SB239

G5R1666-1

By Senator Waggoner

RFD: Judiciary

First Read: 19-Mar-24

SYNOPSIS:

Under existing law, certain actions must be taken for an individual to be found to have operated a vehicle in a distracted manner.

This bill would change these required elements.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the section. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the section.

A BILL

TO BE ENTITLED

AN ACT

Relating to motor vehicles; to amend Section 2 of Act 2023-478, 2023 Regular Session, now appearing as Section 32-5A-350.1, Code of Alabama 1975, to change the elements required for an individual to have operated a vehicle in a distracted manner; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 2 of Act 2023-478, 2023 Regular Session, now appearing as Section 32-5A-350.1, Code of Alabama 1975, is amended to read as follows:

"§32-5A-350.1

(a) As used in this section, the following terms have the following meanings:

(1) STAND-ALONE ELECTRONIC DEVICE. A device other than a wireless telecommunications device ~~which~~ that stores audio or video data files to be retrieved on demand by a user.

(2) UTILITY SERVICES. Includes electric, natural gas, water, waste-water, cable, telephone, or telecommunications services or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, ~~rights of way~~ rights-of-way,

or associated infrastructure.

(3) WIRELESS TELECOMMUNICATIONS DEVICE. A cellular telephone, portable telephone, text-messaging device, personal digital assistant, stand-alone computer, global positioning system receiver, or substantially similar portable wireless device that is used to initiate or receive communication, information, or data. The term shall not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, safety, or remote diagnostics system.

(b) An individual shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions prohibited by law which shall distract the individual from the safe operation of the vehicle.

(c) An individual operates a vehicle in a distracted manner in violation of this section if the individual is observed ~~crossing in and out of a traffic lane without using a turn signal, swerving, or otherwise operating the vehicle in an impaired manner while~~ doing any of the following:

(1) Physically holding a wireless telecommunications device.

(2) Physically holding or supporting, with any part of his or her body, a stand-alone electronic device.

(3) Writing, sending, or reading any text-based communication, including, but not limited to, a text message,

instant message, e-mail, or Internet data on a wireless telecommunications device or stand-alone electronic device; provided, however, that ~~such~~ this prohibition shall not apply to either of the following:

a. A voice-based communication that is automatically converted by the device to be sent as a message in a written form.

b. The use of the device for navigation of the vehicle or for global positioning system purposes.

(4) Watching a video or movie on a wireless telecommunications device or stand-alone electronic device other than watching data related to the navigation of the vehicle.

(5) Recording or broadcasting a video on a wireless telecommunications device or stand-alone electronic device; provided that the prohibition shall not apply to electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle.

(6) Using more than a single button or swipe of a finger on a wireless telecommunications device to initiate or terminate a voice-communication.

(7) Reaching for a wireless telecommunications device or stand-alone electronic device in such a manner that requires the driver to no longer be in a seated driving position properly restrained by a safety belt.

(d) Each violation of this section shall constitute a separate offense.

(e)(1) Except as provided for in subdivision (2), any

person convicted of violating this section shall be guilty of a Class C misdemeanor which shall be punished as follows:

a. For a first conviction ~~to a charge~~ of violating this section within the previous 24-month period of time, as measured from the dates on which any previous convictions were obtained to the date on which the current conviction is obtained, a fine of not more than fifty dollars ($50).

b. For a second conviction within the previous 24-month period of time, as measured from the dates ~~of~~ on which any previous convictions were obtained to the date ~~of~~ on which the current conviction is obtained, a fine of not more than one hundred dollars ($100).

c. For a third or subsequent conviction within the previous 24-month period of time, as measured from the dates ~~of~~ on which any previous convictions were obtained to the date ~~of~~ on which the current conviction is obtained, a fine of not more than one hundred fifty dollars ($150).

(2) Any individual appearing before a court for a first charge of violating subdivision (c)(1) who produces in court a device or proof of purchase of a device that would allow the individual to comply with the subdivision in the future shall not be guilty of the offense. The court shall require the individual to affirm that they have not previously utilized the privilege under this subdivision.

(3) No court costs may be assessed for a violation of this section.

(f) An individual may not be placed under custodial arrest solely for a violation of this section.

(g) This section does not apply when the prohibited conduct occurred under any of the following conditions:

(1) Using a wireless telecommunications device to obtain emergency services, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

(2) Using a wireless telecommunications device while the motor vehicle is parked on the shoulder of the highway, road, or street.

(3) Using a wireless telecommunications device as a global positioning or navigation system to receive driving directions; provided, however, the manual input of navigation coordinates while operating a motor vehicle is a violation of this article.

(4) Using an earpiece, a headphone device, steering wheel controls, speaker phone or any voice-activated technology, or other device worn on the person or mounted onto the dashboard, center console, windshield, or other part of the vehicle to conduct substantially hands-free voice-based wireless communications.

(5) Using a continuous recording device that operates within or outside the vehicle, including, but not limited to, a dash camera or backup camera.

(6) ~~Using~~ The use of a wireless telecommunications device by an employee or contractor of a utility services provider within the scope of his or her employment while responding to a utility emergency or performing other critical

utility services.

(7) ~~Using~~ The use of a wireless telecommunications device by a law enforcement officer, emergency medical services personnel, ambulance operator, firefighter, volunteer firefighter, or other similarly employed public safety first responder during the performance of his or her official duties.

(8) Using an ignition interlock device, as defined in Section 32-5A-191.4.

(9) For an individual 18 years of age or older, using a wireless telecommunications device in a manner that requires the physical use of the individual's hand while operating a motor vehicle if both of the following occur:

a. The device is mounted to the vehicle, including the windshield, dashboard, or center console of the vehicle, and the device does not create an unsafe obstruction of the individual's view of the road.

b. The individual's hand is used to activate or deactivate a feature or function of the device with the motion of one swipe or tap of the individual's finger, and the swipe or tap does not activate the camera, video, or gaming features or functions for viewing, recording, amusement, or other non-navigational functions, other than functions or features related to the transportation of individuals or property for compensation or payment of a fee.

(10) ~~Using~~ The use of a wireless telecommunications device by a licensed physician while responding to an emergency medical situation.

(h) Beginning on June 14, 2023, and continuing for 12 months thereafter, for any violation of this section, a law enforcement officer may only issue a written warning. No points shall be entered on the driving record of any individual who receives a warning under this subsection.

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Section 111.05 of the Constitution of Alabama of 2022, because the bill defines a new

Section 3. This act shall become effective on October 1, 2024.