

Dear Senate Judiciary Committee:

I am concerned that HB 2597 has deficiencies in its language which are materially at variance with the intentions of the bill as communicated by correspondence received from staff.

I am led to understand that HB 2597 is intended, in part, to satisfy the provisions of 23 USC Chapter 4 Section 405 subsection (e), available here: <https://www.gpo.gov/fdsys/pkg/USCODE-2015-title23/html/USCODE-2015-title23-chap4-sec405.htm> under the heading DISTRACTED DRIVING GRANTS, and regarding the availability of Federal grant funding in connection with State statutes which prohibit texting while driving and which prohibit youth cell phone use while driving.

The Federal statute is specifically written in regards prohibited uses of a "personal wireless communication device". Note that this language does not prohibit the use of medical devices while driving, insofar as hearing aids, insulin pumps, and similar equipment are not personal wireless communication devices. HB 2597 is considerably more broad; its language prohibits various uses of a "mobile electronic device". The uses and devices prohibited by HB 2597 more than cover the devices and uses in the Federal statute. However, the devices and uses in HB 2597 also cover insulin pumps, hearing aids, and similar medical equipment.

This is where the language of the bill runs into problems.

In HB 2597, Section 2 (3) defined various conditions under which the entire section does not apply. Omitting a few intervening clauses, the subsection reads:

(3) This section does not apply to a person ... who: ... (d) Is using a medical device.

Note that clause (d) does not specify how many of the devices used by the person must be medical devices, or whether the medical device used by the person must be electronic. Under the plain language of HB 2597 Section 2(3)(d), if a driver uses an insulin pump, or uses a hearing aid, or wears contact lenses (which are considered medical devices by the FDA), that driver may use mobile electronic devices while driving without restriction under this section.

Carving out an exception under which a driver with a hearing aid may text with impunity, or under which a youth driver who wears contact lenses may make cell phone calls, cannot possibly qualify the statute as complying with 23 USC Chapter 4 Section 405. I strongly suggest that the Senate Judiciary Committee consider an appropriate amendment to limit the medical device exception, so that exception applies only to medical uses of devices, and not to the entire scope of action of a person who uses a medical device.

Thank you,
Steve Gerken
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