

# SENATE BILL REPORT

## ESB 5160

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As Passed Senate, February 3, 2006

**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: 1/18/05, 1/31/05 [DP, w/oRec].

Passed Senate: 3/15/05, 28-18; 2/3/06, 28-19.

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass.

Signed by Senators Haugen, Chair; Jacobsen, Vice Chair; Poulsen, Vice Chair; Benson, Eide, Kastama, Oke, Spanel, Swecker and Weinstein.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Esser and Mulliken.

**Staff:** Janice Baumgardt (786-7319)

**Background:** Current law does not explicitly address cell phone usage. However, the Washington State Patrol, through their equipment standards, have 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 with second-degree negligent driving.

**Summary of Bill:** Any person operating a moving motor vehicle while holding a mobile telephone to his or her ear is guilty of a traffic infraction unless the person is:

- operating an authorized emergency vehicle;
- using a hands-free wireless communications device in hands free mode; or
- using a hand-held wireless communications device to report illegal activity, summon medical or emergency assistance, or prevent injury to a person or property.

Preempts the field of regulating the use of wireless communication devices in motor vehicles and supersedes any local laws, ordinances, orders, rules or regulations.

Enforcement may only be accomplished as a secondary action.

Infractions that result from this act, will not become part of the driver's record nor will information regarding the infraction be available to insurance companies or employers.

For the first six months this act is in effect, law enforcement officers may only issue verbal warnings for violations.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on January 1, 2006.

**Testimony For:** Studies have shown the use of cellular phones while driving increase the likelihood of accidents and impair the driver. Speaking to someone on the cell phone differs from speaking to someone in your vehicle because individuals in your vehicle know the surrounding conditions while a person on the other end of the phone does not. Lately a number of businesses are implementing policies to prevent their employees from using a hand-held phone. Concerns were expressed that distracted and inappropriate driving is frequently more prevalent in those who are using cell phones. Additionally, if holding a phone you only have one hand available for driving. This language is better because it contains preemptive language and infractions must be a secondary offense (i.e. the vehicle must have been stopped for another reason).

**Testimony Against:** Numerous individuals expressed opposition to singling out wireless phones. There was a preference for having cell phones listed as one type of distraction in a longer listing of distractions rather than isolating it. Generally there was agreement that there was a need for driver education. It was stated that studies have shown that the use of cell phones is down on the list of distractions that contribute to accidents. Concern was expressed that there was no evidence to show this bill will reduce accidents. Additionally there was concern that the problem is with the cognitive concentration required to talk on a cell phone, not just whether it is hand-held.

**Who Testified:** PRO: Senator Eide, prime sponsor; John Casper, citizen; Pat Allison, citizen; Fred Fakkema, Washington State Patrol.

CON: Barb Young, Sprint; Nancee Wildermuth, Nextel.

OTHER: Steve Lind, WTSC; Steve Gano, Cingular Wireless.

Signed In/Did Not Testify: Judy Groezinger, DOL.