractions can be set aside. Cell phone use while driving is also significantly more common than eating or putting on make-up while driving. A passenger in the vehicle knows when they need to stop the conversation. It is only in the case of a cell phone that you have another person as a distraction who has no idea of the circumstances of the driver. We need to do everything we can to reduce the distractions that people face while they're driving. Voluntary compliance with this bill, regardless of the ability to enforce, will go a long way towards helping the problem of distracted driving.

(Neutral) There are many forms of distracted driving. Conversations, children, eating can all be distractions to the driver. The mental distraction is often the real issue, and the distraction is the same whether you are speaking into the handset or using a wireless device.

Testimony Against: (Opposed) Distracted driving should be illegal regardless of the reason for the distraction. Education is the best way to persuade people to eliminate distractions while they're driving.

People should be allowed to make their own decisions about what they do while they're driving.

There is also an issue with what an emergency is under the bill.

Persons Testifying: (In support of original bill) Senator Eide, prime sponsor; Jeff Devere, Washington State Patrol; Lawrence Gibson; Puget Sound Energy, Patdco, Asplunde; Diane Williams; Don Pierce, Washington Association of Sheriffs and Police Chiefs.

(Neutral) Dave Overstreet; American Automobile Association.

(Opposed) Nancee Wildermuth, Sprint Nextel; and Larry Stevens, Electrical and Mechanical Contractors.

Persons Signed In To Testify But Not Testifying: None.