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Representative Stoltzfus

Cosponsors: Representatives Becker, Brinkman, Hood, Keller, Koehler, Lang, Merrin, Riedel, Seitz, Abrams, Baldridge, Blair, Boggs, Brent, Carfagna, Carruthers, Clites, Crawley, Cross, Crossman, Cupp, Edwards, Galonski, Ghanbari, Ginter, Greenspan, Hambley, Ingram, Jones, Jordan, Lanese, LaRe, Leland, Lepore-Hagan, Lightbody, Liston, Manning, D., Manning, G., Miller, J., O'Brien, Oelslager, Patterson, Plummer, Reineke, Robinson, Rogers, Romanchuk, Russo, Scherer, Sheehy, Smith, T., Sobecki, Stein, Sweeney, Upchurch, Weinstein, West

A BILL

To amend sections 4511.202, 4511.204, 4511.205, 4511.75, and 4511.991 of the Revised Code to make corrective changes to the distracted driving and texting-while-driving law and to add the offenses of failure to control and passing a stopped school bus to the distracted driving law.

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

Section 1. That sections 4511.202, 4511.204, 4511.205, 4511.75, and 4511.991 of the Revised Code be amended to read as follows:

Sec. 4511.202. (A) No person shall operate a motor vehicle, trackless trolley, streetcar, agricultural tractor, or agricultural tractor that is towing, pulling, or otherwise
drawing a unit of farm machinery on any street, highway, or property open to the public for vehicular traffic without being in reasonable control of the vehicle, trolley, streetcar, agricultural tractor, or unit of farm machinery.

(B) Whoever violates this section is guilty of operating a motor vehicle or agricultural tractor without being in control of it, a minor misdemeanor.

(C) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 4511.991 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 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. 4511.75. (A) The driver of a vehicle, streetcar, or trackless trolley upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and county boards of developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this division that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by division (B) of this section.

(B) Every school bus shall be equipped with amber and red visual signals meeting the requirements of section 4511.771 of the Revised Code, and an automatically extended stop warning sign of a type approved by the state board of education, which
shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and county boards of developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and county boards of developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are loading or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the board.

(C) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle, streetcar, or trackless trolley need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and county boards of developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle, streetcar, or trackless trolley overtaking the school bus shall comply with division (A) of this section.

(D) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and county boards of developmental disabilities, and children attending programs.
offered by head start agencies on their residence side of the highway.

(E) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and county boards of developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child's or person's residence side of the road.

(F)(1) Whoever violates division (A) of this section may be fined an amount not to exceed five hundred dollars. A person who is issued a citation for a violation of division (A) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.

(2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the registrar of motor vehicles, together with notice of the court's action.

(3) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the
commission of the offense, the offender is subject to the additional fine established under section 4511.991 of the Revised Code.

(G) As used in this section:

(1) "Head start agency" has the same meaning as in section 3301.32 of the Revised Code.

(2) "School bus," as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the state board of education, is painted the color and displays the markings described in section 4511.77 of the Revised Code, and is equipped with amber and red visual signals meeting the requirements of section 4511.771 of the Revised Code, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.

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, 4511.202, 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, or 4511.75 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 4511.202, 4511.204, 4511.205, 4511.75, and 4511.991 of the Revised Code are hereby repealed.