AN ACT

To amend and reenact R.S. 32:300.5 and to repeal R.S. 32:300.6, 300.7, and 300.8, relative to the use of certain wireless telecommunications devices while operating a motor vehicle; to provide for definitions; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:300.5 is hereby amended and reenacted to read as follows:

§300.5. Use of certain wireless telecommunications devices for text messaging and social networking prohibited

A.(1) Except as provided in Subsection B of this Section, no person shall operate any motor vehicle upon any public road or highway of this state while using a wireless telecommunications device to write, send, or read a text-based communication. For purposes of this Section, a person shall not be deemed to be writing, reading, or sending a text message if the person reads, selects, or enters a telephone number or name in a wireless telecommunications device for the purpose of making a telephone call.

(2) No person shall operate any motor vehicle upon any public road or highway of this state while using a wireless telecommunications device to access, read, or post to a social networking site.

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
(a) "Wireless telecommunications device" means a cellular telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, or any other substantially similar wireless device that is readily removable from the vehicle and is used to write, send, or read text or data through manual input. A "wireless telecommunications device" shall not include any device or component that is permanently affixed to a motor vehicle. It does not include citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, two-way radio transmitters or receivers used by licensees of the Federal Communication Commission in the Amateur Radio Service, or electronic communication devices with a push-to-talk function.

(b) "Write, send, or read a text-based communication" means using a wireless telecommunications device to manually communicate with any person by using a text-based communication referred to as a text message, instant message, or electronic mail.

(c) "Access, read, or post to a social networking site" means using a wireless telecommunications device to access, read, or post on such device to any web-based service that allows individuals to construct a profile within a bounded system, articulate a list of other users with whom they share a connection, and communicate with other members of the site.

B. The provisions of Paragraph (A)(1) of this Section shall not apply to the following:

(1) Any law enforcement officer, firefighter, or operator of an authorized emergency vehicle while engaged in the actual performance of his official duties.

(2) An operator of a moving motor vehicle using a wireless telecommunications device to:

(a) Report illegal activity.

(b) Summon medical or other emergency help.

(c) Prevent injury to a person or property.
(d) Relay information between a transit or for-hire operator and that
operator's dispatcher, in which the device is permanently affixed to the vehicle.

(e) Navigate using a global positioning system.

(3) A physician or other health care provider using a wireless
telecommunications device to communicate with a hospital, health clinic or the
office of the physician, or to otherwise provide for the health care of an individual
or medical emergency through a text-based communication.

C. (1) The first violation of the provisions of this Section shall be punishable
by a fine of not more than five hundred dollars.

(2) Each subsequent violation shall be punishable by a fine of not more than
one thousand dollars.

(3) If the person is involved in a crash at the time of violation, then the fine
shall be equal to double the amount of the standard fine imposed in this Subsection
and the law enforcement officer investigating the crash shall indicate on the written
accident form that the person was using a wireless telecommunications device at the
time of the crash.

(4) Any violation of this Section shall constitute a moving violation.

§300.8. Use of wireless telecommunications devices in school zones
prohibited; exceptions

A. As used in this Section, the following terms shall have the meanings
ascribed to them in this Section, unless the context clearly indicates a different
meaning:

(1) "Access, read, or post to a social networking site" means using a wireless
telecommunications device to access, read, or post on such device to any web-based
service that allows individuals to construct a profile within a bounded system,
articulate a list of other users with whom they share a connection, and communicate
with other members of the site.
(2) "Engage in a call" means talking or listening during a voice transmission on a wireless telecommunications device or manually entering names or phone numbers to initiate a call.

(3) "Wireless telecommunications device" means a cellular telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, or any other substantially similar wireless device that is readily removable from the vehicle and is used to write, send, or read text or data through manual input. A wireless telecommunications device shall not mean include any device or component that is permanently affixed to a motor vehicle, including those that provide a hands-free capability for a wireless telecommunications device. It does not include a hands-free wireless telephone, an electronic communication device used hands-free, citizens band radios, citizens band radio hybrids, commercial two-way radio communications devices, two-way radio transmitters or receivers used by licensees of the Federal Communication Commission in the Amateur Radio Service, or electronic communication devices with a push-to-talk function.

(4) "Write, send, or read a text-based communication" means using a wireless telecommunications device to manually communicate with any person by using a text-based communication including but not limited to a text message, instant message, or electronic mail.

B.(1) Except as provided in Subsection C of this Section, no person shall operate any wireless telecommunications device while operating a motor vehicle upon any public road or highway during the posted hours within a school zone on such public road or highway.

(2) Operating a wireless telecommunications device shall include:

(a) Engaging in a call.

(b) Writing, sending, or reading a text-based communication.

(c) Accessing, reading, or posting to a social networking site.

(d) Using any other application or feature of such a device by making manual entries of letters, numbers, symbols, or any combination thereof.
C.(1) The provisions of Subsection B of this Section shall not apply to any
of the following persons while they are performing their official duties:
(a) A law enforcement officer.
(b) A firefighter.
(c) An operator of an authorized emergency vehicle.

C.(2) The provisions of Subsection B of this Section shall not apply to a
person who uses a wireless telecommunications device and does any of the
following:
(1) (a) Reports a traffic collision, medical emergency, other
emergency, or serious road hazard.
(2) (b) Reports a situation in which the person believes that an
individual is in jeopardy of serious injury or death.
(3) Reports or averts the perpetration or potential perpetration of a criminal
act against the driver or another person.
(c) Relay information between a transit or for-hire operator, including a
transportation network company driver, and that operator's dispatcher, in which the
device is affixed to the vehicle.
(d) Navigate using a global positioning system.
(e) Operates a wireless telecommunications device while the
motor vehicle is lawfully parked.

D.(1) Any violation of this Section shall constitute a moving violation.
(2)(a) The first violation of the provisions of this Section shall be punishable
by a fine of not more than five hundred dollars.
(b) Each subsequent violation shall be punishable by a fine of not more than
one thousand dollars and a suspension of driver's license for a sixty-day period.
(c) If a person is involved in a collision at the time of the violation,
notwithstanding of whether the violation is the legal cause of the collision, then the

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fine shall be equal to double the amount of the standard fine imposed in this
Subsection. The law enforcement officer investigating the collision shall
indicate on the written accident report that the person was using a wireless
telecommunications device at the time of the collision.

(3) Use of a wireless telecommunications device for any of the purposes
provided for in Subsection C of this Section shall be an affirmative defense against
an alleged violation of this Section and the alleged violator may
produce documentary or other evidence in support of this defense that the wireless
telecommunications device that is the basis of the alleged violation was used for
emergency purposes as provided in Subsection C of this Section.

E. The provisions of this Section shall only apply within a school zone upon
a public road or highway during posted hours when signs are located in a visible
manner in each direction that indicate the use of a hand-held wireless
communications device is prohibited while operating a motor vehicle.

Section 2. R.S. 32:300.6, 300.7, and 300.8 are hereby repealed in their entirety.

DIGEST
The digest printed below was prepared by House Legislative Services. It constitutes no part
of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute
part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 619 Original 2018 Regular Session Huval

Abstract: Modifies provisions applicable to the use of a wireless communications device
while operating a motor vehicle.

Present law prohibits the use of wireless telecommunications devices in school zones.

Proposed law extends the prohibition to include the general usage of wireless
telecommunications devices while driving.

Present law defines the term "engage in a call" as talking or listening on a wireless
telecommunications device.

Proposed law modifies present law by defining the term "engage in a call" as talking or
listening during a voice transmission on a wireless telecommunications device or manually
entering names or phone numbers to initiate a call.

Proposed law specifies that operating a wireless telecommunications device includes engaging
in a call, writing, sending, or reading a text-based communication; and accessing, reading,
or posting to a social networking site.

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are additions.
Proposed law adds to present law the use of any other application or feature of such a device by making manual entries of letters, numbers, symbols, or any combination thereof.

Proposed law provides exceptions for operating a wireless telecommunication device while operating a motor vehicle upon any public road or highway for law enforcement officers, firefighters, and operators of authorized emergency vehicles.

Present law provides exceptions for operating a wireless telecommunication device while operating a motor vehicle upon any public road or highway for a person who uses a wireless telecommunication device: to report a traffic collision, medical emergency, or serious road hazard; to report a situation in which the person believes his personal safety is in jeopardy; to report or avert the perpetration or potential perpetration of a criminal act against the driver or another person; or while the motor vehicle is in park.

Proposed law modifies the exception in present law by specifying that it applies to a person using a wireless telecommunications device: to report an other emergency; to report a situation in which the person believes that an individual is in jeopardy of serious or death; to relay information between a transit or for-hire operator, including a transportation network company driver, and that operator’s dispatcher, in which the device is affixed to the vehicle; and to navigate using a global positioning system. Proposed law removes the exceptions for a person using a wireless telecommunications device to: report a situation in which the person believes his person safety is in jeopardy; or report or avert the perpetration or potential perpetration of a criminal act against the driver or another person.

Present law requires that a person involved in a collision at the time of the violation of present law be fined equal to double the amount of the standard fine imposed in present law.

Proposed law clarifies that a person involved in a collision at the time of the violation of present law must be fined equal the amount of the standard fine imposed in present law regardless of whether the violation is the legal cause of the collision.

Present law establishes an affirmative defense against an alleged violation of present law by allowing the person to produce documentary or other evidence that the wireless telecommunications device that is the basis of the alleged violation was used for emergency purposes as provided for in present law.

Proposed law modifies present law by specifying that use of a wireless telecommunications device for any of the exceptions provided for in present law is an affirmative defense to a violation of present law in support of which the alleged violator may produce documentary or other evidence.

Present law specifies that the provisions of present law only apply within a school zone upon a public road or highway during posted hours when signs are located in a visible manner in each direction that indicate the use of hand held wireless communications device is prohibited while operating a motor vehicle.

Proposed law repeals this provision in present law.

(Amends R.S. 32:300.5; Repeals R.S. 32:300.6, 300.7, and 300.8)