

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass as Amended and Be Printed Engrossed
Vote: 6 - 3 - 1
Yeas: Bailey, Boone, Edwards D., Kahl, Schaufler, Beyer
Nays: Bentz, Berger, Gilman
Exc.: Weidner
Prepared By: Patrick Brennan, Administrator
Meeting Dates: 2/20, 4/20

WHAT THE MEASURE DOES: Requires the use of a hands-free accessory to lawfully use a mobile communications device while operating a motor vehicle. Expands list of exceptions to include public safety personnel, persons acting using the device in the scope of employment, and persons using devices that allow for voice communication only one-way at a time. Designates as primary offense and as a Class D traffic violation, punishable by maximum fine of \$90.

ISSUES DISCUSSED:

- Similar laws in other states
- Allowable exceptions
- Potential hazards of distracted driving
- Types of mobile communication devices and ways of operating them
- Previous laws related to driving while encumbered
- Use of hands-free devices and push-to-talk devices

EFFECT OF COMMITTEE AMENDMENT: Replaces measure with language from House Bill 2038, with additional changes: deletes language in statute specifying that enforcement may only be as a secondary offense. Creates exceptions for persons providing public safety services or emergency services as a volunteer, persons acting in the scope of employment as a public safety officer, persons operating a motor vehicle in scope of employment if the motor vehicle is necessary for their job, persons activating or deactivating the device, and persons using a function of a device that allows for only one-way voice communication in certain circumstances.

BACKGROUND: Oregon is one of 17 states that currently prohibit the use of cell phones and other mobile communications devices by persons under 18 while they are operating a vehicle. Oregon's law, which took effect with the enactment of House Bill 2872 in 2007, designates use of a cell phone or other mobile communications device, to be a Class D traffic violation, punishable by a fine of up to \$90. The violation is considered a *secondary offense*, meaning that an officer may only issue the violation if the driver has been pulled over for a separate suspected offense. Oregon is one of eight states that prohibit cities, counties or other local governments from enacting ordinances that restrict the use of cell phones (ORS 801.038), meaning that restrictions on the use of such devices can only be enacted at the state level.

Five states (California, Connecticut, New Jersey, New York and Washington) plus the District of Columbia prohibit talking on hand-held cell phones while driving. House Bill 2377-A creates a similar restriction, requiring the use of a hands-free accessory (defined as a device that allows use of the cell phone while keeping both hands on the steering wheel) in order to lawfully use a mobile communication device while driving. The measure designates the violation as a *primary offense*, meaning that a law officer could stop a driver solely for the reason that they are using a cell phone without also using a hands-free accessory. Exceptions are provided for several cases, including use by public safety officers or persons operating a vehicle in the scope of employment and select uses of devices that allow only for one-way voice communication (such as citizen-band radios or certain push-to-talk phones).

The violation is a Class D traffic violation, similar to that of the existing law for drivers under 18 years of age using a communications device, punishable by a maximum fine of \$90.

4/22/2009 5:04:00 PM

This summary has not been adopted or officially endorsed by action of the committee.