

Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE IN A SCHOOL CROSSING ZONE OR WHILE OPERATING A BUS WITH A MINOR PASSENGER; LOCAL AUTHORITY SIGN REQUIREMENTS; OFFENSE.

(a) In this section:

(1) "Hands-free device" means speakerphone capability, a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a wireless communication device or in a motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands, except to activate or deactivate a function of the wireless communication device or hands-free device. The term includes voice-operated technology and a push-to-talk function.

(2) "Wireless communication device" means a device that uses a commercial mobile service, as defined by 47 U.S.C. Section 332.

(b) Except as provided by Subsection (c), an operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone, as defined by Section 541.302, Transportation Code, unless:

- (1) the vehicle is stopped; or
- (2) the wireless communication device is used with a hands-free device.

(b-1) Except as provided by Subsection (b-2), a local authority that enforces this section in a school crossing zone in the local authority's jurisdiction shall post a sign, or approve the posting of a sign by a school or school district, that complies with the standards described by this subsection at each entrance to the school crossing zone. The Texas Department of Transportation shall adopt standards that:

- (1) allow for a sign required to be posted under this subsection to be attached to an existing sign at a minimal cost; and
- (2) require that a sign required to be posted under this subsection inform an operator that:
 - (A) the use of a wireless communication device is prohibited in the school crossing zone; and
 - (B) the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone.

(b-2) A local authority that by ordinance or rule prohibits the use of a wireless communication device while operating a motor vehicle, including a prohibition that contains an exception for the use of a wireless communication device with a hands-free device, throughout the jurisdiction of the local authority is not required to post a sign as required by Subsection (b-1) and shall:

- (1) post signs that are located at each point at which a state highway, U.S. highway, or interstate highway enters the jurisdiction of the local authority and that state:
 - (A) that an operator is prohibited from using a wireless communication device while operating a motor vehicle in the jurisdiction of the local authority, and whether use of a wireless communication device with a hands-free device is allowed in the jurisdiction of the local authority; and
 - (B) that the operator is subject to a fine if the operator uses a wireless communication device while operating a motor vehicle in the jurisdiction of the local authority; and

(2) subject to all applicable United States Department of Transportation Federal Highway Administration rules, post a message that complies with Subdivision (1) on any dynamic message sign operated by the local authority located on a state highway, U.S. highway, or interstate highway in the jurisdiction of the local authority.

(b-3) A sign posted under Subsection (b-2)(1) must be readable to an operator traveling at the applicable speed limit.

(b-4) The local authority shall pay the costs associated with the posting of signs under Subsections (b-1) and (b-2), unless the authority enters an agreement providing otherwise.

(c) An operator may not use a wireless communication device while operating a school bus or passenger bus with a minor passenger on the bus unless the bus is stopped.

(d) It is an affirmative defense to prosecution of an offense under this section that:

(1) the wireless communication device was used to make an emergency call to:

(A) an emergency response service, including a rescue, emergency medical, or hazardous material response service;

(B) a hospital;

(C) a fire department;

(D) a health clinic;

(E) a medical doctor's office;

(F) an individual to administer first aid treatment; or

(G) a police department; or

(2) a sign required by Subsection (b-1) was not posted at the entrance to the school crossing zone at the time of an offense committed in the school crossing zone.

(d-1) The affirmative defense available in Subsection (d)(2) is not available for an offense under Subsection (b) committed in a school crossing zone located in the jurisdiction of a local authority that is in compliance with Subsection (b-2).

(e) This section does not apply to:

(1) an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity; or

(2) an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.

(e-1) Subsection (c) does not apply to an operator of a school bus or passenger bus using a wireless communication device:

(1) in the performance of the operator's duties as a bus driver; and

(2) in a manner similar to using a two-way radio.

(f) Except as provided by Subsection (b-2), this section preempts all local ordinances, rules, or regulations that are inconsistent with specific provisions of this section adopted by a political subdivision of this state relating to the use of a wireless communication device by the operator of a motor vehicle.

Added by Acts 2005, 79th Leg., Ch. 357 (S.B. 1257), Sec. 5, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1105 (H.B. 55), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 774 (H.B. 1899), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 438 (H.B. 62), Sec. 6, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1358 (H.B. 771), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1358 (H.B. 771), Sec. 2, eff. September 1, 2019.