



House of Representatives

File No. 595

General Assembly

January Session, 2005

(Reprint of File No. 290)

Substitute House Bill No. 6722
As Amended by House Amendment
Schedules "A" and "B"

Approved by the Legislative Commissioner
April 29, 2005

AN ACT CONCERNING THE USE OF HAND-HELD MOBILE TELEPHONES BY OPERATORS OF MOTOR VEHICLES.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) (a) For purposes of this
2 section, the following terms have the following meanings:

3 (1) "Mobile telephone" means a cellular, analog, wireless or digital
4 telephone capable of sending or receiving telephone communications
5 without an access line for service.

6 (2) "Using" or "use" means holding a hand-held mobile telephone to,
7 or in the immediate proximity of, the user's ear.

8 (3) "Hand-held mobile telephone" means a mobile telephone with
9 which a user engages in a call using at least one hand.

10 (4) "Hands-free accessory" means an attachment, add-on, built-in
11 feature, or addition to a mobile telephone, whether or not permanently
12 installed in a motor vehicle, that, when used, allows the vehicle

13 operator to maintain both hands on the steering wheel.

14 (5) "Hands-free mobile telephone" means a hand-held mobile
15 telephone that has an internal feature or function, or that is equipped
16 with an attachment or addition, whether or not permanently part of
17 such hand-held mobile telephone, by which a user engages in a call
18 without the use of either hand, whether or not the use of either hand is
19 necessary to activate, deactivate or initiate a function of such
20 telephone.

21 (6) "Engage in a call" means talking into or listening on a hand-held
22 mobile telephone, but does not include holding a hand-held mobile
23 telephone to activate, deactivate or initiate a function of such
24 telephone.

25 (7) "Immediate proximity" means the distance that permits the
26 operator of a hand-held mobile telephone to hear telecommunications
27 transmitted over such hand-held mobile telephone, but does not
28 require physical contact with such operator's ear.

29 (b) (1) Except as otherwise provided in this section and section 2 of
30 this act, no person shall operate a motor vehicle upon a highway, as
31 defined in subsection (a) of section 14-1 of the general statutes, while
32 using a hand-held mobile telephone to engage in a call while such
33 vehicle is in motion. (2) An operator of a motor vehicle who holds a
34 hand-held mobile telephone to, or in the immediate proximity of, his
35 or her ear while such vehicle is in motion is presumed to be engaging
36 in a call within the meaning of this section. The presumption
37 established by this subdivision is rebuttable by evidence tending to
38 show that the operator was not engaged in a call. (3) The provisions of
39 this section shall not be construed as authorizing the seizure or
40 forfeiture of a hand-held mobile telephone, unless otherwise provided
41 by law. (4) Subdivision (1) of this subsection does not apply to: (A) The
42 use of a hand-held mobile telephone for the sole purpose of
43 communicating with any of the following regarding an emergency
44 situation: An emergency response operator; a hospital, physician's

45 office or health clinic; an ambulance company; a fire department; or a
46 police department, or (B) any of the following persons while in the
47 performance of his or her official duties and within the scope of his or
48 her employment: A peace officer, as defined in subdivision (9) of
49 section 53a-3 of the general statutes, a firefighter or an operator of an
50 ambulance or authorized emergency vehicle, as defined in subsection
51 (a) of section 14-1 of the general statutes, or the operator of a taxi cab,
52 tow truck or bus without passengers, or (C) the use of a hands-free
53 mobile telephone.

54 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) No person shall use a
55 hand-held mobile telephone or other electronic device, including those
56 with hands-free accessories, while operating a moving school bus that
57 is carrying passengers, except that this section does not apply to (1) a
58 school bus driver who places an emergency call to school officials, or
59 (2) the use of a hand-held mobile telephone as provided in
60 subparagraph (A) of subdivision (4) of subsection (b) of section 1 of
61 this act.

62 (b) No person who holds a learner's permit or any holder of a motor
63 vehicle license subject to the requirements of subsection (d) of section
64 14-36 of the general statutes shall use any hand-held mobile telephone,
65 including one with a hands-free accessory, while operating a moving
66 motor vehicle on a public highway except as provided in
67 subparagraph (A) of subdivision (4) of subsection (b) of section 1 of
68 this act.

69 Sec. 3. (NEW) (*Effective October 1, 2005*) Any person who violates
70 section 1 of this act shall be fined not more than one hundred dollars,
71 except that the fine shall be suspended for a first time violator who
72 provides proof of acquisition of a hands-free accessory subsequent to
73 the violation but prior to the imposition of a fine.

74 Sec. 4. (NEW) (*Effective October 1, 2005*) Any person who violates
75 section 2 of this act shall be fined not more than one hundred dollars.

76 Sec. 5. (NEW) (*Effective October 1, 2005*) Except as provided in

77 sections 1 and 2 of this act, no person shall engage in any activity not
78 related to the actual operation of a motor vehicle in a manner that
79 interferes with the safe operation of such vehicle on any highway, as
80 defined in subsection (a) of section 14-1 of the general statutes.

81 Sec. 6. (NEW) (*Effective October 1, 2005*) An operator of a motor
82 vehicle who commits a moving violation, as defined in subsection (a)
83 of section 14-111g of the general statutes, while engaged in any activity
84 prohibited under section 5 of this act shall be fined one hundred
85 dollars in addition to any penalty or fine imposed for the moving
86 violation.

87 Sec. 7. (NEW) (*Effective October 1, 2005*) Any law enforcement officer
88 who issues a summons for a violation of section 1, 2 or 6 of this act
89 shall record, on any summons form issued in connection with the
90 matter, the specific nature of any distracted driving behavior observed
91 by such officer that contributed to the issuance of such summons.

92 Sec. 8. Subsection (b) of section 51-164n of the general statutes is
93 repealed and the following is substituted in lieu thereof (*Effective*
94 *October 1, 2005*):

95 (b) Notwithstanding any provision of the general statutes, any
96 person who is alleged to have committed (1) a violation under the
97 provisions of section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-35, 7-41, 7-83, 7-
98 283, 7-325, 7-393, 8-25, 8-27, 9-63, 9-296, 9-305, 9-322, 9-350, 10-193, 10-
99 197, 10-198, 10-230, 10-251, 10-254, 12-52, 12-170aa, 12-292, or 12-326g,
100 subdivision (4) of section 12-408, subdivision (3), (5) or (6) of section
101 12-411, section 12-435c, 12-476a, 12-476b, 12-487, 13a-71, 13a-107, 13a-
102 113, 13a-114, 13a-115, 13a-117b, 13a-123, 13a-124, 13a-139, 13a-140, 13a-
103 143b, 13a-247 or 13a-253, subsection (f) of section 13b-42, section 13b-
104 90, 13b-221, 13b-292, 13b-336, 13b-337, 13b-338, 13b-410a, 13b-410b or
105 13b-410c, subsection (a), (b) or (c) of section 13b-412, section 13b-414,
106 subsection (d) of section 14-12, section 14-20a or 14-27a, subsection (e)
107 of section 14-34a, subsection (d) of section 14-35, section 14-43, 14-49,
108 14-50a or 14-58, subsection (b) of section 14-66, section 14-66a, 14-66b

109 or 14-67a, subsection (g) of section 14-80, subsection (f) of section 14-
110 80h, section 14-97a, 14-100b, 14-103a, 14-106a, 14-106c, 14-146, 14-152,
111 14-153 or 14-163b, a first violation as specified in subsection (f) of
112 section 14-164i, section 14-219 as specified in subsection (e) of said
113 section, section 14-240, sections 1 to 7, inclusive, of this act, section 14-
114 249 or 14-250, subsection (a), (b) or (c) of section 14-261a, section 14-
115 262, 14-264, 14-267a, 14-269, 14-270, 14-275a, 14-278 or 14-279,
116 subsection (e) of section 14-283, section 14-291, 14-293b, 14-319, 14-320,
117 14-321, 14-325a, 14-326, 14-330 or 14-332a, subdivision (1), (2) or (3) of
118 section 14-386a, section 15-33, subsection (a) of section 15-115, section
119 16-256, 16-256e, 16a-15 or 16a-22, subsection (a) or (b) of section 16a-
120 22h, section 17a-24, 17a-145, 17a-149, 17a-152, 17a-465, 17a-642, 17b-
121 124, 17b-131, 17b-137 or 17b-734, subsection (b) of section 17b-736,
122 section 19a-30, 19a-33, 19a-39 or 19a-87, subsection (b) of section 19a-
123 87a, section 19a-91, 19a-105, 19a-107, 19a-215, 19a-219, 19a-222, 19a-224,
124 19a-286, 19a-287, 19a-297, 19a-301, 19a-309, 19a-335, 19a-336, 19a-338,
125 19a-339, 19a-340, 19a-425, 19a-502, 20-7a, 20-14, 20-158, 20-231, 20-257,
126 20-265 or 20-324e, subsection (a) of section 20-341, section 20-341l, 20-
127 597, 20-608, 20-610, 21-30, 21-38, 21-39, 21-43, 21-47, 21-48, 21-63, 21-
128 76a, 21a-21, 21a-25, 21a-26 or 21a-30, subsection (a) of section 21a-37,
129 section 21a-46, 21a-61, 21a-63 or 21a-77, subsection (b) of section 21a-
130 79, section 21a-85, 21a-154, 21a-159, 21a-201, 21a-211, 22-13, 22-14, 22-
131 15, 22-16, 22-29, 22-34, 22-35, 22-36, 22-37, 22-38, 22-39, 22-39a, 22-39b,
132 22-39c, 22-39d, 22-39e, 22-49, 22-54, 22-61, 22-89, 22-90, 22-98, 22-99, 22-
133 100, 22-111o, 22-279, 22-280a, 22-318a, 22-320h, 22-324a, 22-326 or 22-
134 342, subsection (b) or (e) of section 22-344, section 22-359, 22-366, 22-
135 391, 22-413, 22-414, 22-415, 22a-66a or 22a-246, subsection (a) of section
136 22a-250, subsection (e) of section 22a-256h, subsection (a) of section
137 22a-381d, section 22a-449, 22a-461, 23-37, 23-38, 23-46 or 23-61b,
138 subsection (a) or (b) of section 23-65, section 25-37, 25-40, 26-19, 26-21,
139 26-31, 26-40, 26-40a, 26-49, 26-54, 26-59, 26-61, 26-64, 26-79, 26-89, 26-97,
140 26-107, 26-117, 26-128, 26-131, 26-132, 26-138, 26-141, 26-207, 26-215, 26-
141 224a, 26-227, 26-230, 26-294, 28-13, 29-6a, 29-109, 29-161y, 29-161z, 29-
142 198, 29-210, 29-243, 29-277, 29-316, 29-318, 29-341, 29-381, 30-48a, 30-
143 86a, 31-3, 31-10, 31-11, 31-12, 31-13, 31-14, 31-15, 31-16, 31-18, 31-23, 31-

144 24, 31-25, 31-28, 31-32, 31-36, 31-38, 31-38a, 31-40, 31-44, 31-47, 31-48,
145 31-51, 31-51k, 31-52, 31-52a or 31-54, subsection (a) or (c) of section 31-
146 69, section 31-70, 31-74, 31-75, 31-76, 31-76a, 31-89b or 31-134,
147 subsection (i) of section 31-273, section 31-288, 36a-787, 42-230, 45a-450,
148 45a-634 or 45a-658, subdivision (13) or (14) of section 46a-54, section
149 46a-59, 46b-22, 46b-24, 46b-34, 47-34a, 47-47, 49-8a, 49-16 or 53-133,
150 subsection (a) or (b) of section 53-211, or section 53-212a, 53-249a, 53-
151 252, 53-264, 53-302a, 53-303e, 53-311a, 53-321, 53-322, 53-323, 53-331, 53-
152 344 or 53-450, or (2) a violation under the provisions of chapter 268, or
153 (3) a violation of any regulation adopted in accordance with the
154 provisions of section 12-484, 12-487 or 13b-410, shall follow the
155 procedures set forth in this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	New section
Sec. 3	<i>October 1, 2005</i>	New section
Sec. 4	<i>October 1, 2005</i>	New section
Sec. 5	<i>October 1, 2005</i>	New section
Sec. 6	<i>October 1, 2005</i>	New section
Sec. 7	<i>October 1, 2005</i>	New section
Sec. 8	<i>October 1, 2005</i>	51-164n(b)

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Judicial Dept.	GF - Revenue Gain	187,500	250,000
Various Criminal Justice Agencies	GF - Cost	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 06 \$	FY 07 \$
Municipal Police Departments	Cost	Potential Minimal	Potential Minimal

Explanation

The bill establishes violations for the use of mobile telephones while driving, or driving distracted during the commission of a moving violation. These violations are expected to generate revenues to the General Fund of about \$250,000 annually. Municipal and state police departments would enforce the new law, which could result in a minimal cost.

House Amendment "A" replaced the file, and reduced the potential revenue gain of the bill in the file copy by requiring the suspension of any person's first violation if that person could prove the acquisition of a hands-free accessory subsequent to the violation but prior to the imposition of a fine. The amendment also would result in a revenue gain that would partially offset the revenue reduction described above by providing for an additional fine for any person committing a moving violation while distracted.

House Amendment "B" reduced the scope of the bill as amended by House "A", thereby making a minimal reduction to the revenue gain

anticipated under the bill.

OLR Bill Analysis

sHB 6722 (as amended by House "A" and "B") *

AN ACT CONCERNING THE USE OF HAND-HELD MOBILE TELEPHONES AND HAND-HELD MOBILE ELECTRONIC DEVICES BY OPERATORS OF MOTOR VEHICLES**SUMMARY:**

Except under certain circumstances, this bill prohibits (1) a driver from using a mobile telephone to engage in a call while the vehicle is moving unless he uses a hands-free telephone; (2) drivers operating under learners' permits or with licenses issued pursuant to requirements applicable to 16- or 17-year old license applicants from using any mobile telephone while the vehicle is moving, whether or not it has a hands-free accessory; (3) a school bus driver from using either a mobile telephone or any other electronic device in a moving bus containing passengers; and (4) any driver from engaging in an activity not directly related to the actual operation of the vehicle in a manner that interferes with its safe operation.

Violations of the mobile telephone use prohibitions are punishable by a fine of up to \$100, although if a person other than a school bus driver or a driver operating under a learner's permit or a license issued subject to requirements that apply to 16- and 17-year olds is charged with violating the mobile telephone use prohibition for a first time, the fine must be suspended if the person provides proof that he has acquired a hands-free accessory for the phone between the time the violation occurred and the fine is imposed.

The bill also requires a \$100 fine to be assessed whenever a driver commits a moving violation while engaged in any non-driving related activity that interferes with safe vehicle operation. The \$100 fine is in addition to any fine or penalty imposed for the moving violation, but appears to be a secondary violation, that is, the driver must be cited for the moving violation in order to be subject to the fine for engaging in a non-driving related activity that interferes with safe vehicle operation.

The bill authorizes fines for violations to be mailed to the Centralized

Infractions Bureau in lieu of a court appearance. Mailing in the fine constitutes a plea of *nolo contendere* (no contest) to the charge and is inadmissible in any civil or criminal proceeding to establish the person's conduct.

A law enforcement officer who issues a summons for a violation of any of the prohibitions must record on the summons form the specific nature of any distracted driving behavior he saw that contributed to issuing the summons.

*House Amendment "A" replaces the file, which prohibited using both hand-held mobile telephones and mobile electronic devices.

*House Amendment "B" eliminated a provision of House "A" prohibiting drivers operating under learners' permits or with licenses issued pursuant to requirements for 16- and 17-year olds from using electronic devices other than mobile telephones while driving.

EFFECTIVE DATE: October 1, 2005

DEFINITIONS

The bill defines a mobile telephone as a cellular, analog, wireless, or digital telephone capable of sending or receiving telephone communications without an access line for service. A hands-free mobile telephone is one that has an internal feature or function or is equipped with an attachment or addition through which the user engages in a call without using either hand, whether or not using a hand is necessary to activate, deactivate, or initiate a function of the phone. A "hands-free accessory" is defined as an attachment, add-on, built-in feature, or addition to a mobile telephone, whether permanent or not, that allows the driver to keep both hands on the steering wheel.

PROHIBITIONS

The bill prohibits a driver from using a hand-held mobile telephone to engage in a call while his vehicle is moving, but it still allows him to hold the phone to activate, deactivate, or initiate a function of the phone. It defines engaging in a call to include talking into or listening on the phone. The bill does not prohibit holding the phone to use it for any purposes other than talking into it or listening to it. The bill creates a rebuttable presumption that someone who holds a hand-held

mobile telephone to or in the immediate proximity of his ear while the vehicle is moving is engaging in a call. The presumption can be rebutted by evidence tending to show that the driver was not engaged in a call.

The bill prohibits a school bus driver from using a hand-held mobile telephone, including one with hands-free accessories, as well as any "other electronic device" while the school bus is moving and carrying passengers. The term "other electronic devices" is not defined by the bill.

The bill also prohibits a driver who holds a learner's permit or, apparently, one who has a driver's license that was subject to the issuance requirements that apply to 16- and 17-year olds from using any type of mobile telephone while driving a moving vehicle, including those with a hands-free accessory (See COMMENT). The prohibition appears to apply regardless of the age of the driver who was issued his license under these provisions.

EXCEPTIONS TO MOBILE TELEPHONE USE PROHIBITION

A driver may use a hand-held mobile telephone regardless of the prohibition (1) for the sole purpose of communicating an emergency situation with an emergency response operator, hospital, physician's office or health clinic, ambulance company, or fire or police department; (2) if he is a peace officer, firefighter, ambulance or authorized emergency vehicle driver, taxi or tow truck driver, or a bus driver in an bus without passengers and performing his official duties within the scope of employment; or (3) if the telephone is hands-free. An authorized emergency vehicle includes a fire department or police vehicle or public service company or municipal department ambulance or emergency vehicle designated or authorized for use by the motor vehicle commissioner as an emergency vehicle.

The exceptions for communicating an emergency situation also apply to school bus drivers and drivers operating under learners' permits or with licenses issued pursuant to requirements applicable to 16- and 17-year olds who apply for licenses.

In addition, school bus drivers may use a hand-held mobile telephone or other electronic device to place an emergency call to school officials without violating the prohibition.

MOVING VIOLATIONS FOR WHICH THE ADDITIONAL PENALTY APPLIES FOR ENGAGING IN A NON-DRIVING ACTIVITY INTERFERING WITH SAFE VEHICLE OPERATION

The table below indicates the moving violations for which the additional \$100 fine applies if the driver was engaging in an activity not directly related to driving that interferes with safe vehicle operation while committing the moving violation.

<i>Statute Section</i>	<i>Moving Violation</i>	<i>Statute Section</i>	<i>Moving Violation</i>
14-218a	Traveling Unreasonably Fast	14-241	Improper turn
14-219	Speeding	14-242	Restricted Turns- Failure to Signal
14-222	Reckless Driving	14-243	Unsafe Backing
14-223	Disobeying Signal of Officer	14-244	Improper Signaling
14-230	Failure to Drive to the Right	14-245	Failure to Grant Right of Way at Intersection
14-230a	Commercial Vehicle Use of Restricted Left Lane	14-246a	Failure to Grant Right of Way at Highway Junction
14-231	Failure to Grant One-Half of the Highway	14-247	Failure to Grant Right of Way at Private Road or Driveway
14-232	Improper Passing	14-247a	Failure to Grant Right of Way to Pedestrian or Traffic When Emerging From Alley, Driveway, or Building
14-233	Passing on the Right	14-248a	Failure to Slow or Stop at Cattle Crossing
14-234	Passing in No Passing Zone	14-248b	Failure to Grant Right of Way at Cattle Crossing
14-235	Failure to Keep Right on Curve or	14-249	Failure to Stop at Railroad Crossing

	Hill or at Intersection or RR Crossing		When Signals are Operating
14-236	Failure to Drive in Proper Lane on Limited Access Highway	14-279	Passing Stopped School Bus
14-237	Driving Wrong Way on Divided Highway	14-289b	Violating Motorcycle Operating Rules
14-238	Entering Controlled Access Highway at Other Than Designated Entry or Exit	14-299	Failing to Obey Traffic Control Signal
14-238a	Entering Limited Access Highway at Other Than Designated Point	14-301	Failing to Grant Right of Way to Pedestrian in Crosswalk and Related Violations
14-239	Wrong Way on One-Way Highway	14-302	Disregarding Yield Signs
14-240	Following Too Closely	14-303	Driving Wrong Way on One Way Street
14-240a	Tailgating to Intimidate or Harass		

BACKGROUND

Definition of Peace Officer

Besides members of the Division of State Police and local police officers, “peace officer” includes inspectors of the Division of Criminal Justice, state and judicial marshals while performing their duties, conservation or special conservation officers, constables who perform criminal law enforcement duties, certain special policemen (for state property, public assistance fraud investigation, or public utility or transportation companies), adult probation officers, Department of Correction personnel authorized by the commissioner to make arrests in correctional facilities, investigators from the office of the State Treasurer, or special federal agents authorized to enforce federal food

and drug laws.

Legislative History

The bill (File 290) was referred by the House to the Judiciary Committee on April 19. The committee reported it favorably on April 26.

COMMENT

Drivers With Learners' Permits or Licenses Issued Pursuant to Requirements Relating to 16- and 17-year Olds

The provision banning use of any type of mobile telephone except in emergency situations by a driver who holds a learner's permit or a driver's license subject to the requirements for a 16- or 17-year old qualifying for a driver's license appears unclear. Although another law (CGS Sec. 14-36g) establishes restrictions for licensed 16- and 17-year olds that apply until they turn age 18, the bill provides for no age at which the broader prohibition on all mobile telephone use no longer applies to drivers who received their licenses pursuant to the learner's permit and driver training requirements that apply to 16- and 17-year olds. Thus it is possible to read the prohibition to apply to this class of licensees for as long as they are licensed to drive.

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 28 Nay 1

Judiciary Committee

Joint Favorable Report

Yea 37 Nay 3