



State Senator Stephanie Kunze
16th Ohio Senate District

Senate Minority Whip Sean J. O'Brien
32nd Ohio Senate District

Senator Stephanie Kunze and Senator Sean J. O'Brien
Senate Bill 285
May 20, 2020
Senate Local Government, Public Safety, and Veterans Affairs Committee
Sponsor Testimony

Chairman Manning, Vice Chair Brenner, Ranking Member Maharath and members of the Senate Local Government, Public Safety, and Veterans Affairs Committee. Thank you for allowing us to present sponsor testimony on Senate Bill 285.

Distracted driving is something that I'm sure each of us has seen on our way to the Statehouse or while driving in our district. In conjunction with Governor DeWine, Senator O'Brien and I have introduced Senate Bill 285 to strengthen penalties on those drivers who drive distracted. With Senate Bill 285, we are hoping to change the culture of distracted driving here in Ohio. We must make the use of wireless devices behind the wheel as unacceptable as drinking and driving is today, and we believe that tougher consequences will be a strong deterrent.

Senate Bill 285 will make driving while handling or manipulating any electronic wireless device a primary offense. This includes, but is not limited to writing, sending, or reading text-based communications; watching or recording videos; taking photos or looking at images; live streaming; using applications; entering information into G-P-S navigation programs; dialing phone numbers; holding a device for a phone call.

The purpose of this bill is not to make more traffic stops or put more people in jail, it's to get drivers to put down their phones so that people stop getting hurt. According to the Ohio State Highway Patrol, traffic fatalities on Ohio roads have increased in five of the past six years. Provisional data shows that 2019 was the second-deadliest year of the past decade with at least 1,157 people killed in Ohio traffic crashes. It is our belief that this rise in fatalities is caused by increased amounts of distracted driving.

We have seen in several states that have enacted hands free legislation that fatality rates have dropped. This can happen in Ohio too. When I stood with Governor DeWine and Senator O'Brien at the press conference to unveil this legislation, we heard from families who have lost loved ones due to distracted driving. Hearing their stories was heart wrenching and unfortunately there are too many Ohioans with similar experiences of losing a friend or family member to distracted driving. It is our hope that SB 285 will change behaviors, prevent crashes, and save lives.

My Joint-Sponsor will now share the enhanced penalties that we would see under Senate Bill 285.

Thank you, Senator. Generally, what SB 285 does is broaden the existing texting-while-driving prohibition in the ORC to prohibit using an electronic wireless communications device (EWCD) while driving, and, as Senator Kunze mentioned, makes the use of an EWCD-while-driving a primary offense, rather than a secondary offense. The bill also requires the Director of Public Safety to expand driver's education regarding distracted driving and erect signs regarding the new EWCD-while-driving law throughout Ohio.

Under the bill, the definition of what constitutes an EWCD is broadened significantly to include not only cell phones and laptops, but “any device capable of displaying a video, movie, broadcast television image or visual image, and any other device that is designed or used to initiate or receive communication, or exchange information or data.”

The bill also aligns the scope of existing distracted driving laws with the new EWCD-while-driving prohibitions and adds “failure to control” and “passing a stopped school bus” to the list of moving violations to which an additional distracted driving penalty applies. Please note, exemptions to the law are included for voice-operated/hands-free use of EWCDs, and also for first responders operating public safety vehicles in the course of their official duties.

Regarding specific penalties, SB 285 changes the existing minor misdemeanor penalty for texting-while-driving to an unclassified misdemeanor for the new EWCD-while-driving prohibition (with a \$150 fine), and establishes increasing tiered penalties for additional texting-while-driving violations within a three-year period. These tiered penalties are as follows:

- If, within three years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of the prohibition or an equivalent municipal ordinance, the fine is at least \$250.
- If, within three years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations, the fine is at least \$500 and the court may impose a Class 7 suspension of the person’s driver’s license for not more than one year.

SB 285 also establishes three new criminal prohibitions related to using an EWCD-while-driving. First, the bill establishes a new aggravated vehicular homicide offense and vehicular assault offense, which apply when a person causes the death of or serious physical harm to a person while driving when distracted. The bill also creates the offense of vehicular harm, which applies when a person causes harm (other than serious physical harm) to a person or serious physical harm to property while driving when distracted.

Under the new aggravated vehicular homicide offense, a person is prohibited from causing the death of another as a proximate result of violating the EWCD-while-driving prohibition and current OVI-related aggravated vehicular homicide penalties are applied to those found guilty of this offense, including the imposition of a second degree felony and a Class 1 (lifetime) driver’s license suspension. Circumstances including the offender driving under a suspended/canceled/no license, a previous conviction for vehicular homicide, or any previous conviction for any traffic-related homicide, manslaughter, or assault would enhance the penalty to a first degree felony.

The new aggravated vehicular assault offense prohibits a person from causing serious physical harm to a person as a result of using an EWCD-while-driving. Under the bill, serious physical harm means, among other things, physical harm that carries a substantial risk of death. The bill applies current OVI-related aggravated vehicular assault penalties to a person who is convicted of this offense, including a third-degree felony and a Class 3 (2 to 10 years) driver’s license suspension. Similar mitigating circumstances as would apply to the more serious charge of vehicular homicide would increase these penalties to a second-degree felony and either a Class 2 (3 years to life) or Class 1 driver’s license suspension.

The bill also creates the new offense of vehicular harm, which prohibits causing either physical harm (which is any injury that is not serious physical harm) to another person or serious physical harm to property. If a person is convicted of or pleads guilty to this offense, SB 285 imposes a first degree misdemeanor, a Class 5 (6 months to 3 years) driver’s license suspension, and a \$500 to \$1000 fine.

Finally, the bill imposes two additional points upon a person’s driver’s license when the court determines a person has committed certain speeding offenses while distracted. While, under current law, the court may impose points of varying degree depending on the egregiousness of the speeding, under SB 285 the following points are imposed on a person’s driver’s license when a court determines the person committed the speeding offense while distracted:

- When speeding in excess of 30mph: 6 points;
- When exceeding a speed limit of 55mph by more than 10 mph: 4 points;

- When exceeding a speed limit of less than 55mph by more than 5mph: 4 points;
- When the speed does not exceed the above-mentioned amounts: 2 points;

The bill also imposes additional points upon a person's driver's license when a court determines a violation of the EWCD-while-driving prohibition:

- A first offense in any three-year period: 2 points;
- A second offense in any three-year period: 3 points;
- A third or subsequent offense in any three-year period: 4 points.

Chairman Manning and members of the Senate Local Government, Public Safety, and Veterans Affairs Committee, thank you again for allowing us to present sponsor testimony on Senate Bill 285. We would be happy to answer any questions that the committee might have.