

1 HB90  
2 208571-1  
3 By Representative Brown (K)  
4 RFD: Public Safety and Homeland Security  
5 First Read: 02-FEB-21  
6 PFD: 12/17/2020

8 SYNOPSIS: Under existing law, a person is prohibited  
9 from using a wireless telecommunications device to  
10 write, send, or read a text-based communication  
11 while operating a motor vehicle, with exceptions.

12 This bill would prohibit a person from  
13 watching, viewing, recording, or capturing a  
14 photograph or video while operating a motor  
15 vehicle; would prohibit a person from physically  
16 holding a wireless telecommunications device while  
17 operating a motor vehicle; and would prohibit a  
18 person from engaging in a voice-based communication  
19 while operating a motor vehicle, with exceptions to  
20 the prohibitions.

21 This bill would also further for the  
22 criminal penalties associated with a violation.

23 Under existing law, a conviction for using a  
24 wireless telecommunications device to write, send,  
25 or read a text-based communication is a two-point  
26 violation on the individual's driving record.

1           This bill would provide that on a third or  
2 subsequent conviction the individual would receive  
3 a three-point violation on the individual's driving  
4 record.

5           Amendment 621 of the Constitution of Alabama  
6 of 1901, now appearing as Section 111.05 of the  
7 Official Recompilation of the Constitution of  
8 Alabama of 1901, as amended, prohibits a general  
9 law whose purpose or effect would be to require a  
10 new or increased expenditure of local funds from  
11 becoming effective with regard to a local  
12 governmental entity without enactment by a 2/3 vote  
13 unless: it comes within one of a number of  
14 specified exceptions; it is approved by the  
15 affected entity; or the Legislature appropriates  
16 funds, or provides a local source of revenue, to  
17 the entity for the purpose.

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

25  
26                           A BILL  
27                           TO BE ENTITLED

1 AN ACT

2  
3 Relating to motor vehicles; to amend and renumber  
4 Sections 32-5A-351 and 32-5A-352, Code of Alabama 1975, and to  
5 add Sections 32-5A-353 to 32-5A-358, inclusive, to the Code of  
6 Alabama 1975, to provide prohibitions on the use of a wireless  
7 telecommunications device while operating a motor vehicle,  
8 with exceptions; to further provide criminal penalties; to  
9 repeal Section 32-5A-350, Code of Alabama 1975; and in  
10 connection therewith would have as its purpose or effect the  
11 requirement of a new or increased expenditure of local funds  
12 within the meaning of Amendment 621 of the Constitution of  
13 Alabama of 1901, now appearing as Section 111.05 of the  
14 Official Recompilation of the Constitution of Alabama of 1901,  
15 as amended.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 32-5A-353 to 32-5A-358,  
18 inclusive, are added to Article 16 of Chapter 5A of Title 32,  
19 Code of Alabama 1975, to read as follows:

20 §32-5A-353.

21 This article shall be known and may be cited as CiCi  
22 and Jay's Law.

23 §32-5A-354.

24 As used in this article, the following words shall  
25 have the following meanings:

26 (1) TEXT-BASED COMMUNICATION. The term includes, but  
27 is not limited to, a text message, instant message, e-mail, or

1 Internet data communicated through a wireless  
2 telecommunications device.

3 (2) UTILITY SERVICES. Electric, natural gas, water,  
4 wastewater, cable, telephone, or telecommunications services  
5 or the repair, location, relocation, improvement, or  
6 maintenance of utility poles, transmission structures, pipes,  
7 wires, fibers, cables, easements, rights-of-way, or associated  
8 infrastructures.

9 (3) WIRELESS TELECOMMUNICATIONS DEVICE. A cellular  
10 telephone, text-messaging device, personal digital assistant,  
11 standalone computer, or any other wireless device that is used  
12 to initiate or receive a wireless communication with another  
13 person. The term does not include a radio, citizens band  
14 radio, citizens band radio hybrid, commercial two-way radio  
15 communication device or its functional equivalent,  
16 subscription-based emergency communication device, prescribed  
17 medical device, amateur or ham radio device, or in-vehicle  
18 security, navigation, or remote diagnostic system.

19 §32-5A-355.

20 Except as provided in Section 32-5A-356, a person  
21 may not operate a motor vehicle on a public road, street, or  
22 highway while doing any of the following:

23 (1) Using a wireless telecommunications device to  
24 write, send, read, or otherwise engage in a text-based  
25 communication.

26 (2) Watching, recording, or capturing a photograph  
27 or video.

1           (3) Using a handheld wireless telecommunications  
2 device to engage in a voice-based communication.

3           (4) Physically holding or otherwise supporting with  
4 any part of his or her body a wireless telecommunications  
5 device.

6           §32-5A-356.

7           The following uses of a wireless telecommunications  
8 device are not subject to the restrictions of this article:

9           (1) The use of a wireless telecommunications device  
10 to obtain emergency services, including, but not limited to,  
11 an emergency call to a law enforcement agency, health care  
12 provider, fire department, or other emergency services agency  
13 or entity.

14           (2) The use of a wireless telecommunications device  
15 while the motor vehicle is parked on the shoulder of the  
16 highway, road, or street.

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

22           (4) The use of an earpiece, a headphone device,  
23 steering wheel controls, or other device worn on the person or  
24 mounted onto the dashboard, center console, windshield, or  
25 other part of the vehicle to conduct substantially hands-free  
26 voice-based wireless communications.

1           (5) The use of a continuous recording device that  
2 operates within or outside the vehicle, including, but not  
3 limited to, a dash camera or backup camera.

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

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

14           (8) The use of an ignition interlock device, as  
15 defined in Section 32-5A-191.4.

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

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

24           b. The individual's hand is used to activate or  
25 deactivate a feature or function of the device with the motion  
26 of one swipe or tap of the individual's finger, and the swipe  
27 or tap does not activate the camera, video, or gaming features

1 or functions for viewing, recording, amusement, or other  
2 non-navigational functions, other than functions or features  
3 related to the transportation of persons or property for  
4 compensation or payment of a fee.

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

8 §32-5A-357.

9 (a) A law enforcement officer enforcing this article  
10 may treat a violation of the article as the primary or sole  
11 reason for issuing a citation to the operator of a motor  
12 vehicle.

13 (b) A law enforcement officer enforcing this article  
14 may not search a motor vehicle or the operator or passenger of  
15 the motor vehicle solely because of a violation of this  
16 article.

17 (c) A law enforcement officer may not use a  
18 violation of this article to establish probable cause for any  
19 other violation.

20 §32-5A-358.

21 (a) A person who violates Section 32-5A-355 is  
22 guilty of a traffic infraction and is subject to the following  
23 fines:

24 (1) For a first violation, a fine of one hundred  
25 dollars (\$100).

26 (2) For a second violation, a fine of two hundred  
27 dollars (\$200).



1 (3) For a third or subsequent violation, a fine of  
2 three hundred dollars (\$300).

3 (b) No court costs may be imposed solely in  
4 connection with the prosecution of a violation of this  
5 article.

6 Section 2. Sections 32-5A-351 and 32-5A-352, Code of  
7 Alabama 1975, are amended and renumbered to read as follows:

8 "~~§32-5A-351.~~ §32-5A-359.

9 "(a) A first or second conviction of ~~this article~~  
10 Section 32-5A-355 shall be entered on the driving record of  
11 ~~any the~~ individual charged ~~under this article~~ as a two-point  
12 violation.

13 "(b) A third or subsequent conviction of Section  
14 32-5A-355 shall be entered on the driving record of the  
15 individual charged as a three-point violation.

16 "~~§32-5A-352.~~ §32-5A-360.

17 "(a) In any case brought by a law enforcement  
18 officer employed by the ~~Department of Public Safety~~ Alabama  
19 State Law Enforcement Agency, all fines shall be allocated to  
20 the State General Fund.

21 "(b) Each state, county, and municipal law  
22 enforcement agency shall maintain statistical information on  
23 all traffic stops made pursuant to this article, including  
24 traffic stops made on minority groups, and shall report that  
25 information on a monthly basis to the ~~Department of Public~~  
26 Safety Alabama State Law Enforcement Agency."

1           Section 3. Section 32-5A-350, Code of Alabama 1975,  
2 is repealed; provided, a violation or offense committed prior  
3 to the repeal of this section pursuant to this act is not  
4 affected by the repeal of that section, and any prosecution or  
5 proceeding for any violation of that section pending on the  
6 effective date of this act shall proceed as if the section was  
7 not repealed.

8           Section 4. Although this bill would have as its  
9 purpose or effect the requirement of a new or increased  
10 expenditure of local funds, the bill is excluded from further  
11 requirements and application under Amendment 621, now  
12 appearing as Section 111.05 of the Official Recompilation of  
13 the Constitution of Alabama of 1901, as amended, because the  
14 bill defines a new crime or amends the definition of an  
15 existing crime.

16           Section 5. This act shall become effective on the  
17 first day of the third month following its passage and  
18 approval by the Governor, or its otherwise becoming law.