

SB 2 A STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Action Date: 04/11/17

Action: Do pass with amendments. Refer to Ways and Means by prior reference. (Printed A-Eng).

Vote: 3-2-0-0

Yeas: 3 - Dembrow, Manning Jr, Prozanski

Nays: 2 - Linthicum, Thatcher

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

Prepared By: Whitney Perez, Counsel

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 first offense to Class A traffic violation or Class B misdemeanor if the offense contributed to an accident that must be reported. Increases second offense to Class B misdemeanor. Increases third and subsequent offenses to Class A misdemeanor. Eliminates certain exceptions. Creates affirmative defense. Creates distracted driving avoidance course for certain first-time offenders.

ISSUES DISCUSSED:

- Traffic incidents caused by distracted driving
- What activities would be prohibited
- Other applicable laws

EFFECT OF AMENDMENT:

Replaces measure.

BACKGROUND:

In 2007, House Bill 2872 was enacted, making it a traffic violation for a minor to operate a motor vehicle while using a mobile communication device. In 2009, House Bill 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, Senate Bill 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-A 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. SB 2-A eliminates several exceptions contained in existing law, such as use of a mobile electronic device for the purpose of farming or agricultural operations. It also creates several affirmative defenses. SB 2-A also increases the penalty for a first offense to a Class A traffic violation, or a Class B misdemeanor if the offense contributed to an accident that must be reported. It

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increases the penalty for a second offense to a Class B misdemeanor. Third and subsequent offenses are Class A misdemeanors. SB 2-A requires the court to impose a minimum fine of \$2,000 on a third or subsequent conviction. Beginning January 1, 2018, SB 2-A allows the court to discharge the sentence of a Class A traffic violation for a first offense, if the offender completes a distracted driving avoidance course offered by a provider approved according to rules adopted by the Oregon Department of Transportation.