

Regular Session, 2014

HOUSE BILL NO. 370

BY REPRESENTATIVE THOMPSON

MOTOR VEHICLES: Prohibits drivers from using certain cellular devices while traveling through school zones during effective hours

1 AN ACT

2 To enact R.S. 32:300.8, relative to the prohibition of the use of wireless telecommunications
3 devices in active school zones; to prohibit the use of wireless telecommunications
4 in school zones during posted hours; to provide for exceptions; to provide for
5 penalties; and to provide for related 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. Use of wireless telecommunications devices in school zones prohibited;
9 exceptions

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

13 (1) "Wireless communications device" means a cellular telephone, a text-
14 messaging device, a personal digital assistant, a stand alone computer, or any other
15 substantially similar wireless device that is readily removable from the vehicle and
16 is used to write, send, or read text or data through manual input. A "wireless
17 telecommunications device" shall not include any device or component that is
18 permanently affixed to a motor vehicle. It does not include citizens band radios,
19 citizens band radio hybrids, commercial two-way radio communications devices,
20 two-way radio transmitters or receivers used by licensees of the Federal

1 Communication Commission in the Amateur Radio Service, or electronic
2 communication devices with a push-to-talk-function.

3 (2) "Engage in a call" means talking or listening on a wireless
4 telecommunications device.

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

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

14 B. Except as provided in Subsection C of this Section, no person shall
15 operate any wireless telecommunications device while operating a motor vehicle
16 upon any public road or highway during the posted hours within a school zone on
17 such public road or highway. Operating a wireless telecommunications device shall
18 include:

19 (1) Engaging in a call.

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

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

22 C. The provisions of Subsection B of this Section shall not apply to a person
23 who uses a wireless telecommunications device and does any of the following:

24 (1) Reports a traffic crash, medical emergency, or serious road hazard.

25 (2) Reports a situation in which the person believes his personal safety is in
26 jeopardy.

27 (3) Reports or averts the perpetration or potential perpetration of a criminal
28 act against the driver or another person.

1 (4) Operates a telecommunications device while the motor vehicle is
2 lawfully parked.

3 (5) Uses a wireless communications device in an official capacity as an
4 operator of an authorized emergency vehicle.

5 D.(1) Any violation of this Section shall constitute a moving violation.

6 (2)(a) The first violation of the provisions of this Section shall be punishable
7 by a fine of not more than one hundred seventy-five dollars.

8 (b) Each subsequent violation shall be punishable by a fine of not more than
9 five hundred dollars.

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

15 (3) It shall be an affirmative defense against an alleged violation for the
16 person to produce documentary or other evidence that the wireless
17 telecommunications device that is the basis of the alleged violation was used for
18 emergency purposes as provided in Subsection C of this Section.

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)]

Thompson

HB No. 370

Abstract: Prohibits the use of wireless telecommunications devices while traveling through school zones during posted hours.

Proposed law prohibits the operation of wireless telecommunications devices while traveling through a school zone during posted hours. "Operation of a wireless telecommunication device" to include the following:

- (1) Engaging in a call.
- (2) Accessing, reading, or posting to a social networking site.
- (3) Writing, sending, or reading a text-based communication.

Proposed law defines "wireless communications device" as 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. Proposed law specifies that definition excludes 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.

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

Proposed law defines "write, send, or read a text-based communication" as 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. Defines "access, read, or post to a social networking site" as 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.

Proposed law specifies that the wireless telecommunications prohibition in proposed law does not apply to the following situations:

- (1) Reporting a traffic crash, medical emergency, or serious road hazard.
- (2) Reporting a situation in which the person believes his personal safety is in jeopardy.
- (3) Reporting or averting the perpetration or potential perpetration of a criminal act against the driver or another person.
- (4) Operating a telecommunications device while the motor vehicle is lawfully parked.
- (5) Using a wireless communications device in an official capacity as an operator of an authorized emergency vehicle.

Proposed law provides for persons convicted of unlawfully using a wireless telecommunications device while traveling through a school zone during posted hours are subject to a moving violation and the following penalties apply:

- (1) First violation: fined not more than \$175.
- (2) Each subsequent violation: fined not more than \$500.
- (3) Involvement in a crash at the time of violation: fine shall be equal to double the amount of the standard fine imposed 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.

Proposed law provides that the production of documentary or other evidence proving that the wireless telecommunications device was used for emergency purposes is an affirmative defense against the alleged violation.

(Adds R.S. 32:300.8)