A BILL

To amend sections 4511.204, 4511.205, and 4511.991 of the Revised Code to make corrective changes to the distracted driving and texting-while-driving law.

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

Section 1. That sections 4511.204, 4511.205, and 4511.991 of the Revised Code be amended to read as follows:

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 using a handheld electronic wireless communications device to write, send, or read a text-based communication.

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

(1) A person using a handheld electronic wireless communications 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 driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;

(3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;

(4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a telephone call;

(5) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle;

(6) A person receiving wireless messages via radio waves;

(7) A person using a device for navigation purposes;

(8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;

(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;

(10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.
(C)(1) 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 enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(2) On January 31 of each year, the department of public safety shall issue a report to the general assembly that specifies the number of citations issued for violations of this section during the previous calendar year.

(D) Whoever violates division (A) of this section is guilty of a minor misdemeanor.

(E) This section shall not be construed as invalidating, preempting, or superseding a substantially equivalent municipal ordinance that prescribes penalties for violations of that ordinance that are greater than the penalties prescribed in this section for violations of this section.

(F) A prosecution for an offense in violation of this section does not preclude a prosecution for an offense in violation of a substantially equivalent municipal ordinance based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of this section and is also convicted of or pleads guilty to a violation of a substantially...
equivalent municipal ordinance based on the same conduct, the  
two offenses are allied offenses of similar import under section  
2941.25 of the Revised Code.

(G) As used in this section:

(1) "Electronic wireless communications device" includes  
any of the following:

(a) A wireless telephone;

(b) A text-messaging device;

(c) A personal digital assistant;

(d) A computer, including a laptop computer and a computer  
tablet;

(e) Any other substantially similar wireless device that  
is designed or used to communicate text.

(2) "Voice-operated or hands-free device" means a device  
that allows the user to vocally compose or send, or to listen to  
a text-based communication without the use of either hand except  
to activate or deactivate a feature or function.

(3) "Write, send, or read a text-based communication"  
means to manually write or send, or read a text-based  
communication using an electronic wireless communications  
device, including manually writing or sending, or reading  
communications referred to as text messages, instant messages,  
or electronic mail.

Sec. 4511.205. (A) No holder of a temporary instruction  
permit who has not attained the age of eighteen years and no  
holder of a probationary driver's license shall drive a motor  
vehicle on any street, highway, or property used by the public
for purposes of vehicular traffic or parking while using in any manner an electronic wireless communications device.

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

(1) A person using an electronic wireless communications device 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 using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel;

(3) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving.

(C)(1) Except as provided in division (C)(2) of this section, whoever violates division (A) of this section shall be fined one hundred fifty dollars. In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of sixty days.

(2) If the person previously has been adjudicated a delinquent child or a juvenile traffic offender for a violation of this section, whoever violates this section shall be fined three hundred dollars. In addition, the court shall impose a class seven suspension of the person's driver's license or permit for a definite period of one year.

(D) The filing of a sworn complaint against a person for a juvenile offense in violation of this section does not preclude the filing of a sworn complaint for a juvenile offense in violation of a substantially equivalent municipal ordinance for
the same conduct. However, if a person is adjudicated a delinquent child or a juvenile traffic offender for a violation of this section and is also adjudicated a delinquent child or a juvenile traffic offender for a violation of a substantially equivalent municipal ordinance for the same conduct, the two offenses are allied offenses of similar import under section 2941.25 of the Revised Code.

(E) As used in this section, "electronic wireless communications device" includes any of the following:

(1) A wireless telephone;

(2) A personal digital assistant;

(3) A computer, including a laptop computer and a computer tablet;

(4) A text-messaging device;

(5) Any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word.

Sec. 4511.991. (A) As used in this section and each section referenced in division (B) of this section, all of the following apply:

(1) "Distracted" means doing either of the following while operating a vehicle:

(a) Using a handheld electronic wireless communications device, as defined in section 4511.204 of the Revised Code, that is handheld, except when utilizing any of the following:

(i) The device's speakerphone function;

(ii) A wireless technology standard for exchanging data
over short distances;

(iii) A "voice-operated or hands-free" device feature that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;

(iv) Any device that is physically or electronically integrated into the motor vehicle.

(b) Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.

(2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of section 4511.84 of the Revised Code.

(3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage, or a circumstance affecting the health or safety of individuals.

As used in division (A)(3) of this section:

(a) "Utility" means an entity specified in division (A), (C), (D), (E), or (G) of section 4905.03 of the Revised Code.

(b) "Utility service vehicle" means a vehicle owned or operated by a utility.

(B) If an offender violates section 4511.03, 4511.051, 4511.12, 4511.121, 4511.132, 4511.21, 4511.211, 4511.213,
4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29,
4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36,
4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43,
4511.431, 4511.44, 4511.441, 4511.451, 4511.46, 4511.47,
4511.54, 4511.55, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61,
4511.64, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, or
4511.73 of the Revised Code while distracted and the distracting
activity is a contributing factor to the commission of the
violation, the offender is subject to the applicable penalty for
the violation and, notwithstanding section 2929.28 of the
Revised Code, is subject to an additional fine of not more than
one hundred dollars as follows:

(1) Subject to the mandatory appearance requirements of
Traffic Rule 13, if a law enforcement officer issues an offender
a ticket, citation, or summons for a violation of any of the
aforementioned sections of the Revised Code that indicates that
the offender was distracted while committing the violation and
that the distracting activity was a contributing factor to the
commission of the violation, the offender may enter a written
plea of guilty and waive the offender's right to contest the
ticket, citation, or summons in a trial provided that the
offender pays the total amount of the fine established for the
violation and pays the additional fine of one hundred dollars.

In lieu of payment of the additional fine of one hundred
dollars, the offender instead may elect to attend a distracted
driving safety course, the duration and contents of which shall
be established by the director of public safety. If the offender
attends and successfully completes the course, the offender
shall be issued written evidence that the offender successfully
completed the course. The offender shall be required to pay the
total amount of the fine established for the violation, but
shall not be required to pay the additional fine of one hundred dollars, so long as the offender submits to the court both the offender's payment in full and such written evidence.

(2) If the offender appears in person to contest the ticket, citation, or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars.

If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars, the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars, the offender instead may elect to attend the distracted driving safety course described in division (B)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars, so long as the offender submits to the court the offender's payment and such written evidence.

Section 2. That existing sections 4511.204, 4511.205, and 4511.991 of the Revised Code are hereby repealed.