

HB 2597 B STAFF MEASURE SUMMARY**Carrier:** Sen. Prozanski**Senate Committee On Rules**

Action Date: 06/22/17
Action: Do pass with amendments to the A-Eng bill. (Printed B-Eng.)
Vote: 3-1-2-0
Yeas: 3 - Burdick, President Courtney, Roblan
Nays: 1 - Ferrioli
Exc: 2 - Beyer, Boquist
Fiscal: Fiscal impact issued
Revenue: Revenue impact issued
Prepared By: Cherie Stone, LPRO Analyst

WHAT THE MEASURE DOES:

Renames offense of operating motor vehicle while using mobile communication device and expands it to cover operating motor vehicle while using mobile electronic device. Defines key terms. Increases penalty for first offense. Increases penalty for subsequent offenses or if first offense contributes to accident. Beginning January 1, 2018, court may suspend fine upon first offense if person completes distracted driving avoidance course. Directs Oregon Department of Transportation to create standards for distracted driving avoidance course. Creates exceptions to offense. Creates affirmative defenses to offense. Declares emergency, effective October 1, 2017.

ISSUES DISCUSSED:

- History of distracted driving legislation
- *State v. Rabanales-Ramos*
- Affirmative defense application
- Exemptions for school bus drivers, employees of utility company, HAM radio operators and others

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

In 2007, the Legislative Assembly passed House Bill 2872 making it a Class D traffic violation for a minor to operate a motor vehicle while using a mobile communication device. The law was expanded in 2009, to prohibit any person from operating a motor vehicle while using a mobile communication device. 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*, 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 February 2017, the Distracted Driving Task Force (task force) issued a report which included the recommendation that the distracted driving statute be amended to broaden the definition of device usage and eliminate certain exceptions.

House Bill 2597-B encompasses several of the task force's recommendations. The measure renames and expands the offense to cover operating a motor vehicle while using a mobile electronic device. It also defines mobile electronic device, driving and other key terms. HB 2597-B eliminates several exceptions contained in existing law, such as use of a mobile electronic device for farming or agricultural operations, but does provide limited exceptions, such as the use of a two-way radio device while operating a school bus within the scope of a person's employment. The measure creates several affirmative defenses, such as using a mobile communication device to summon or provide medical or other emergency help, if no other person in the vehicle is capable of summoning help.

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

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In addition, HB 2597-B increases the penalty for a first offense from a Class C traffic violation to a Class B traffic violation. It further increases the penalty to a Class A traffic violation for a subsequent offense within 10 years or if the first offense contributes to an accident. A third offense within ten years is increased to a Class B misdemeanor with a mandatory \$2,000 fine. Finally, HB 2597-B allows the court to suspend a fine imposed on a first offense if a person completes a distracted driving avoidance course established by the Oregon Department of Transportation.