**A** **BILL**

TO AMEND SECTION 56‑5‑2920, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RECKLESS DRIVING, SO AS TO PROVIDE THAT CERTAIN PERSONS WHO DRIVE A VEHICLE WHILE USING A WIRELESS COMMUNICATION DEVICE ARE GUILTY OF RECKLESS DRIVING, TO PROVIDE THAT A LAW ENFORCEMENT AGENCY MAY SUBPOENA THE DATA USAGE RECORD OF A PERSON CHARGED WITH VIOLATING THIS PROVISION AND USE IT AS EVIDENCE IN A JUDICIAL PROCEEDING, TO PROVIDE PENALTIES, AND TO PROVIDE FOR THE DISPOSITION OF FINES IMPOSED FOR VIOLATIONS OF THIS SECTION.

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

SECTION 1. Section 56‑5‑2920 of the 1976 Code is amended to read:

“Section 56‑5‑2920. (A) Any person who drives any vehicle in such a manner as to indicate either a wilful or wanton disregard for the safety of persons or property, or while using a wireless communication device to manually type, send or read a written communication which includes, but is not limited to, a text message, instant message or electronic mail, text‑messaging device, a personal digital assistant, a laptop computer or any other substantially similar communication device that is readily removable from a vehicle to write, send, or read a text message or data through manually inputting data into the device is guilty of reckless driving. The Department of Motor Vehicles, upon receiving satisfactory evidence of the conviction, of the entry of a plea of guilty or the forfeiture of bail of any person charged with a second and subsequent offense for the violation of this section shall forthwith suspend the driver’s license of any such person for a period of three months. Only those offenses which occurred within a period of five years including and immediately preceding the date of the last offense shall constitute prior offenses within the meaning of this section.

(B) Any person violating the provisions of this section ~~shall~~, upon conviction, entry of a plea of guilty or forfeiture of bail, must be punished by:

(1) a fine of not less than ~~twenty‑five~~ one hundred dollars nor more than ~~two hundred dollars or by imprisonment for not more than thirty days.~~ three hundred fifty dollars for a first offense;

(2) the suspension of his driver’s license for three months, and a fine of not less than two hundred fifty dollars nor more than five hundred dollars for a second or subsequent offense; or

(3) a fine of not less than one hundred dollars nor more than three hundred fifty dollars for a person who pleads guilty to a charge of reckless driving while unlawfully using a wireless communication device.

The fines contained in this subsection that are imposed for unlawfully using a wireless communication device must be placed in the state general fund and used to maintain and repair the state’s highways, roads, and bridges.

(C) A law enforcement agency that charges a person with reckless driving while unlawfully using a wireless communication device may subpoena the data usuage record of the person’s communication device for the period of time during which the violation occurred. An entity that maintains the data usage record must serve the record upon the law enforcement agency within ten days after a request for the record is served upon the entity. If the device’s data usage record is presented as evidence in a judicial proceeding that results in the conviction of the person, then the court must impose an additional fine of five hundred dollars upon the person. One half of the additional fine must be placed in the state’s general fund and used to maintain and repair the state’s highways, roads and bridges. The remainder of the fine must be placed in the general fund of the jurisdiction in which the law enforcement agency that brought the charge is located.

(D) This section does not apply to a person who is using a wireless communication device while operating:

(1) a motor vehicle off the travel portion of a roadway;

(2) a motor vehicle that is stopped at a red traffic signal light;

(3) a motor vehicle while using an electronic communication device in hands‑free, voice‑activated, or voice‑operated mode that allows the user to review, prepare and transmit an electronic message without the use of either hand except to activate, deactivate, or initiate a feature or function;

(4) an authorized emergency or law enforcement vehicle within the scope of his emergency or law enforcement duties; or

(5) a moving motor vehicle while using a wireless communication device to report illegal activity or summons medical or emergency help.

(E) As contained in this section, a wireless communication device does not include:

(1) a device being used for global positioning or navigation service;

(2) a system or device that is physically or electronically integrated into a vehicle; or

(3) citizens band radios, citizens band radio hybrids, commercial two‑way radio communication devices, and electronic communication devices with a push‑to‑talk function.”

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

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