

## **BILL ANALYSIS**

Senate Research Center  
81R36131 TRH-F

H.B. 55  
By: Branch et al. (Carona)  
Transportation & Homeland Security  
5/22/2009  
Committee Report (Amended)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Bans on the use of wireless communication devices in active school zones are emerging across the state, beginning with a ban passed by the City of Highland Park in November 2007. At least 17 communities of varying size and population followed suit, creating a patchwork approach to safeguarding students and other pedestrians at critical times and places in communities throughout Texas. Currently, additional municipalities and neighborhoods are considering similar measures.

H.B. 55 establishes a statewide approach to the bans to ensure consistency across communities while providing an important safeguard for our students and other pedestrians. H.B. 55 adds a provision to the Transportation Code to limit driver usage of a wireless communication device within an active school zone, with certain exceptions related to operators of authorized emergency vehicles, and operators licensed by the Federal Communications Commission. The bill also clarifies existing language relating to the use of a wireless communication device by a school bus operator when a minor is present on the bus. The bill prohibits a school bus operator from using a wireless communication device under any circumstance unless the vehicle is stopped.

H.B. 55 amends current law relating to an offense of using a wireless communication device while operating a motor vehicle.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 545.425, Transportation Code, as follows:

Sec. 545.425. New heading: USE OF WIRELESS COMMUNICATION DEVICE; OFFENSE. (a) Defines "hands-free device" and "wireless communication device."

(b) Prohibits an operator, except as provided by Subsection (c), from using a wireless communication device while operating a motor vehicle within a school crossing zone, as defined by Section 541.302 (Traffic Areas), Transportation Code, unless the vehicle is stopped, or the wireless communication device is used with a hands-free device.

(b-1) Requires a municipality, county, or other political subdivision that enforces this section to post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision. Requires the Texas Department of Transportation to adopt standards requiring that a sign required to be posted under this subsection inform an operator that the use of a wireless communication device is prohibited in the school crossing zone and the operator is subject to the fine described by Subsection (f) if the operator uses a wireless communication device in the school crossing zone.

(c) Creates this subsection from existing text. Prohibits an operator from using a wireless communication device while operating a passenger bus with a minor passenger on the bus unless the passenger bus is stopped. Deletes existing text prohibiting a person from using a wireless communication device while operating a passenger bus with a minor passenger on the bus except in case of emergency or if the passenger bus is not in motion.

(d) Provides that it is an affirmative defense to prosecution of an offense under this section that the wireless communication device was used to make an emergency call to certain emergency services or a sign required by Subsection (b-1) was not posted at the entrance to the school crossing zone at the time of an offense committed in the school crossing zone.

(e) Provides that this section does not apply to an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity or an operator who is licensed by the Federal Communications Commission to operate a wireless communication device or a radio frequency device while operating a device of the type that the person is licensed to operate.

(f) Provides that an offense under this section is a misdemeanor punishable by a fine of not more than \$25 for the first offense and not more than \$50 for each subsequent offense.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.

### **SUMMARY OF COMMITTEE CHANGES**

Committee Amendment #1

Amends H.B. 55 in SECTION 1 of the bill as follows:

(1) Strikes added Section 545.425(e)(2), Transportation Code (page 3, lines 9-12), and substitutes:

(2) An operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.

(2) Strikes added Section 545.425(f), Transportation Code (page 3, lines 13-16), and substitutes:

(f) An offense under this section is a misdemeanor punishable by a fine not to exceed \$50.

(3) After added Section 545.425(f), Transportation Code (page 3, between lines 16 and 17), inserts:

(g) This section preempts all local ordinances, rules, or regulations adopted by a political subdivision of this state relating to the use of a wireless communication device by the operator of a motor vehicle.