

Senate Judiciary Committee

May 23, 2017

I oppose HB 2597 for many reasons. It does both more and less than what I think you intend. It does much more than rename the “offense of operating motor vehicle while using mobile communication device as offense of operating motor vehicle while using mobile electronic device.” It expands the offense to include all electronic devices, not just communications devices. However, it applies only to electronic devices. It would be illegal to use an electronic voice recorder to make notes, say as a reminder to add something to the grocery list, or to record ideas to include in public testimony. On the other hand, my old microcassette tape recorder will have the blessing of the state, because it is electric, rather than electronic. Yet it works the same way as an electronic recorder—pick it up, press record, speak into the microphone, press stop.

I know someone who sometimes sets up the GPS function of his phone to tell him what route to take. He rests the phone on the dashboard just to the left of the speedometer. If a left turn makes it slide rightward, covering the speedometer, and other important displays, he will just have to leave it there until a right turn makes it slide back, because this bill would make it illegal for him to remove his hand from the steering wheel to move the phone. However, I will still be able to write a list of streets and directions, lay it down in the same place, and remove my hand from the steering wheel to pick up and consult my paper list.

I am confused about the exception for someone who “activates or deactivates a mobile electronic device or a **function** [emphasis, mine]of the device. . . .” Doesn’t that mean that in addition to answering phone calls a driver can activate the voice notes function? Then activate actual recording? Activate the camera and activate the shutter? Activate text messages? Activate anything else on a phone? Activate anything on a computer? If a driver has a dashboard camera will he be allowed to start and stop it while driving or will he have to let it run for the entire trip?

If a driver won’t be allowed all those activations and deactivations, there is still the ability to use voice activation on many devices to activate all sorts of functions. Of course, one would have to look carefully at the device to ensure that it heard “How’re the kids,” not “Flour the kids.” If this bill really does limit drivers to answering and hanging up phone calls, there will be a booming industry in phone holders that allow a driver to strap his phone to his steering wheel in such a way that he can press all the buttons without taking either hand off the wheel. That will make it much easier to play backgammon, cribbage or Angry Birds while driving.

In addition to those unclear parts of the bill, the truly wonderful get-out-of-jail-free exception is for anyone using a medical device. It doesn’t say that use of an electronic medical device is exempt. It says that the section does not apply to a person who “is using a medical device.” Anyone with a pacemaker is always using a medical device, so he can use his phone or any other electronic device while driving. Anyone with a prosthetic limb or an artificial joint would be exempt. Would eyeglasses count as a medical device? How about crowns and fillings? I think that nearly everyone might be exempt from this law.

Even if you fix this bill to say what you probably mean, it still will be a silly bill. I suspect that you mean to allow drivers to remove a hand from the steering wheel to answer and end phone calls, but not to have any other contact with an electronic device. That means that a driver could reach up to his ear to answer a call, but if he can't easily hear the caller he would have to ask the caller to shout, because he wouldn't be allowed to reach up to press the button that adjusts the volume. If he doesn't already have his earphone in his ear, he won't be allowed to insert it to answer the phone. If his inner ear itches he won't be allowed to move the earphone to scratch, but he will be allowed to reach up to scratch the lobe or any other part of the ear or any part of the other ear, the nose, or whatever itches. An unreachable itch is very distracting.

Why does electronic device use depend on the ability to keep both hands on the steering wheel, anyway? There is no general ban on removing a hand from the steering wheel. Drivers often drive one-handed—to adjust the radio, heater or air conditioner; adjust the mirrors; raise or lower the windows; reach for water; coffee, or a snack; turn on the headlights; shift gears. If I have to break sharply, I reach over to stop my backpack falling forward off the passenger seat. If this bill passes and my phone were sitting there, I could still stop the backpack, but I would just have to let the phone fly forward onto the floor. Where is the sense in that?

All these restrictions are supposedly in aid of reducing distracted driving, but if someone sends me a text message or leaves me a voice message while I'm driving, I won't be allowed to stop the distracting beeping continually reminding me that I have received a message. Also this bill does nothing about the plethora of other potential distractions—children in the back seat, anxiety about work (or anything else), sleep deprivation, interesting scenery, "Oh look! There's the Oscar Meyer wienermobile." Crash. No electronic device involved.

This bill was poorly thought out and poorly worded. I urge you to vote against it.

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