

Regular Session, 2009

HOUSE BILL NO. 146

BY REPRESENTATIVES AUSTIN BADON, LEGER, BARROW, CARTER, LAFONTA,  
ST. GERMAIN, AND STIAES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TRAFFIC/VIOLATIONS: Prohibits the use of a cellular telephone or electronic  
communications device while driving

1 AN ACT

2 To enact R.S. 32:300.8, relative to the use of telephones and electronic communication  
3 devices while driving; to prohibit the use of wireless telephones while driving; to  
4 prohibit text messaging and e-mailing while driving; and to provide for related  
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 32:300.8 is hereby enacted to read as follows:

8 §300.8. Wireless telephones and electronic communication devices; use prohibited  
9 while driving

10 A.(1) The use of a wireless telephone or electronic communication device  
11 by an operator of a moving motor vehicle on a public road or highway shall be  
12 unlawful, except when the telephone is a hands-free wireless telephone or the  
13 electronic communication device is used hands-free, provided that its placement does  
14 not interfere with the operation of federally required safety equipment, and the  
15 operator exercises a high degree of caution in the operation of the motor vehicle.

16 (2) This Section does not apply to the use of a wireless telephone or  
17 electronic communication device for the purpose of communicating with any of the  
18 following regarding an emergency situation:

1           (a) An emergency system response operator or 911 public safety  
2           communications dispatcher.

3           (b) A hospital or emergency room.

4           (c) A physician's office or health clinic.

5           (d) An ambulance or fire department rescue service.

6           (e) A fire department, fire protection district, or volunteer fire department.

7           (f) A law enforcement agency.

8           B. For purposes of this Section, the following words and phrases shall mean:

9           (1) "Electronic communication device" shall mean a handheld device  
10           capable of sending or receiving communications without an access line for service  
11           and which requires the operator to manually insert letters or figures. It does not  
12           include citizens band radios, citizens band radio hybrids, commercial two-way radio  
13           communication devices, two-way mobile radio transmitters or receivers used by  
14           licensees of the Federal Communications Commission in the Amateur Radio Service,  
15           or electronic communication devices with a push-to-talk function.

16           (2) "Hands-free wireless telephone" shall mean a mobile telephone that has  
17           an internal feature or function, or that is equipped with an attachment or addition,  
18           whether or not permanently part of such mobile telephone, by which a user engages  
19           in a conversation without the use of either hand, provided, however, this definition  
20           shall not preclude the use of either hand to activate, deactivate, or initiate a function  
21           of the telephone.

22           (3) "Use" of a wireless telephone or electronic communication device shall  
23           include but not be limited to talking or listening to another person on the telephone,  
24           text messaging, or sending an electronic message via the wireless telephone or  
25           electronic communication device.

26           (4) "Wireless telephone" shall mean a handheld device capable of sending  
27           or receiving telephone communications without an access line for service and which  
28           requires the operator to dial numbers manually. It does not include citizens band  
29           radios or citizens band radio hybrids.

1           C. A violation of this Section involving the use of a wireless telephone or  
 2           electronic communication device by an operator of a moving motor vehicle on a  
 3           public road or highway shall be a secondary offense and a driver may be cited only  
 4           if stopped for a moving violation.

5           D. A person found in violation of this Section shall be fined, for a first  
 6           violation, not less than one hundred dollars; for a second violation, not more than one  
 7           hundred fifty dollars; for a third violation, not more than two hundred dollars; and  
 8           for a fourth or subsequent violation, not more than two hundred fifty dollars.

9           Section 2. This Act shall become effective on January 1, 2010.

#### 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)]

Austin Badon

HB No. 146

**Abstract:** Prohibits the use of wireless telephone or electronic communication devices by operators of moving motor vehicles except when the device is a hands-free wireless telephone or the electronic communication device is used hands-free or for an emergency and provides for penalties.

Proposed law prohibits the use of wireless telephone or electronic communication devices by operators of moving motor vehicles except when the device is a hands-free wireless telephone, or the electronic communication device is used hands-free or for an emergency.

Proposed law defines the terms "electronic communication device", "hands-free wireless telephone", "use", and "wireless telephone".

Proposed law provides that the offense shall be secondary.

Proposed law provides that the penalty for a violation of proposed law shall be not less than \$100 for the first violation, not more than \$150 for a second violation, not more than \$200 for a third violation, and not more than \$250 for a fourth or subsequent violation.

Effective Jan. 1, 2010.

(Adds R.S. 32:300.8)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill.

1. Makes changes to the definitions of "electronic communication device" and "wireless telephone."

House Floor Amendments to the engrossed bill.

1. Provides that the offense shall be secondary.
2. Excludes "two-way mobile radio transmitters or receivers used by licensees of the Federal Communications Commission in the Amateur Radio Service" from the definition of "electronic communication device."