**South Carolina General Assembly**

120th Session, 2013-2014

**H. 4386**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Bowen, Gilliard, Felder, Southard, Kennedy, W.J. McLeod and Whipper

Document Path: l:\council\bills\nbd\11268cm14.docx

Introduced in the House on January 14, 2014

Introduced in the Senate on April 15, 2014

Last Amended on April 9, 2014

Currently residing in the Senate Committee on **Judiciary**

Summary: Use of cellphone while driving

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/3/2013 House Prefiled

12/3/2013 House Referred to Committee on **Education and Public Works**

1/14/2014 House Introduced and read first time ([House Journal‑page 56](file:///H:\HJ%20Archive\2014\01-14-14.docx))

1/14/2014 House Referred to Committee on **Education and Public Works** ([House Journal‑page 56](file:///H:\HJ%20Archive\2014\01-14-14.docx))

1/15/2014 House Member(s) request name added as sponsor: Gilliard

2/26/2014 House Member(s) request name added as sponsor: Felder, Southard, Kennedy

3/20/2014 House Committee report: Favorable with amendment **Education and Public Works** ([House Journal‑page 44](file:///H:\HJ%20Archive\2014\03-20-14.docx))

3/24/2014 Scrivener's error corrected

3/26/2014 House Member(s) request name added as sponsor: W.J.McLeod

3/26/2014 House Debate adjourned until Tues., 4‑1‑14 ([House Journal‑page 58](file:///H:\HJ%20Archive\2014\03-26-14.docx))

4/2/2014 House Member(s) request name added as sponsor: Whipper

4/2/2014 House Requests for debate‑Rep(s). Daning, Owens, Hiott, Wood, Loftis, Brannon, Forrester, Weeks, Anthony, Sabb, Rivers, Whitmire, Sandifer, Putnam, Gagnon, Pitts, Hart, Williams, McEachern, Douglas, Whipper, Wells, GR Smith, Hamilton ([House Journal‑page 52](file:///H:\HJ%20Archive\2014\04-02-14.docx))

4/9/2014 House Amended ([House Journal‑page 97](file:///H:\HJ%20Archive\2014\04-09-14.docx))

4/9/2014 House Read second time ([House Journal‑page 97](file:///H:\HJ%20Archive\2014\04-09-14.docx))

4/9/2014 House Roll call Yeas‑97 Nays‑16 ([House Journal‑page 122](file:///H:\HJ%20Archive\2014\04-09-14.docx))

4/10/2014 House Read third time and sent to Senate ([House Journal‑page 115](file:///H:\HJ%20Archive\2014\04-10-14.docx))

4/10/2014 House Roll call Yeas‑89 Nays‑12 ([House Journal‑page 116](file:///H:\HJ%20Archive\2014\04-10-14.docx))

4/15/2014 Senate Introduced and read first time ([Senate Journal‑page 12](file:///H:\SJ%20Archive\2014\04-15-14.docx))

4/15/2014 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 12](file:///H:\SJ%20Archive\2014\04-15-14.docx))

**VERSIONS OF THIS BILL**

[12/3/2013](file:///p:\pprever\2013-14\4386_20131203.docx)

[3/20/2014](file:///p:\pprever\2013-14\4386_20140320.docx)

[3/24/2014](file:///p:\pprever\2013-14\4386_20140324.docx)

[4/9/2014](file:///p:\pprever\2013-14\4386_20140409.docx)

[4/11/2014](file:///p:\pprever\2013-14\4386_20140411.docx)

CORRECTED AND REPRINTED

~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

April 9, 2014

**H. 4386**

Introduced by Reps. Bowen, Gilliard, Felder, Southard, Kennedy, W.J. McLeod and Whipper

S. Printed 4/11/14--H.

Read the first time January 14, 2014.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 56‑5‑3890 AND 56‑5‑3897 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO USE A COMMUNICATION DEVICE WHILE DRIVING A MOTOR VEHICLE UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE A PENALTY, AND TO PROVIDE FOR THE DISTRIBUTION OF MONIES COLLECTED FROM FINES ASSOCIATED WITH VIOLATIONS OF THIS PROVISION; TO AMEND SECTION 56‑1‑720, RELATING TO THE ASSESSMENT OF POINTS AGAINST A PERSON’S DRIVING RECORD FOR CERTAIN MOTOR VEHICLE VIOLATIONS, SO AS TO PROVIDE THAT POINTS MUST BE ASSESSED AGAINST THE DRIVING RECORD OF A PERSON CONVICTED OF TEXTING WHILE DRIVING; AND TO AMEND SECTION 56‑5‑2920, RELATING TO RECKLESS DRIVING, SO AS TO PROVIDE THAT RECKLESS DRIVING INCLUDES TEXTING WHILE DRIVING WHEN BODILY INJURY OCCURS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 31, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑3890. (A) For purposes of this section:

(1) ‘Hands‑free wireless electronic communication device’ means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text messaging device, or a computer, which allows a person to wirelessly communicate with another person without holding the device in either hand by utilizing an internal feature or function of the device, an attachment, or an additional device. A hands‑free wireless electronic communication device may require the use of either hand to activate or deactivate an internal feature or function of the device.

(2) ‘Text‑based communication’ means a communication using text‑based information, including, but not limited to, a text message, an SMS message, an instant message, or an electronic mail message.

(3) ‘Wireless electronic communication device’ means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text messaging device, or a computer, which allows a person to wirelessly communicate with another person.

(B) It is unlawful for a person to use a wireless electronic communication device to compose, send, or read a text‑based communication while operating a motor vehicle on the public streets and highways of this State.

(C) This section does not apply to a person who is:

(1) lawfully parked or stopped;

(2) using a hands‑free wireless electronic communication device;

(3) summoning emergency assistance;

(4) transmitting or receiving data as part of a digital dispatch system;

(5) a public safety official while in the performance of the person’s official duties; or

(6) using a global positioning system device or an internal global positioning system feature or function of a wireless electronic communication device for the purpose of navigation or obtaining related traffic and road condition information.

(D)(1) A person who is adjudicated to be in violation of the provisions of this section must be fined not more than twenty‑five dollars, no part of which may be suspended. No court costs, assessments, or surcharges may be assessed against a person who violates a provision of this section. A person must not be fined more than fifty dollars for any one incident of one or more violations of the provisions of this section. A custodial arrest for a violation of this section must not be made, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine. A violation of this section does not constitute a criminal offense. Notwithstanding Section 56‑1‑640, a violation of this section must not be:

(a) included in the offender’s motor vehicle records maintained by the Department of Motor Vehicles or in the criminal records maintained by SLED; or

(b) reported to the offender’s motor vehicle insurer.

(2) During the first one hundred eighty days after this section’s effective date, law enforcement officers shall issue only warnings for violations of this section.

(E) A law enforcement officer shall not:

(1) stop a person for a violation of this section except when the officer has probable cause that a violation has occurred based on the officer’s clear and unobstructed view of a person who is using a wireless electronic communication device to compose, send, or read a text‑based communication while operating a motor vehicle on the public streets and highways of this State;

(2) seize, search, view, or require the forfeiture of a wireless electronic communication device because of a violation of this section;

(3) search or request to search a motor vehicle, driver, or passenger in a motor vehicle, solely because of a violation of this section; or

(4) make a custodial arrest for a violation of this section, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine.

(F) The Department of Public Safety shall maintain statistical information regarding citations issued pursuant to this section.

(G) This section preempts local ordinances, regulations, and resolutions adopted by municipalities, counties, and other local government entities regarding persons using wireless electronic communication devices while operating motor vehicles on the public streets and highways of this State.”

SECTION 2. This act takes effect upon approval by the Governor.

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