

HOUSE BILL REPORT

SSB 6345

As Reported by House Committee On:
Transportation

Title: An act relating to the use of wireless communications devices while driving.

Brief Description: Addressing the use of wireless communications devices while driving.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Eide, Regala, Delvin, Haugen, Kohl-Welles, Rockefeller, Keiser, Fairley, Kline, Tom and Fraser).

Brief History:

Committee Activity:

Transportation: 2/17/10, 2/24/10 [DP].

Brief Summary of Substitute Bill

- Prohibits the holder of either an intermediate driver's license or an instruction permit from operating a motor vehicle while using a wireless communication device except in the case of an emergency.
- Allows the laws relating to the use of a cell phone or other wireless communication device while operating a moving motor vehicle to be enforced as a primary infraction for all drivers.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 15 members: Representatives Clibborn, Chair; Dickerson, Driscoll, Eddy, Finn, Flannigan, Klippert, Moeller, Rolfes, Sells, Simpson, Springer, Takko, Williams and Wood.

Minority Report: Do not pass. Signed by 11 members: Representatives Liias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong, Campbell, Ericksen, Herrera, Johnson, Kristiansen, Nealey and Shea.

Staff: David Munnecke (786-7315).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Infractions Involving Wireless Communication Devices.

Any person operating a moving motor vehicle while holding a cell phone or other wireless communication device to their ear is guilty of a traffic infraction, unless the person is:

- operating an authorized emergency vehicle, or a tow truck responding to a disabled vehicle;
- using a hands-free device including a speaker phone, a headset, or an earpiece;
- operating an amateur radio and possesses a valid amateur radio operator license from the Federal Communications Commission;
- reporting illegal activity, summoning medical or emergency help, or using the device to prevent injury to a person or property; or
- using a hearing aid.

Any person using a cell phone or other wireless communication device to read, manually write, or send a text message is guilty of a traffic infraction, unless the person is:

- operating an authorized emergency vehicle;
- reporting illegal activity, summoning medical or emergency help, or using the device to prevent injury to a person or property; or
- relaying information between a transit or for-hire operator and that operator's dispatch, in which the device is permanently affixed to the vehicle.

A violation of these laws relating to the use of a cell phone or other wireless communication device while operating a moving motor vehicle currently has an associated infraction of \$124. The infraction does not become part of the driver's record and is not available to insurance companies or employers.

A violation of these laws may only be enforced as a secondary action when the driver has been detained for violating state motor vehicle laws or local ordinance.

Instruction Permit.

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 (DOL) 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 DOL 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.

Intermediate Driver's License.

Washington's Intermediate Drivers' 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 years), the driver may not carry more than three non-family member passengers under the age of 20 years.

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 years 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 years:

- If a driver commits a driving violation, or a violation of license restrictions, the driver is sent a warning letter by the DOL.
- If two driving violations are committed, a letter suspending the driver for six months (or until age 18 years, whichever is shorter) is sent to the driver.
- For a third driving violation the driver is suspended until age 18 years.
- 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 years. Driving with a suspended IDL is a misdemeanor.

Summary of Bill:

The holder of an instruction permit or an intermediate license may not use a cell phone or other wireless communication device while driving a motor vehicle. An exception is made if the wireless communication device is being used to report illegal activity, summon medical or other emergency help, or to prevent injury to a person or property.

For all drivers, a violation of the laws relating to the use of a cell phone or other wireless communication devices while operating a moving motor vehicle may be enforced as a primary action.

An exemption from the prohibition on operating a motor vehicle while holding a wireless communication device to the operator's ear is provided for relaying time sensitive information between a transit or for-hire vehicle operator and the operator's dispatcher when the device is permanently affixed to the vehicle.

The exemption for global positioning and navigation systems from the prohibition on sending, reading, or writing a text message while operating a motor vehicle is expanded to include systems that are simply affixed to the vehicle, rather than permanently affixed, and limited to systems that can send or receive messages without diverting attention from the road or engaging the use of either hand.

The exemption for relaying time sensitive information between a transit or for-hire vehicle operator and the operator's dispatcher from the prohibition on sending, reading, or writing a text message while operating a motor vehicle is limited to information that is time sensitive.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The current prohibition on using a cell phone while driving was originally brought forward in 2000, and finally passed in 2007. Interested individuals have since formed a task force and come to the Legislature to ask for the prohibitions on cell phone use and texting to be turned into primary infractions, which will return Washington to a leadership role in the area of road safety. Washington is the only state that has a ban on cell phone use, but treats it as a secondary infraction.

In the five seconds that it can take to look at a text, you can travel 100 yards without looking at the road. Texting while driving also increases the risk of crashing 23 fold. Talking on a cell phone while driving is the equivalent of driving drunk, because it takes away the ability to concentrate on driving. Watching someone drive while talking on a cell phone can seem a lot like watching a drunk driver. People on the other end of a cell phone conversation have no idea what's going on in the vehicle, and thus don't know when they should stop talking. People should focus on driving when they are driving and keep both hands on the wheel.

A long-time high school teacher biking to work in Clark County was recently killed when he was struck from behind by a driver texting on his cell phone, leaving behind his family. Several years ago, a woman using a cell phone on Interstate 405 hit a disabled car from behind and killed the family of four in the vehicle. Recently, in Seattle, the chief of staff to a Seattle city council member was killed while crossing the street in a crosswalk by a driver talking on a cell phone.

Texting and cell phone use effects everyone on the road. Texting while driving is particularly egregious because of the combination of physical and cognitive distractions. Seventy-six percent of drivers in Washington support a ban on texting and cell phone use while driving, and 86 percent support a ban for drivers under the age of 18. Distracted driving needs to be made as socially unacceptable as drunk driving is today.

Primary seatbelt use has led to a usage rate of over 90 percent, and has saved countless lives. Officers can stop people for driving without a seatbelt, but not for driving while talking on a cell phone, even though seatbelts don't cause accidents and cell phones do. Officers often see people driving and talking on a cell phone, but they can't spend the time to follow them until they commit another infraction and can be ticketed.

Cell phone use is dangerous regardless of whether it is hands free or not, but this bill will require those who decide to use a cell phone while driving to think about it and take an extra step before doing so. There is no intent to ban cell phone use while driving completely.

Maps are a passive distraction while cell phones are an active distraction, which have been shown to effect the way the brain functions and what it is able to register. All distractions cannot be legislated away, but police need to be able to take action on the active distraction of cell phones, and potentially other active distractions as they are identified. It is the fact that cell phone use is so prevalent that requires this action be taken, because everyone has had the experience of speaking on a cell phone while driving and then not remembering the drive.

An Insurance Institute for Highway Safety study recently showed no decrease in accident rates after hands-free cell phone use was banned. Many other studies have shown the danger of driving while using a cell phone. Many factors effect these studies, and can make it difficult to determine the effects of a particular law. Any law needs to be paired with education if it is going to be effective, and this is why the "Click It or Ticket" campaign has been so effective.

There needs to be an addition to the exemption in the law for transits in order to include vehicles regulated by the Washington Utilities and Transportation Commission in this exemption.

Near accidents happen every day on the Washington State Ferry system because of distracted drivers texting and talking on cell phones. This is the single greatest danger that ferry workers face, and turns jobs on the auto-deck into a combination of bullfighting and ballet. This bill would reduce potential liability for the state by making these jobs safer.

There is an epidemic of cell phone use and texting on Washington roads, and this makes life particularly dangerous for bicyclists. There are reasonable exemptions built into this law and it should be passed.

(Opposed) None.

Persons Testifying: Senator Eide, prime sponsor; Carolyn Patterson; Amy Freedheim, King County Prosecutor's Office; Jason Berry, Washington State Patrol; Liz Luce, Department of Licensing; Brian Wilson, Federal Way Police Department; Don Pierce, Washington Association of Sheriffs and Police Chiefs; David Della; James Fricke, Capital Aeroporter; Larry Walker, Washington Road Riders Association; Dan Twohig; Lehman Holder; Caleb Patterson; Cliff Webster, Verizon Wireless; and Dave Overstreet, Automobile Association of America - Washington.

Persons Signed In To Testify But Not Testifying: None.