

As Introduced

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Representative Lightbody

**Cosponsors: Representatives Boggs, Crawley, Crossman, Galonski, Leland,
Miller, A., Russo**

A BILL

To amend sections 4511.043 and 4511.204 of the 1
Revised Code to alter the law governing the use 2
of a handheld electronic wireless communications 3
device while driving. 4

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

Section 1. That sections 4511.043 and 4511.204 of the 5
Revised Code be amended to read as follows: 6

Sec. 4511.043. (A) (1) No law enforcement officer who stops 7
the operator of a motor vehicle in the course of an authorized 8
sobriety or other motor vehicle checkpoint operation or a motor 9
vehicle safety inspection shall issue a ticket, citation, or 10
summons for a secondary traffic offense unless in the course of 11
the checkpoint operation or safety inspection the officer first 12
determines that an offense other than a secondary traffic 13
offense has occurred and either places the operator or a vehicle 14
occupant under arrest or issues a ticket, citation, or summons 15
to the operator or a vehicle occupant for an offense other than 16
a secondary offense. 17

(2) A law enforcement agency that operates a motor vehicle checkpoint for an express purpose related to a secondary traffic offense shall not issue a ticket, citation, or summons for any secondary traffic offense at such a checkpoint, but may use such a checkpoint operation to conduct a public awareness campaign and distribute information.

(B) As used in this section, "secondary traffic offense" means a violation of division (A) or (F) (2) of section 4507.05, division (B) (1) (a) or (b) or (E) of section 4507.071, ~~division (A) of section 4511.204,~~ division (C) or (D) of section 4511.81, division (A) (3) of section 4513.03, or division (B) of section 4513.263 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, do~~ any of the following:

(1) Write, send, or read a text-based communication;

(2) View, play, or otherwise interact with any game or internet-based content;

(3) Use or manipulate any application that is either factory-installed or downloaded to the device.

(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 a-an offense in violation of this
section does not preclude a prosecution for a-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.	105
(G) As used in this section:	106
(1) "Electronic wireless communications device" includes any of the following:	107 108
(a) A wireless telephone;	109
(b) A text-messaging device;	110
(c) A personal digital assistant;	111
(d) A computer, including a laptop computer and a computer tablet;	112 113
(e) Any other substantially similar wireless device that is designed or used to communicate text.	114 115
(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.	116 117 118 119
(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.	120 121 122 123 124 125
Section 2. That existing sections 4511.043 and 4511.204 of the Revised Code are hereby repealed.	126 127