

Legislative Analysis



MOBILE ELECTRONIC DEVICES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4277 (H-1) as reported from committee
Sponsor: Rep. Mari Manoogian

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4278 (H-1) as reported from committee
Sponsor: Rep. Mike Mueller

House Bill 4279 as reported from committee
Sponsor: Rep. Joseph N. Bellino, Jr.

Committee: Judiciary
Complete to 6-22-21

BRIEF SUMMARY: Taken together, House Bills 4277, 4278, and 4279 would amend the Michigan Vehicle Code to revise prohibitions and penalties regarding a driver's use of electronic devices while driving.

FISCAL IMPACT: The bills would have an indeterminate fiscal impact on the state and on local units of government. The fiscal impact on local court systems would depend on how provisions of the bills affected caseloads and related administrative costs. As provided in the Vehicle Code for civil infractions under the code, civil fine revenues would be applied to the support of public and county law libraries.

THE APPARENT PROBLEM:

The month of April is generally designated "Distracted Driving Awareness Month" as part of a nationwide effort to raise awareness about the dangers of distracted driving. The Michigan State Police (MSP) website on distracted driving says that "Driver inattention is the leading factor in most crashes and near-crashes, according to the National Highway Traffic Safety Administration and Virginia Tech Transportation Institute."¹ The MSP advises that drivers should avoid non-driving activities that draw his or her eyes away from the roadway. According to a AAA Foundation for Traffic Safety study, texting and visual-manual tasks increase the odds of a crash by 83%.² The bills seek to reduce crashes by reducing distracted driving.

THE CONTENT OF THE BILLS:

House Bill 4277 would amend section 602b of the code, which now prohibits a person from reading, manually typing, or sending a text message on a wireless two-way communication device located in his or her hand or lap while operating a commercial motor vehicle or school bus or while operating a noncommercial motor vehicle that is moving.

The bill would instead prohibit a person from using a *mobile electronic device* while *operating* a motor vehicle or a school bus.

¹ https://www.michigan.gov/msp/0,4643,7-123-72297_64773_22760-238359--,00.html

² 2017 Traffic Safety Culture Index:

https://www.michigan.gov/documents/msp/Distracted_Driving_Facts_and_Stats_for_OHSP_web_619018_7.pdf

Mobile electronic device would mean a handheld or portable electronic device capable of providing wireless data or voice communication between two or more individuals, or providing amusement, and would include all of the following:

- A cell phone.
- A broadband personal communication device.
- A two-way messaging device.
- A text messaging device.
- A pager.
- An electronic device that can receive or transmit text or character-based images, access or store data, or connect to the internet.
- A personal digital assistant.
- A laptop computer.
- A computer tablet.
- A stand-alone computer.
- A portable computing device.
- A mobile device with a touchscreen display that is designed to be worn.
- An electronic game.
- Equipment that is capable of playing a video, taking photographs, capturing images, or recording or transmitting video.
- Any similar device that is readily removable from a vehicle and is used to write, send, or read text or data or capture images or video through manual input.

Mobile electronic device would not include a radio designed for the Citizens Band Service or Amateur Radio Service of the Federal Communications Commission or a commercial two-way radio communications device or equipment permanently installed in a motor vehicle.

Operate would mean to drive or assume physical control of a motor vehicle on a public way, street, road, or highway, including operation while temporarily stationary because of traffic, road conditions, a traffic light, or a stop sign.

Operate would not include a motor vehicle that is lawfully parked or an automated vehicle with an SAE level 3, 4 or 5 automated driving system that performs dynamic driving tasks in automated mode, as referenced in the Society of Automotive Engineers, Inc. International Standard J3016, 2014 edition.

Exceptions

The prohibition described above would not apply to the following:

- The use of a mobile electronic device by a law enforcement officer, firefighter, emergency medical technician, paramedic, operator of an emergency vehicle, or similarly engaged paid or volunteer public safety first responder in the performance of his or her official duties.
- The use of a mobile electronic device by a public utility employee or contractor while responding to a public utility emergency.
- The use of a mobile electronic device for emergencies, such as contacting 9-1-1 or calling a law enforcement agency, health care provider, fire department, or other emergency services entity to report any of the following:
 - A fire, traffic accident, serious road hazard, or hazardous materials emergency.

- Another motor vehicle operator who is driving recklessly or unsafely.
- A crime.
- The use of a GPS or navigational system feature of a mobile electronic device as long as information is not being entered by hand.
- Selecting a name or telephone number in a mobile electronic device to make or receive a telephone call or otherwise activating or deactivating a feature or function of a mobile electronic device.
- The use of a mobile electronic device in a voice-operated or hands-free mode if the operator does not use his or her hands to operate the device, except to activate or deactivate a feature or function of the device.
- The use of a mobile electronic device that is integrated into a motor vehicle and uses interfaces that are permanently installed on the vehicle.

Other prohibitions

The bill would also prohibit a person from operating a motor vehicle or school bus while doing any of the following:

- Accessing, reading, or posting to a *social networking site*.
- Viewing, recording, or transmitting a video on a mobile electronic device. This prohibition would not apply to a mobile electronic device used for the sole purpose of continuously recording or broadcasting video inside or outside of a motor vehicle or school bus.

Social networking site would mean any web-based service that allows individuals to construct a profile within a founded system and communicate with other users of the site for social or amusement purposes.

Penalties and enforcement

Currently, an individual who violates section 602b is responsible for a civil infraction and must be ordered to pay a civil fine of \$100 for a first violation and \$200 for a second or subsequent violation.

Under the bill, an individual responsible for a first violation would have to be ordered to pay a \$100 civil fine or perform 16 hours of community service. An individual responsible for a second or subsequent offense would have to be ordered to pay a \$250 civil fine or perform 24 hours of community service, or both. If the individual was involved in an accident at the time of his or her violation of the section, these civil fine amounts would have to be doubled and an officer investigating the accident would have to note in a written accident report that the individual was using a mobile electronic device at the time of the accident.

The court could suspend, for up to 90 days, the driver's license of an individual found responsible for three or more civil infractions under section 602b in a three-year period.

A law enforcement officer enforcing section 602b could treat a violation of the section as the primary or sole reason for issuing a citation to a driver. However, a law enforcement officer could not search a motor vehicle or a driver or passenger in the vehicle solely because of a violation of section 602b.

MCL 257.602b

House Bill 4278 would amend section 320a of the code to provide for the assessment of one point against the driver's license record of an individual for his or her second violation of using a mobile electronic device while operating a motor vehicle or a school bus. Two points would be entered for a third or subsequent such violation.

MCL 257.320a

House Bill 4279 would amend sections 602c and 732 of the code.

Section 602c currently prohibits an individual with a level 1 or level 2 graduated driver's license from using a cell phone while operating a motor vehicle. This prohibition does not apply to an individual who is using a voice-operated system that is integrated into the motor vehicle. The bill would remove this exception. The bill would also provide that compliance with the prohibition in section 602c is in addition to the requirements of section 602b.

Section 732 currently exempts violations of section 602b or 602c from being entered by the secretary of state on an individual's master driving record. The bill would eliminate this exemption.

MCL 257.602c and 257.732

Effectiveness provisions

Each bill would take effect 90 days after the date of its enactment.

The bills are all tie-barred to one another, which means that none of them could take effect unless all of them were enacted.

ARGUMENTS:

For:

Proponents argue that these bills are long overdue. In 2016 alone, distracted driving was involved in 12,788 crashes in Michigan, resulting in 43 fatalities and 5,103 injuries.³ According to the National Highway Traffic Safety Administration, sending or reading a text can take a driver's eyes off the road for five seconds, which, when driving at 55 mph, is like driving the length of an entire football field with your eyes closed.⁴ Many things can happen in five seconds, including a car crash.

Against:

Critics of the bills argue that the new regulations they propose would be hard to enforce, which would ultimately not lower traffic incidents resulting from distracted driving. While it is dangerous to use a cell phone while driving for any reason, the bills allow exceptions for certain cell phone use, which creates an opportunity for drivers to claim that they were engaged in one of the allowed activities.

³ MSP Criminal Justice Information Center:

https://www.michigan.gov/documents/msp/Distracted_Driving_Facts_and_Stats_for_OHSP_web_619018_7.pdf

⁴ <https://www.nhtsa.gov/risky-driving/distracted-driving>

Additionally, engaging in other tasks while driving impairs a driver just as much as a cell phone does—for instance, eating, changing the car’s radio station, or even dealing with loud children in the backseat. However, these activities are not addressed by the bills.

According to the MSP Criminal Justice Information Center, only 15% of all distracted driving cases resulting in crashes in Michigan in 2016 involved cell phones. Even if these bills could completely eradicate distracted driving caused by cell phone usage, distracted driving would still occur with other activities.

Response:

While the bills focus on cell phone usage, Michigan laws to combat distracted driving have to start somewhere. Because a distracted driver engages with and looks at a cell phone differently than food or a car stereo, prohibiting certain cell phone usage will still help to reduce crashes resulting from distracted driving.

POSITIONS:

Representatives of the following entities testified in support of the bills (4-13-21):

- Kiefer Foundation
- AAA Michigan
- League of Michigan Bicyclists

The following entities indicated support for the bills:

- Michigan State Police (5-4-21)
- Oakland County Prosecutor (4-13-21)
- Bloomfield Township Police Department (4-13-21)
- Bloomfield Township Supervisor, Treasurer, and Clerk (4-13-21)
- Prosecuting Attorneys Association of Michigan (4-13-21)
- Southeast Michigan Council of Governments (4-13-21)
- Consumers Energy (4-13-21)
- General Motors (4-13-21)
- Insurance Alliance of Michigan (4-13-21)
- MICHauto (4-13-21)
- Michigan Fraternal Order of Police (4-13-21)
- Police Officers Association of Michigan (4-13-21)
- Ford Motor Company (4-13-21)
- Brain Injury Association of Michigan (5-4-21)

The following entities indicated a neutral position on the bills (4-13-21):

- AT&T
- Michigan Sheriffs’ Association

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.