

SENATE BILL NO. 159

BY SENATORS CRAVINS AND ERDEY

1 AN ACT

2 To enact R.S. 32:300.5 and 398.10(A)(6), relative to driver distractions; to prohibit the use  
3 of certain wireless telecommunications devices by certain persons while operating  
4 a motor vehicle; to provide exceptions; to provide penalties for violation; to require  
5 the compilation of statistical information on crashes involving the use of a wireless  
6 telecommunications device by any driver; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 32:300.5 and 398.10(A)(6) are hereby enacted to read as follows:

9 **§300.5. Use of certain wireless telecommunications devices by minors while**  
10 **driving prohibited; exceptions**

11 **A. As used in this Section, the following terms shall have the meanings**  
12 **ascribed to them as follows:**

13 **(1) "Engage in a call" means talking or listening on a cellular telephone.**

14 **(2) "Wireless telecommunications device" means any type of instrument,**  
15 **device, or machine that is capable of transmitting or receiving telephonic,**  
16 **electronic, radio, text, or data communications, including but not limited to a**  
17 **cellular telephone, a text-messaging device, a personal digital assistant, a**  
18 **computer, or any other similar wireless device that is designed to engage in a**  
19 **call or communicate text or data. It does not include citizens band radios,**  
20 **citizens band radio hybrids, commercial two-way radio communication devices,**  
21 **or electronic communication devices with a push-to-talk function.**

22 **(3) "Write, send or read a text-based communication" means to use a**  
23 **wireless telecommunications device to communicate by using a text-based**  
24 **communication referred to as a text message, instant message, or electronic**  
25 **mail.**

1           B. Except in a driver emergency as provided in Subsection C of this  
2           Section, no person who is seventeen years of age or younger shall operate a  
3           motor vehicle on any public road or highway in this state while using any  
4           wireless telecommunications device to engage in a call or write, send or read a  
5           text-based communication. Such device shall not include citizens band radios,  
6           citizens band radio hybrids, commercial two-way radio communication devices,  
7           or electronic communication devices with a push-to-talk function.

8           C. The provisions of this Section shall not apply to a person who uses a  
9           wireless telecommunications device to do any of the following:

10           (1) Report a traffic crash, medical emergency, or serious road hazard.

11           (2) Report a situation in which the person believes his personal safety is  
12           in jeopardy.

13           (3) Report or avert the perpetration or potential perpetration of a  
14           criminal act against the driver or another person.

15           (4) Engage in a call or write, send or read a text-based communication  
16           while the motor vehicle is lawfully parked.

17           D. Any violation of this Section shall constitute a non-moving violation.  
18           A law enforcement officer shall enforce the provisions of this Section as a  
19           secondary action and a driver may be cited only if stopped for a moving  
20           violation.

21           E.(1)(a) A first violation of the provisions of this Section shall be  
22           punishable by a fine of not more than one hundred dollars.

23           (b) Each subsequent violation shall be punishable by a fine of not more  
24           than two hundred fifty dollars.

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

30           (2) It shall be an affirmative defense against an alleged violation for the

1 person to produce documentary or other evidence that the wireless  
2 telecommunications device that is the basis of the alleged violation was used for  
3 emergency purposes as provided in Subsection C of this Section.

4 \* \* \*

5 §398.10. Collection and reporting of statistical information relating to traffic stops

6 A. All law enforcement officers as defined in R.S. 40:2402 shall record and  
7 retain the following information:

8 \* \* \*

9 **(6) The number of violations of R.S. 32:300.5.**

10 \* \* \*

11 Section 2. The Louisiana Highway Safety Commission shall collect and compile  
12 statistical information on the number of crashes as well as the number of fatalities and  
13 injuries incurred in crashes which involve the use of a cellular telephone or other wireless  
14 telecommunications device to engage in a call or to write, send or read a text message.

15 Section 3. This Act shall become effective on July 1, 2008; if vetoed by the governor  
16 and subsequently approved by the legislature, this Act shall become effective on July 1,  
17 2008, or on the day following such approval by the legislature, whichever is later.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_