

HOUSE BILL REPORT

ESSB 5037

As Reported by House Committee On: Transportation

Title: An act relating to the use of a wireless communications device while operating a moving motor vehicle.

Brief Description: Restricting the use of a wireless communications device while operating a moving motor vehicle.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Eide, Weinstein, Murray, Berkey, Regala, Rockefeller, Kauffman, Keiser, Spanel, Jacobsen and Kohl-Welles).

Brief History:

Committee Activity:

Transportation: 3/21/07, 3/30/07 [DP].

Brief Summary of Engrossed Substitute Bill

- Prohibits, with limited exceptions, the use of wireless communications devices while operating a motor vehicle unless used in conjunction with a hands-free device.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 15 members: Representatives Clibborn, Chair; Flannigan, Vice Chair; Jarrett, Ranking Minority Member; Appleton, Dickerson, Hankins, Hudgins, Lovick, Rolfes, Sells, Simpson, Springer, B. Sullivan, Wallace and Wood.

Minority Report: Do not pass. Signed by 5 members: Representatives Armstrong, Curtis, Hailey, Rodne and Takko.

Staff: David Munnecke (786-7315).

Background:

Current law does not explicitly address cell phone usage while driving. However, the Washington State Patrol, through its equipment standards, has adopted a rule which allows the

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usage of hands-free wireless communication devices while driving motor vehicles. Additionally, under current law, when Washington State Patrol officers observe dangerous driving behavior by a motor vehicle operator using a cell phone, they may cite the driver for second-degree negligent driving.

Summary of Bill:

Any person operating a moving motor vehicle while holding a wireless communications device to his or her ear is guilty of a traffic infraction unless the person is:

- operating an authorized emergency vehicle;
- using a hands-free wireless communications device in hands-free mode;
- operating an amateur radio and possesses a valid amateur radio operator license from the Federal Communications Commission; or
- using a hand-held wireless communications device to report illegal activity, summon medical or emergency assistance, or prevent injury to a person or property.

Enforcement may only be accomplished as a secondary action. Infractions that result from this act will not become part of the driver's record nor will information regarding the infraction be available to insurance companies or employers.

Preempts the field of regulating the use of wireless communication devices in motor vehicles and supersedes any local laws, ordinances, orders, rules or regulations.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect July 1, 2008.

Staff Summary of Public Testimony:

(In support) A young girl was recently injured when she was hit in a crosswalk by a driver on a cell phone and the chief of staff for a Seattle city council member was recently killed in a collision where the driver may have been using a cell phone. Many people who survive being struck by a motor vehicle are left with permanent disabilities. Cell phones and vehicles should enhance quality of life rather than be a detriment. This bill is an important step in making the streets safer for pedestrians, bicyclists, and motorcyclists.

Many studies have shown that the cognitive issue is the problem with talking on a cell phone, and over 40 countries have passed laws against cell phone use while driving, along with five states. This bill will provide uniformity as well as dealing with the lack of attention to the road.

It is always safest to have two hands on the wheel when driving. This bill will allow drivers to keep two hands on the wheel or at least available in the event of an emergency. Using a handheld cell phone prevents the use of one hand in emergency situations.

Amateur radios are very different from cell phones. The most significant difference is that the conversation is only occurring in one direction at a time, so the cognitive impact is lessened. It is therefore important to maintain the exemption currently in the bill for amateur radio operators.

(With concerns) Transit operators do not usually use wireless communications devices on the job, however, they are sometimes necessary in case of emergencies. The devices are used to reroute vehicles or summon assistance. Therefore it is appropriate to create an exception in this bill for transit operators using wireless communications devices in the course of their employment.

(Opposed) It is inappropriate to single out cell phones from the many distractions that drivers face. It is really all types of driving distractions that should be prohibited. According to a study conducted in 2003, wireless phones were the eighth biggest distraction out of the nine studied. Cell phones were only the fifth most common distraction according to the Washington State Patrol's study of distractions that caused accidents.

Mandating that cell phones only be used in a hands-free mode makes no difference. It is still dangerous to drive while distracted. We don't want people to think that using a cell phone in a hands-free mode solves the cognitive distraction problem. The key is education, which needs to start at a young age.

People use phones to report hazards or stay awake while driving long distances. It is not appropriate to ticket them for doing so, especially when they are stopped in traffic or driving where there are no other vehicles around.

Persons Testifying: (In support) Senator Eide, prime sponsor; Lee Chambers, Paul Taylor, and Steve Ward, Olympia Amateur Radio Society; David Della, Seattle City Council; Andrea Okonski, Pedestrian Inroads; Angela Barbre, Community Transit Association of the Northwest; Jeff DeVere, Washington State Patrol; and Cliff Webster, Verizon Wireless.

(With concerns) Peter Thein, Washington State Transit Association; and Al Williams.

(Opposed) Nancee Wildermuth, Sprint/Nextel; and Pat Crawford.

Persons Signed In To Testify But Not Testifying: None.