

As Introduced

**128th General Assembly
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S. B. No. 164

Senator Smith

Cosponsors: Senators Miller, D., Sawyer, Husted

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A B I L L

To amend section 4510.01 and to enact section 1
4511.204 of the Revised Code to prohibit driving a 2
vehicle while text messaging or typing on a mobile 3
communication device and to establish the 4
violation as a secondary traffic offense. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4510.01 be amended and section 6
4511.204 of the Revised Code be enacted to read as follows: 7

Sec. 4510.01. As used in this title and in Title XXIX of the 8
Revised Code: 9

(A) "Cancel" or "cancellation" means the annulment or 10
termination by the bureau of motor vehicles of a driver's license, 11
commercial driver's license, temporary instruction permit, 12
probationary license, or nonresident operating privilege because 13
it was obtained unlawfully, issued in error, altered, or willfully 14
destroyed, or because the holder no longer is entitled to the 15
license, permit, or privilege. 16

(B) "Drug abuse offense," "cocaine," and "L.S.D." have the 17
same meanings as in section 2925.01 of the Revised Code. 18

(C) "Ignition interlock device" means a device approved by 19
the director of public safety that connects a breath analyzer to a 20
motor vehicle's ignition system, that is constantly available to 21
monitor the concentration by weight of alcohol in the breath of 22
any person attempting to start that motor vehicle by using its 23
ignition system, and that deters starting the motor vehicle by use 24
of its ignition system unless the person attempting to start the 25
vehicle provides an appropriate breath sample for the device and 26
the device determines that the concentration by weight of alcohol 27
in the person's breath is below a preset level. 28

(D) "Immobilizing or disabling device" means a device 29
approved by the director of public safety that may be ordered by a 30
court to be used by an offender as a condition of limited driving 31
privileges. "Immobilizing or disabling device" includes an 32
ignition interlock device, and any prototype device that is used 33
according to protocols designed to ensure efficient and effective 34
monitoring of limited driving privileges granted by a court to an 35
offender. 36

(E) "Moving violation" means any violation of any statute or 37
ordinance that regulates the operation of vehicles, streetcars, or 38
trackless trolleys on the highways or streets. "Moving violation" 39
does not include a violation of section 4511.204 or 4513.263 of 40
the Revised Code or a substantially equivalent municipal 41
ordinance, a violation of any statute or ordinance regulating 42
pedestrians or the parking of vehicles, vehicle size or load 43
limitations, vehicle fitness requirements, or vehicle 44
registration. 45

(F) "Municipal OVI ordinance" and "municipal OVI offense" 46
have the same meanings as in section 4511.181 of the Revised Code. 47

(G) "Prototype device" means any testing device to monitor 48
limited driving privileges that has not yet been approved or 49
disapproved by the director of public safety. 50

(H) "Suspend" or "suspension" means the permanent or temporary withdrawal, by action of a court or the bureau of motor vehicles, of a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of the suspension or the permanent or temporary withdrawal of the privilege to obtain a license, permit, or privilege of that type for the period of the suspension.

(I) "Controlled substance" and "marihuana" have the same meanings as in section 3719.01 of the Revised Code.

Sec. 4511.204. (A) No person shall drive a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic while text messaging or typing on a mobile communication device.

(B) Division (A) of this section does not apply to any of the following:

(1) A person using a mobile communication device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person operating a public safety vehicle who uses a mobile communication device in that manner in the course of the person's duties.

(C) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (A) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a

prosecution of a person for a violation of that nature, and no law 81
enforcement officer shall view the interior or visually inspect 82
any automobile being operated on any street or highway for the 83
sole purpose of determining whether a violation of that nature has 84
been or is being committed. 85

(D)(1) Except as otherwise provided in division (D)(2) or (3) 86
of this section, whoever violates division (A) of this section 87
shall be fined two hundred dollars. 88

(2) If the offender previously has been convicted of or 89
pleaded guilty to a violation of division (A) of this section, the 90
offender shall be fined five hundred dollars. 91

(3) If the offender previously has been convicted of or 92
pleaded guilty to two or more violations of division (A) of this 93
section, the offender shall perform one hundred hours of 94
supervised community service work. 95

(4)(a) Whenever a law enforcement officer issues a ticket, 96
citation, or summons to an offender charging the offender with a 97
violation of this section, the officer shall indicate on the 98
ticket, citation, or summons if at the time of the violation the 99
offender was involved in a motor vehicle accident with another 100
motor vehicle, a pedestrian, or any object. If the law enforcement 101
officer makes such an indication on the ticket, citation, or 102
summons, the offender is not permitted to enter a written plea of 103
guilty and waive the offender's right to contest the citation in a 104
trial but instead shall appear in person in the proper court to 105
answer the charge; in all other circumstances, the offender may 106
enter a written plea of guilty and waive the right to contest the 107
citation in a trial. 108

(b) If the trier of fact finds that the offender was involved 109
in a motor vehicle accident at the time of the violation of this 110
section, the court, in addition to any other penalties it is 111

required or permitted by law to impose, shall impose a class seven 112
license suspension of the offender's driver's license, commercial 113
driver's license, temporary instruction permit, probationary 114
license, or nonresident operating privilege and shall impose the 115
suspension for six months. 116

(E) As used in this section, "mobile communication device" 117
includes any of the following: 118

(1) A wireless telephone; 119

(2) A text-messaging device; 120

(3) A personal digital assistant; 121

(4) A computer; 122

(5) Any other substantially similar wireless device that is 123
designed or used to communicate text or data. 124

Section 2. That existing section 4510.01 of the Revised Code 125
is hereby repealed. 126