

SB 2 -3 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 3/7, 4/11

WHAT THE MEASURE DOES:

Renames offense of operating a motor vehicle while using mobile communication device and expands it to cover operating a motor vehicle while using mobile electronic device. Defines key terms. Increases penalty for offense to A misdemeanor. Increases penalty to C felony if person has three prior convictions within 10 years. Imposes mandatory minimum fines and imprisonment. Makes offense person crime. Makes felony offense crime category 6.

ISSUES DISCUSSED:

- Discussion of traffic incidents caused by distracted driving
- Discussion of what activities would be prohibited
- Discussion of other applicable laws

EFFECT OF AMENDMENT:

-3 Replaces measure. Renames offense of operating a motor vehicle while using mobile communication device and expands it to cover operating a motor vehicle while using mobile electronic device. Defines key terms. Establishes certain affirmative defenses. Increases first offense to A traffic violation, second offense to a Class B misdemeanor, and subsequent offenses to a Class A misdemeanor. Imposes minimum fine of \$2,000 for third or subsequent offense. Allows suspension of fine for completion of distracted driving avoidance course.

REVENUE: *Revenue lite*

FISCAL: *Indeterminate fiscal impact*

BACKGROUND:

In 2007, HB 2872 was enacted, making it a traffic violation for a minor to operate a motor vehicle while using a mobile communication device. In 2009, HB 2377 expanded this law to prohibit any person from operating a motor vehicle while using a mobile communication device. This offense was originally a Class D traffic violation. In 2013, SB 9 elevated this offense to a Class C traffic violation. In 2015, the Oregon Court of Appeals, in *State v. Rabanales-Ramos*, reviewed this legislative history and determined that the law "prohibits talking and texting on a mobile communication device, but not *all* activities that can be performed using such a device." (Emphasis original). For example, the statute would not prohibit a person from holding a cell phone to listen to music while driving. In 2016, a Distracted Driving Task Force (task force) began work on the issue of distracted driving. The task force issued a report in February 2017, which included a recommendation to amend the law to broaden the definition of device usage and eliminate certain exceptions.

Senate Bill 2 renames this offense and expands it to cover operating a motor vehicle while using a mobile electronic device. It also defines mobile electronic device and other key terms. SB2 eliminates several exceptions contained in existing law, such as use of a mobile electronic device for the purpose of farming or agricultural operations. SB 2 also increases the penalty to an A misdemeanor. It further increases the penalty to a C felony on the fourth conviction if

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the person has three prior convictions within 10 years. SB 2 requires the court to impose a minimum fine of \$1,000 on a first conviction, \$1,500 on a second conviction, and \$2,000 on a third or subsequent conviction if the person is not sentenced to imprisonment. It also establishes a maximum fine of \$10,000 if there is a minor passenger in the vehicle who is at least three years younger than the driver at the time of the offense. SB 2 imposes a mandatory minimum sentence of 48 hours' imprisonment upon conviction that must be served consecutively, unless justice requires otherwise, or the performance of community service.

Finally, SB 2 classifies this offense as a crime category 6 on the sentencing guidelines grid when it is a felony. It also specifies that when a person is being sentenced for an offense involving a motor vehicle, two prior misdemeanor convictions for this offense is equivalent to one felony conviction for this offense and that convictions for this offense constitute person crimes.