

SENATE BILL REPORT

ESSB 5656

As Passed Senate, March 10, 2015

Title: An act relating to enhancing public safety by reducing distracted driving incidents caused by the use of personal wireless communications devices.

Brief Description: Enhancing public safety by reducing distracted driving incidents caused by the use of personal wireless communications devices.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Rivers, Chase, Fain and Keiser; by request of Washington Traffic Safety Commission).

Brief History:

Committee Activity: Transportation: 2/09/15, 2/25/15 [DPS, w/oRec].
Passed Senate: 3/10/15, 35-14.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5656 be substituted therefor, and the substitute bill do pass.

Signed by Senators King, Chair; Fain, Vice Chair; Hobbs, Ranking Minority Member; Lias, Assistant Ranking Minority Member; Cleveland, Ericksen, Habib, Jayapal, Litzow, Miloscia, Pedersen and Rivers.

Minority Report: That it be referred without recommendation.

Signed by Senator Benton, Vice Chair.

Staff: Amanda Cecil (786-7429)

Background: Any driver over 18 years of age operating a moving motor vehicle, while holding a wireless communications device to their ear, or who sends, reads, or writes a text message, is guilty of a traffic infraction unless the person is using a hands-free device. This does not apply when a driver is:

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

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- using a hearing aid.

A violation of the provisions listed above have an associated base penalty of \$42 and additional legislative assessments of \$82 for a total penalty of \$124. The infraction does not become part of the driver's record and is not available to insurance companies or employers.

Any driver holding an instruction permit or any intermediate driver's license, drivers that are at least 16 years of age and under 18 years of age, operating a moving motor vehicle while using a wireless communications device for any purpose other than to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property, is guilty of a traffic infraction. A violation of this provision has an associated base penalty of \$42 and additional legislative assessments of \$82 for a total penalty of \$124.

The state law related to drivers holding a wireless communication device to their ear supersedes any local laws regulating the use of wireless devices in motor vehicles.

Summary of Engrossed Substitute Bill: Any person operating a motor vehicle while holding, reading from, or manually entering information into a personal wireless communications device is guilty of a traffic infraction. This includes when a vehicle is temporarily stopped at a traffic light or stop sign but does not include when a vehicle is pulled over to the side of, or off, the roadway and stopped in a location where it can safely remain stationary. This also includes using a personal wireless communications device to read or manually enter data including but not limited to short message service, texting, emailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication. However this does not prohibit the use of a device that allows a user to engage in communication without the use of either hand, except to activate, deactivate, or initiate a function. Existing exemptions are removed and only the following exemptions apply when a driver:

- is operating an authorized emergency vehicle; or
- is contacting emergency services.

A person found to have committed more than one violation of the provisions related to personal wireless communications devices for handheld use, texting, or use by intermediate drivers, within a five-year period, is assessed a penalty of twice the base penalty for a standard infraction, which would currently result in a penalty of \$209. Fifty percent of the proceeds from the base penalty are deposited into the Highway Safety Fund. The other 50 percent follows the distribution of a standard traffic infraction. An infraction resulting from a violation becomes part of the driver's record, but a first violation is not made available to insurance companies or employers.

Personal wireless communications device is defined to include a device over which commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services are transmitted and does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

This act supersedes any local laws regulating the use of wireless devices in motor vehicles.

Questions on distracted driving must be included in the driver's license examination.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on August 1, 2015.

Staff Summary of Public Testimony on Original Bill: PRO: We have all seen people texting and talking on the phone while driving. Cell phone use while driving has resulted in many personal tragedies. Distracted driving affects all of us and this impact will continue to grow as cell phones become a more integral part of our lives. The majority of those polled by AAA supported a stronger ban on cell phone use. This bill improves the current law with common-sense fixes. Changes to this law will make it enforceable by catching up with current technology. Making this law enforceable for law enforcement will affect driver behavior. The changes to the seatbelt law show you that people want to follow the law and changes in the law will change behavior. The Target Zero plan guides Washington to data-driven changes to move toward zero highway deaths by 2030. A large number of the current highway fatalities involve some kind of distraction. This gets at one of the primary distractions. Minor adjustments to this bill will bring it into alignment with language that is used in other states.

Persons Testifying: PRO: Sheri Call, WA Trucking Assns.; Blake Trask, WA Bikes; Jennifer Cook, AAA WA, Sr. Manager, Corporate Communications; Joe Pallitto, Erin Mason, Emily Sorenson, Emily Krall, North Thurston High School; Nathan Fitzgerald, General Motors; Amy Freedheim, King County Prosecutor's Office; Rob Huss, WA State Patrol; Darrin Grondel, WA Traffic Safety Commission; Beth Ebel, Harborview; Chris Van Dyk, Qride Ground Transportation Services Management LLC; Steve Gano, AT&T Wireless, Beth Ebel, Erik Pieczatkowski, citizens.