

## SUB HB 119: DISTRACTED DRIVING PROSECUTION

### SHARON MONTGOMERY - INTERESTED PARTY

OCTOBER 3, 2019

Chairman Lang, Vice Chairman Plummer, Ranking Member Leland, and members of the House Criminal Justice Committee, I am Sharon Montgomery. I have been active in efforts to get an effective law to restrict driving under the influence of electronics for 17 years. I am a victim of a fatal crash in 2000 caused by a driver using his phone. Perhaps this makes me a “VIP”--a VERY Interested Party.

I support any efforts to make the existing law about distracted driving better. This bill will not make our current law effective because it will still not be enforceable. But, that is not the goal of this bill. The purpose of this bill is to make some of the language about prosecution more clear.

I think it would be helpful for members who weren't here in 2012 or maybe even 2018 to have a little background on our current law.

In 2011, HB 99 made it easily through the House as a primary-enforcement bill to restrict texting while driving. In 2012, it was reduced to secondary in the Senate. This frustrates law enforcement because they see so many drivers using e-devices in so many ways and except in the few cities with their own primary law, police can't stop these dangerous drivers.

In 2018, HB 95 broadened the definition of distraction from merely texting to using a handheld device or doing other non-driving distracting actions, and kept the secondary enforcement provision. HB 95 added a provision for the *possibility* of two separate fines if it is determined that distraction caused the driver to commit the moving violation he was stopped for.

This is where I find confusion beyond the proposed language changes in Sub HB 119.

HB 95 did not provide criteria for making the determination that distraction caused the moving violation.

HB 99 made a texting traffic stop for adults dependent on “some” other violation. HB 95 made the fine for texting or other distracting action dependent on a “moving violation.” HB 95 enumerated 51 violations that it applies to and called them “moving violations” but did not define “moving violation.” There is no definition for this in ORC 4501 (Title definitions), 4511 (Chapter definitions), or even 4599 (penalties).

If we assume “moving violation” means “while the vehicle was moving,” then there are about 15 violations in ORC Title 45 involving a moving vehicle that are not among the 51 specified in HB 95.

So, would a texting driver who is stopped for a violation that is not one of the 51 in HB 95 be subject to the possible additional fine or not?

When we dig into this more deeply, it seems to me that our distracted driving law will still be very confusing even with the changes in 119.

The Ohio Dept. of Transportation Distracted Driving Task Force presented a report with numerous recommendations to Gov. DeWine in April. He said he supports those recommendations and wants to create a permanent Distracted Driving Advisory Council.

I am told that this council will be created by the Ohio Dept. of Public Safety. I am expecting an call soon about where DPS is in the process of getting this council going.

I assume and hope this advisory council will take a thorough look at research, best practices, and changes in citation and crash statistics where enforceable laws exist. After that, it seems very likely that the council will propose a comprehensive overhaul of our distraction law. This bill isn't addressing some of the complex confusion in our existing law. I suggest this bill be allowed to die in favor of a bill that would not only make prosecution procedures clear but would also make it possible for law enforcement to keep us all safe on our roads.

Many of you are on the road more than the average citizen, driving back and forth between Columbus and your district. Remember: even if you are not distracting yourself, you are on the road with drivers who are and so far, you are not very well protected from them.

Thank you for hearing my concerns. I am happy to answer any questions.

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