



Legislative Alert

Subcommittee Hearing H 3276



Immediate Release: Hands Free bill H 3276 subcommittee hearing on Thursday February 6, 2025, at 9:00 a.m. in room 515A of the Blatt Building. If you would like to attend, please meet us hearing room.

The Legislative Strike Force spent all day Tuesday the 4th in both the chambers handing out our Welcome Back cards.

Jim and Wanda Buczkowski had made an appointment with their new Senator Carlisle Kennedy which went extremely well and will write more about his in another report.

There will be a second subcommittee hearing on the hands-free bill and we had a good conversation with Chairman Case Brittain about the bill in his office. We plan to attend but will only testify if he asks as this bill is set to pass. We do think they may remove the requirement for the points but that is not set in stone. We also passed out our talking points to all other members of the subcommittee.

We plan to be there early and it's a small room so some may need to stand or even be outside.

Below is the current bill.

TO AMEND THE SOUTH CAROLINA CODE OF LAWS by ENACTing THE "SOUTH CAROLINA HANDS-FREE AND DISTRACTED DRIVING ACT"; BY AMENDING SECTION 56-5-3890, RELATING TO UNLAWFUL USE OF A WIRELESS ELECTRONIC COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE, SO AS TO PROVIDE THE CIRCUMSTANCES UNDER WHICH IT IS UNLAWFUL TO USE A WIRELESS MOBILE ELECTRONIC DEVICE, TO CREATE THE OFFENSE OF DISTRACTED DRIVING AND PROVIDE PENALTIES, AND TO MAKE TECHNICAL REVISIONS; AND BY AMENDING SECTION 56-1-720, RELATING TO POINTS THAT MAY BE ASSESSED AGAINST A PERSON'S DRIVING RECORD FOR MOTOR VEHICLE DRIVING VIOLATIONS, SO AS TO PROVIDE THAT A SECOND OR SUBSEQUENT OFFENSE OF DISTRACTED DRIVING IS A TWO-POINT VIOLATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be referred to and cited as the "South Carolina Hands-Free and Distracted Driving Act."

SECTION 2. Section 56-5-3890 of the S.C. Code is amended to read:

Section 56-5-3890. (A) For purposes of this section:

(1) "Hands-free wireless electronic communication device" means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text-messaging device, or a computer, which allows a person to wirelessly communicate with another person without holding the device in either hand by utilizing an internal feature or function of the device, an attachment, or an additional device. A hands-free wireless electronic communication device may require the use of either hand to activate or deactivate an internal feature or function of the device.

(2) "Text-based communication" means a communication using text-based information, including, but not limited to, a text message, an SMS message, an instant message, or an electronic mail message.

(3) "Wireless electronic communication device" means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text-messaging device, or a computer, which allows a person to wirelessly communicate with another person "Mobile electronic device" means a cellular telephone, portable computer, GPS receiver, electronic game, or any substantially similar stand-alone electronic device used to communicate, display, or record digital content. "Mobile electronic device" does not include a citizens band radio, amateur radio, ham radio, commercial two way radio or its functional equivalent, subscription-based emergency communication device, or prescribed medical device.

(B) It is unlawful for a person to use a wireless electronic communication device to compose, send, or read a text-based communication while operating a motor vehicle on the public streets and highways of this State While operating a motor vehicle on any public highway of this State, a person shall not:

(1) hold or support, with any part of the body, a mobile electronic device. This provision does not prohibit the use of an earpiece or device worn on a wrist to conduct voice-based communication;

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(2) read, compose, or transmit any text including, but not limited to, a text message, email, application interaction, or website information on a mobile electronic device;

(3) watch motion including, but not limited to, a video, movie, game, or video call on a mobile electronic device.

(C) This section does not apply to a person motor vehicle operator who is:

(1) lawfully parked or stopped;

(2) using a hands-free wireless electronic communication device initiating a voice-based communication that is automatically converted by the device and sent as text, provided that the device is not held by the operator or supported with any part of the body by the operator;

(3) summoning emergency assistance reporting an accident, emergency, or safety hazard to a public safety official;

(4) transmitting or receiving data as part of a digital dispatch system while performing occupational duties;

(5) a public safety official while in the performance of the person's a first responder while performing official duties; or

(6) using a global positioning system device or an internal global positioning system feature or function of a wireless electronic communication mobile electronic device for the purpose of:

(a) navigation, listening to audio-based content, or obtaining related traffic and road condition information in a manner that does not require the operator to type, provided that the device is not held by the operator or supported with any part of the body by the operator;

(b) using a mobile electronic device to initiate or end a cellular call in a manner that does not require the operator to type, provided that the device is not held by the operator or supported with any part of the body by the operator; or

(c) unlocking the device for a purpose listed in subitems (a) or (b), provided that the device is not held by the operator or supported with any part of the body by the operator; or

(7) using equipment or services installed by the original manufacturer of the vehicle.

(D)(1) A person who is adjudicated to be in violation of the provisions of this section is guilty of distracted driving and, upon conviction:

(a) for a first offense, must be fined not more than twenty-five one hundred dollars, no part of which may be suspended;

(b) for a second or subsequent offense, must be fined two hundred dollars, no part of which may be suspended, and must have two points assessed against his motor vehicle operating record;

(c) if the violation causes great bodily injury, must be fined one thousand dollars and sentenced to not more than five years. As used in this subsection, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ; or

(d) if the violation causes death, is convicted of a felony and must be fined five thousand dollars and imprisoned not more than five years.

(2) The Department of Motor Vehicles shall suspend the driver's license of a person who is convicted of violations in subsections (D)(1)(c) and (d).

(3) Excluding violations in subsections (D)(1)(c) and (d), only those offenses which occurred within three years, including and immediately preceding the date of the last offense, shall constitute prior offenses within the meaning of this subsection. A person who has been adjudicated to be in violation of this section, and the violation causes great bodily injury, must be fined one thousand dollar and sentence to not more than one year. No court costs, assessments, or surcharges may be assessed against a person who violates a provision of this section. A person must not be fined more than fifty dollars for any one incident of one or more violations of the provisions of this section. A custodial arrest for a violation of this section must not be made, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine. A violation of this section does not constitute a criminal offense. Notwithstanding Section 56-1-640, a violation of this section must not be:



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(a) included in the offender's motor vehicle records maintained by the Department of Motor Vehicles or in the criminal records maintained by SLED; or

(b) reported to the offender's motor vehicle insurer.

(2)(4) During the first one hundred eighty days after this section's effective date, law enforcement officers shall issue only warnings for violations of this section. The Department of Public Safety must receive twenty-five percent of the fines imposed for violations of this section. Funds provided to the department pursuant to this section must be used to educate the public on the dangers of distracted driving and the provisions of this act.

(E) A law enforcement officer shall not:

(1) stop a person for a violation of this section except when the officer has probable cause reasonable suspicion that a violation has occurred based on the officer's clear and unobstructed view of a person who is using a wireless electronic communication device to compose, send, or read a text-based communication while operating a motor vehicle on the public streets and highways of this State;

(2) seize, search, view, or require the forfeiture of a wireless electronic communication mobile electronic device because of a violation of this section;

(3) search or request to search a motor vehicle, driver operator, or passenger in a motor vehicle, solely because of a violation of this section; or

(4) make a custodial arrest for solely because of a violation of this section, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine.

(F) The Department of Motor Vehicles shall maintain and provide citation information pursuant to this section to the Department of Public Safety. The Department of Public Safety shall maintain statistical information regarding citations issued pursuant to this section.

(G) This section preempts local ordinances, regulations, and resolutions adopted by municipalities, counties, and other local governmental entities political subdivisions regarding persons using wireless mobile electronic communication devices while operating motor vehicles on the public streets and highways of this State.

(H) The provisions of this section are not subject to the provisions contained in Section 17-13-10 and Section 17-13-20, both of which are related to what is commonly referred to as "citizens arrest."

SECTION 3. Section 56-1-720 of the S.C. Code is amended to read:

Section 56-1-720. There is established a point system for the evaluation of the operating record of persons to whom a license to operate motor vehicles has been granted and for the determination of the continuing qualifications of these persons for the privileges granted by the license to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations in accordance with the following schedule:

VIOLATION	POINTS
Reckless driving	6
Passing stopped school bus	6
Hit and run, property damages only	6
Driving too fast for conditions, or speeding:	
(1) No more than 10 m.p.h. above the posted limits	2
(2) More than 10 m.p.h. but less than 25 m.p.h. above the posted limits	4
(3) 25 m.p.h. or above the posted limits	6
Disobedience of any official traffic control device	4
Disobedience to officer directing traffic	4
Failing to yield right of way	4
Driving on wrong side of road	4
Passing unlawfully	4
Turning unlawfully	4
Driving through or within safety zone	4
Shifting lanes without safety precaution	2
Improper dangerous parking	2

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Following too closely	4
Failing to dim lights	2
Operating with improper lights	2
Operating with improper brakes	4
Distracted driving (second or subsequent offense)	2
Operating a vehicle in unsafe condition	2
Driving in improper lane	2
Improper backing	2
Endangerment of a highway worker, no injury	2
Endangerment of a highway worker, injury results	4

SECTION 4. At every interstate highway ingress, the Department of Transportation shall erect a sign advising motorists of this act.

SECTION 5. During the first ninety days after the effective date of this act, law enforcement officers shall only issue warnings for violations of Section 56-5-3890, as amended by this act.

SECTION 6. At the end of each fiscal year, the Department of Public Safety shall report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Transportation Committee, and the Chairman of the House Education and Public Works Committee the age, gender, and race of every driver issued a citation, as well as every instance that a citation is not issued following a traffic stop made pursuant to this act. The data must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies shall combine the data collected by county and the municipal law enforcement agencies.

SECTION 7. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 8. This act takes effect ninety days after approval by the Governor.

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