



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 468 (as enacted)
House Bill 4370 (as enacted)
House Bill 4394 (as enacted)
Sponsor: Senator Roger Kahn, M.D. (S.B. 468)
Representative Gino Polidori (H.B. 5370)
Representative Lee Gonzales (H.B. 5394)
Senate Committee: Transportation
House Committee: Transportation

PUBLIC ACT 59 of 2010
PUBLIC ACT 58 of 2010
PUBLIC ACT 60 of 2010

Date Completed: 5-6-10

RATIONALE

There are over 276 million subscribers to wireless communications services in the United States, according to CTIA – the Wireless Association, and a 2008 study by the National Highway Transportation Safety Administration estimated that 11% of drivers are using cell phones at any given daylight time. Although the use of any electronic device or other distraction has been shown to increase the risk of an accident, studies by the Virginia Tech Transportation Institute found that sending and receiving text messages is by far the riskiest behavior, because it diverts the driver's attention from the road for extended periods of time. A driver sending a text message may have his or her eyes off the road for 4.6 seconds over a six-second period, and is 23.2 times more likely to be in a crash or near-crash than while not distracted, according to the studies. In contrast, talking on a cell phone is 1.3 times as risky as driving while not distracted, and dialing a cell phone carries 2.8 times the risk of nondistracted driving.

These findings are considered significant because a growing number of people, particularly young people, are communicating by text messages. Over 135 billion text messages are sent each month, according to CTIA. To help reduce the incidence of distracted driving, it was suggested that the use of text messages while driving should be prohibited.

CONTENT

House Bill 4394 amends the Michigan Vehicle Code to prohibit a person from reading, manually typing, or sending text messages while operating a moving motor vehicle on a street or highway in the State.

House Bill 4370 amends the Michigan Vehicle Code to prohibit points from being entered on a person's driving record for a violation of the prohibition in House Bill 4394.

Senate Bill 468 amends the Michigan Vehicle Code to prescribe a fine for a violation of the prohibition in House Bill 4394.

The three bills are tie-barred to one another, and will take effect on July 1, 2010. House Bill 4394 and Senate Bill 468 are described in detail below.

House Bill 4394

Under the bill, a person may not read, manually type, or send a text message on a wireless two-way communication device, including a wireless phone, that is located in the person's hand or lap, while operating a moving motor vehicle on a street or highway in the State.

("Wireless two-way communication device" does not include a global positioning or

navigation system that is affixed to the vehicle.)

The prohibition does not apply to an individual using a device described above to do any of the following:

- Report a traffic accident, medical emergency, or serious road hazard.
- Report a situation in which the person believes his or her personal safety is in jeopardy.
- Report or avert the perpetration or potential perpetration of a criminal act against the individual or another person.
- Carry out official duties as a police officer, law enforcement official, member of a paid or volunteer fire department, or emergency vehicle operator.

An individual who violates the prohibition is responsible for a civil infraction, subject to a mandatory civil fine of \$100 for a first violation and \$200 for a subsequent violation.

The bill supersedes all local ordinances regulating the use of a communications device while operating a motor vehicle on a highway or street, except a local unit of government may adopt an ordinance or enforce an existing ordinance that substantially corresponds to the bill.

Senate Bill 468

Under the bill, a person who violates the prohibition on reading, manually typing, or sending a text message while operating a moving motor vehicle must be ordered to pay a civil fine of \$100 for a first offense and \$200 for a subsequent offense. The person also must be ordered to pay the costs of the action, not to exceed \$100.

The bill prohibits the court from submitting, and the Secretary of State from entering on the master driving record, an abstract for a civil infraction determination for the violation.

MCL 257.732 et al. (S.B. 468)
257.320a (H.B. 4370)
257.602b (H.B. 4394)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate

Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Text messaging while driving is a major distraction and is responsible for a growing number of automobile accidents. Although most individuals may recognize the dangers, many users say that they feel a social obligation to read or respond to messages immediately, even while driving. This is particularly true for teenagers and young adults, who are more likely to communicate using text messages and to do so while driving.

Reading or writing a text message is a complex task that distracts the driver both visually and cognitively. Most people are aware of the dangers of visual distraction, which involves looking away from the roadway while driving, such as when dialing a cell phone or tuning the radio. A 2006 study by the Virginia Tech Transportation Institute found that in almost 80% of accidents, the driver was not looking at the road in front of the vehicle immediately before the crash.

A separate but related form of distraction is cognitive distraction, which involves preoccupation with mental tasks unrelated to driving. For example, when talking on a cell phone, a driver may be looking at the road but mentally focused on the phone conversation, and therefore may be slower to react to unexpected events.

Text messaging is dangerous because it involves both types of distraction, diverting the driver's cognitive focus while also requiring the driver to look away from the road, sometimes for extended periods of time. This is especially risky at highway speeds: The Virginia Tech Transportation Institute found that text messaging truck drivers may travel the length of a football field without looking at the road, when driving 55 miles per hour. Texting also poses serious problems in city traffic, where vehicles may stop suddenly or traffic signals can change while the driver is looking away. Distracted drivers also pose a serious hazard for bicyclists and pedestrians who, compared with vehicles and motorists, are not as visible on the roadway and are more likely to be seriously injured or killed in a collision. When operating a vehicle, the driver has a responsibility to focus on the road ahead, in

order to be able to respond to unexpected events. The bills will help to improve road safety by prohibiting a major source of both visual and cognitive distraction.

Many other states already have implemented similar bans. As of May 3, 2010, 23 other states and the District of Columbia had enacted a texting ban that applies to all drivers, and another eight states prohibit texting by bus drivers and/or new drivers, according to the National Conference of State Legislatures. The Federal government also is considering legislation that would either require or provide incentives to states to ban text messaging. The bills help bring Michigan's laws into alignment with those of other states.

Response: The bills do not go far enough to eliminate driver distractions, prohibiting only text messaging while allowing the use of cell phones and other devices. Searching for songs on an mp3 player or dialing a phone, for example, can draw the driver's attention from the road just as sending a text message does. The bills also make an exception for hands-free devices, although studies show that those devices still create some distraction for drivers.

Supporting Argument

Under previous versions of the bills, driving while texting would have been a secondary offense, meaning that a law enforcement officer could not stop a driver for text messaging while driving unless he or she was committing some other offense. That provision would have tied the hands of those charged with enforcing the law, limiting the bills' effectiveness. By making the violation a primary offense, the bills give law enforcement officers the authority to stop those who are sending text messages, rather than having to wait for an accident or other violation to occur.

Response: Making a violation a secondary offense would have allowed for a transition period, giving drivers time to become familiar with the new law without being burdened with large fines that many would find difficult to pay. Establishing the violation as a secondary offense would have focused law enforcement efforts on drivers who were endangering others.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

House Bill 4370

The bill will have no fiscal impact on State or local government.

House Bill 4394 and Senate Bill 468

The bills will have no fiscal impact on the State. Depending on the number of infractions, \$100 for each first infraction and \$200 for each subsequent infraction will go to the local libraries of the jurisdiction in which the infraction occurred. The number of potential infractions is unknown.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.