**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3394**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Taylor, West, Chapman, Pope, M.M. Smith, Davis, Thayer, Bernstein, Wheeler, Bauer, Elliott, Robbins, Sandifer, Hartnett, McCabe and White

Companion/Similar bill(s): 157

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Introduced in the House on January 10, 2023

Currently residing in the House

Summary: South Carolina Hands Free Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/8/2022 House Prefiled

 12/8/2022 House Referred to Committee on **Judiciary**

 1/10/2023 House Introduced and read first time (House Journal‑page 156)

 1/10/2023 House Referred to Committee on **Judiciary** (House Journal‑page 156)

 2/1/2023 House Member(s) request name added as sponsor: M.M.
 Smith, Davis

 2/2/2023 House Member(s) request name added as sponsor: Thayer

 2/21/2023 House Member(s) request name added as sponsor:
 Bernstein, Wheeler, Bauer

 3/8/2023 House Member(s) request name added as sponsor: Elliott

 3/29/2023 House Member(s) request name added as sponsor: Robbins

 4/4/2023 House Member(s) request name added as sponsor:
 Sandifer, Hartnett

 4/26/2023 House Member(s) request name added as sponsor: McCabe

 5/16/2023 House Member(s) request name added as sponsor: White

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**VERSIONS OF THIS BILL**

[12/08/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3394_20221208.docx)

A bill

to amend the South Carolina Code of Laws BY ENACTING the “South Carolina Hands‑Free and Distracted Driving Act”; by aDding Section 56‑5‑3995 so as to PROVIDE THE CIRCUMSTANCES UPON WHICH IT IS UNLAWFUL TO USE WIRELESS TELECOMMUNICATIONS DEVICES, TO CREATE THE OFFENSE OF DISTRACTED DRIVING, AND TO PROVIDE PENALTIES; by amending Section 56‑1‑720, relating to THE Point system established AND THE schedule of points for violations, so as to PROVIDE A SECOND OR SUBSEQUENT OFFENSE OF DISTRACTED DRIVING IS A TWO‑POINT VIOLATION; TO PROVIDE THE DEPARTMENT OF TRANSPORTATION SHALL ERECT SIGNS ADVISING MOTORISTS OF THE PROVISIONS OF THIS ACT; BY REPEALING SECTION 56‑5‑3890 RELATING TO OPERATING A MOTOR VEHICLE WHILE USING AN ELECTRONIC COMMUNICATIONS DEVICE; TO PROVIDE LAW ENFORCEMENT OFFICERS SHALL ISSUE WARNINGS FOR CERTAIN VIOLATIONS OF THIS ACT DURING THE NINETY‑DAY PERIOD FOLLOWING ITS EFFECTIVE DATE; and TO PROVIDE AT THE END OF EACH FISCAL YEAR, THE DEPARTMENT OF PUBLIC SAFETY SHALL ISSUE A REPORT CONTAINING THE AGE, GENDER, AND RACE OF EVERY DRIVER ISSUED A CITATION.

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

SECTION 1. This act may be cited as the “South Carolina Hands‑Free and Distracted Driving Act”.

SECTION 2. The S.C. Code is amended by adding:

 Section 56‑5‑3995. (A) For purposes of this section:

 “Mobile electronic device” means a cellular telephone, portable computer, GPS receiver, electronic game, or any substantially similar stand‑alone electronic device used to communicate, display, or record digital content. “Mobile electronic device” does not include a citizens band radio, amateur radio, ham radio, commercial two-way radio or its functional equivalent, subscription‑based emergency communication device, or prescribed medical device.

 (B) While operating a motor vehicle on any public highway of this State, a person shall not:

 (1) hold or support, with any part of the body, a mobile electronic device. This provision does not prohibit the use of an earpiece or device worn on a wrist to conduct voice‑based communication;

 (2) read, compose, or transmit any text including, but not limited to, a text message, email, application interaction, or website information on a mobile electronic device; or

 (3) watch motion including, but not limited to, a video, movie, game, or video call on a mobile electronic device.

 (C) This section does not apply to a motor vehicle operator who is:

 (1) lawfully parked or stopped;

 (2) initiating a voice‑based communication that is automatically converted by the device and sent as text, provided that the device is not held by the operator or supported with any part of the body by the operator;

 (3) reporting an accident, emergency, or safety hazard to a public safety official;

 (4) transmitting or receiving data as part of a digital dispatch system while performing occupational duties;

 (5) a first responder while performing official duties;

 (6) using a mobile electronic device for the purpose of:

 (a) navigation, listening to audio‑based content, or obtaining traffic and road condition information in a manner that does not require the operator to type, provided that the device is not held by the operator or supported with any part of the body by the operator;

 (b) using a mobile electronic device to initiate or end a cellular call in a manner that does not require the operator to type, provided that the device is not held by the operator or supported with any part of the body by the operator; or

 (c) unlocking the device for a purpose listed in subitems (a) or (b), provided that the device is not held by the operator or supported with any part of the body by the operator; or

 (7) using equipment or services installed by the original manufacturer of the vehicle.

 (D)(1) A person who is adjudicated to be in violation of this section is guilty of distracted driving and, upon conviction:

 (a) for a first offense, must be fined one hundred dollars, no part of which may be suspended; and

 (b) for a second or subsequent offense, must be fined two hundred dollars, no part of which may be suspended, and must have two points assessed against his motor vehicle operating record.

 (2) Only those offenses which occurred within three years, including and immediately preceding the date of the last offense, shall constitute prior offenses within the meaning of this subsection.

 (3) The Department of Public Safety must receive twenty‑five percent of the fines imposed for violations of this section. Funds provided to the department pursuant to this section must be used to educate the public on the dangers of distracted driving and the provisions of this act.

 (E) A law enforcement officer shall not:

 (1) stop a person for a violation of this section except when the officer has reasonable suspicion that a violation has occurred;

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

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

 (4) make a custodial arrest solely because of 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 Motor Vehicles shall maintain and provide citation information pursuant to this section to the Department of Public Safety. The Department of Public Safety shall maintain statistical information regarding citations issued pursuant to this section.

 (G) This section preempts ordinances, regulations, and resolutions adopted by political subdivisions regarding persons using mobile electronic devices while operating motor vehicles on the public highways of this State.

 (H) The provisions of this section are not subject to the provisions contained in Section 17‑13‑10 and Section 17‑13‑20, both of which are related to what is commonly referred to as “citizens arrest”.

SECTION 3. Section 56‑1‑720 of the S.C. Code is amended to read:

 Section 56‑1‑720. There is established a point system for the evaluation of the operating record of persons to whom a license to operate motor vehicles has been granted and for the determination of the continuing qualifications of these persons for the privileges granted by the license to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations in accordance with the following schedule:

VIOLATION POINTS

Reckless driving 6

Passing stopped school bus 6

Hit and run, property damages only 6

Driving too fast for conditions, or speeding:

 (1) No more than 10 m.p.h. above the posted limits 2

 (2) More than 10 m.p.h. but less than 25

 m.p.h. above the posted limits 4

 (3) 25 m.p.h. or above the posted limits 6

Disobedience of any official traffic control device 4

Disobedience to officer directing traffic 4

Failing to yield right of way 4

Driving on wrong side of road 4

Passing unlawfully 4

Turning unlawfully 4

Driving through or within safety zone 4

Shifting lanes without safety precaution 2

Improper dangerous parking 2

Following too closely 4

Failing to dim lights 2

Operating with improper lights 2

Operating with improper brakes 4

Distracted driving (second or subsequent offense) 2

Operating a vehicle in unsafe condition 2

Driving in improper lane 2

Improper backing 2

Endangerment of a highway worker, no injury 2

Endangerment of a highway worker, injury results 4

SECTION 4. Section 56‑5‑3890 of the S.C. Code is repealed.

SECTION 5. At every interstate highway ingress, the Department of Transportation shall erect a sign advising motorists of this act.

SECTION 6. During the first ninety days after the effective date of this act, law enforcement officers shall only issue warnings for violations of Section 56‑5‑3995, as amended by this act.

SECTION 7. At the end of each fiscal year, the Department of Public Safety shall report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Transportation Committee, and the Chairman of the House Education and Public Works Committee the age, gender, and race of every driver issued a citation, as well as every instance that a citation is not issued following a traffic stop made pursuant to this act. The data must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies shall combine the data collected by county and the municipal law enforcement agencies.

SECTION 8. The repeal or amendment by this act of any law, whether temporary, permanent, civil, or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 9. This act takes effect ninety days after approval by the Governor.

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