

## **BILL ANALYSIS**

H.B. 62  
By: Craddick  
Transportation  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties contend that a statewide prohibition against the use of a wireless communications device while driving would greatly improve the safety of Texas roads. H.B. 62 seeks to address this issue by establishing provisions relating to the use of such a device while driving.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 62 amends the Transportation Code to include as a required component of the examination for a driver's license administered by the Department of Public Safety (DPS) a test of the applicant's knowledge of the effect of using a wireless communication device, or engaging in other actions that may distract a driver, on the safe or effective operation of a motor vehicle and to require DPS to give license applicants the option of taking such test in writing in addition to or instead of other provided testing methods. The bill establishes a fine of at least \$25 and not more than \$99 for the misdemeanor offense involving the operation of a motor vehicle by a person under 18 years of age while using a wireless communication device and for the misdemeanor offense involving the operation of a motorcycle or moped by a person under 17 years of age who holds a restricted motorcycle license or moped license while using a wireless communication device. The bill enhances the punishment for both offenses to a fine of at least \$100 and not more than \$200 if the defendant has been previously convicted at least one time of either offense. The bill revises the exemptions from statutory provisions relating to the operation of a vehicle by a person under 18 years of age for a person licensed by the Federal Communications Commission (FCC) who operates a radio frequency device and for the holder of an instruction permit while operating a motor vehicle and accompanied by another person as required by law. The bill revises the definition of "hands-free device."

H.B. 62 creates a misdemeanor offense punishable by a fine of at least \$25 and not more than \$99 for an operator of a motor vehicle who uses a portable wireless communication device to read, write, or send an electronic message while operating a motor vehicle unless the vehicle is stopped. The bill enhances the punishment for such an offense to a fine of at least \$100 and not more than \$200 for a subsequent conviction of the offense. The bill establishes the circumstances that constitute an affirmative defense to prosecution of the offense and exempts from application

of the offense an operator of an authorized emergency or law enforcement vehicle using a portable wireless communication device while acting in an official capacity and an operator who is licensed by the FCC while operating a radio frequency device other than a portable wireless communication device. The bill requires the Texas Department of Transportation to post a sign at each point at which an interstate highway or U.S. highway enters Texas that informs an operator that the use of a portable wireless communication device for electronic messaging while operating a motor vehicle is prohibited in Texas and that the operator is subject to a fine for such use. The bill prohibits a peace officer who stops a motor vehicle for such an alleged violation from taking possession of or otherwise inspecting such a device in the possession of the operator unless authorized by the Code of Criminal Procedure, the Penal Code, or other law. The bill prohibits DPS from assigning points under the driver responsibility program to a person's license for a conviction of the offense.

**EFFECTIVE DATE**

September 1, 2017.