

Regular Session, 2012

HOUSE BILL NO. 787

BY REPRESENTATIVES BARROW AND BADON

MOTOR VEHICLES: Prohibits the use of handheld cell phones while driving

## 1 AN ACT

2 To amend and reenact R.S.32:300.5(A)(1) and (2)(b) and (C)(4) and 398.10(A)(6), to enact  
3 R.S. 32:300.5(B)(4) and (C)(5), and to repeal R.S. 32:289.1, 300.6, and 300.7,  
4 relative to the use of wireless communication devices while driving; to prohibit the  
5 use of wireless communication devices while driving; to repeal provisions providing  
6 for exceptions; to repeal provisions relative to minors; to provide for penalties; and  
7 to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 32:300.5(A)(1) and (2)(b) and (C)(4) and 398.10(A)(6) are hereby  
10 amended and reenacted and R.S. 32:300.5(B)(4) and (C)(5) are hereby enacted to read as  
11 follows:

12 §300.5. Use of certain wireless telecommunications devices ~~for text messaging~~  
13 prohibited

14 A.(1) Except as provided in Subsection B of this Section, no person shall  
15 operate any motor vehicle upon any public road or highway of this state while using  
16 a wireless telecommunications device, except when the telephone is a hands-free  
17 wireless telephone or the electronic communication device is used hands free,  
18 provided that its placement does not interfere with the operation of federally required  
19 safety equipment, and the operator exercises a high degree of caution in the operation  
20 of the motor vehicle to write, send, or read a text-based communication. For

1 ~~purposes of this Section, a person shall not be deemed to be writing, reading, or~~  
2 ~~sending a text message if the person reads, selects, or enters a telephone number or~~  
3 ~~name in a wireless telecommunications device for the purpose of making a telephone~~  
4 ~~call.~~

5 (2)

6 \* \* \*

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

11 "Using a wireless telecommunications device" shall include but not be  
12 limited to talking or listening to another person on the telephone, text messaging, or  
13 sending an electronic message via the wireless telephone or electronic  
14 communication device.

15 B. The provisions of this Section shall not apply to the following:

16 \* \* \*

17 (4) The use of two-way mobile radio transmitters and devices used by  
18 licensees of the Federal Communications Commission in the Amateur Radio Service,  
19 or electronic communication devices with a push-to-talk function.

20 C.

21 \* \* \*

22 (4) ~~Any violation of this Section shall constitute a moving violation.~~ Any  
23 violation of texting while driving shall constitute a moving violation.

24 (5) Any violation of this Section shall constitute a secondary offense.

25 \* \* \*

- 1           §398.10. Collection and reporting of statistical information relating to traffic stops
- 2                   A. All law enforcement officers defined as a peace officer in R.S. 40:2402
- 3           shall record and retain the following information:
- 4                                   \*           \*           \*
- 5                   (6) The number of persons stopped for violation of R.S. 32:300.5 ~~and 300.6~~.
- 6                                   \*           \*           \*
- 7           Section 2. R.S. 32:289.1, 300.6, and 300.7 are hereby repealed in their entirety.

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#### 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)]

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Barrow

HB No. 787

**Abstract:** Defines and prohibits the use of wireless communication devices while driving for all La. state drivers.

Present law prohibits any person from operating a 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.

Present law also provides that for the purposes of present law 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.

Proposed law amends present law to make exceptions for the use of a cellphone in a motor vehicle when the telephone is a hands-free wireless telephone.

Proposed law defines "use" of a wireless telephone or electronic communication device to include but not be limited to talking or listening to another person on the telephone, text messaging, or sending an electronic message via the wireless telephone or electronic communication device.

Present law provides that, regardless of age, a person issued a driver's license for the first time shall be prohibited from using a cellular telephone for any purpose while operating a motor vehicle for a period of one year from the date of the issuance of the license. Present law provides for exceptions and penalties.

Proposed law repeals present law.

Present law prohibits the holder of a Class "E" learner's license or intermediate license from using a wireless telecommunications device while driving. Present law provides for exceptions and penalties.

Proposed law repeals present law.

Present law prohibits persons who are 17 years of age or younger from operating a motor vehicle while using any wireless communications device. Present law provides for exceptions and penalties.

Proposed law repeals present law.

Proposed law provides for the exception of the use of two-way mobile radio transmitters and devices by licensees of the Federal Communication Commission of the Amateur Radio Service.

Present law provides that any violation constitutes a moving violation.

Proposed law amends present law to provide for penalties for the violation of texting while driving.

Proposed law provides that any violation constitutes a secondary offense.

(Amends R.S. 32:300.5(A)(1) and (2)(b) and (C)(4) and 398.10(A)(6); Adds R.S. 32:300.5(B)(4) and (C)(5); Repeals R.S. 32:289.1, 300.6, and 300.7)

#### Summary of Amendments Adopted by House

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

1. Allowed for the use of a cellular device while driving a motor vehicle only when the telephone is a hands-free wireless telephone or the electronic communication device is used hands free.
2. Allowed for the use of two-way mobile radio transmitters and devices in a motor vehicle by licensees of the Federal Communications Commission in the Amateur Radio Service.
3. Provided that the violation of texting while driving a motor vehicle shall constitute a moving violation.
4. Provided for the collection and reporting of statistical information relating to traffic stops.