



House of Representatives

General Assembly

File No. 652

January Session, 2011

Substitute House Bill No. 6366

House of Representatives, April 28, 2011

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE PENALTY FOR USING A CELLULAR TELEPHONE WHILE OPERATING A MOTOR VEHICLE.

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

1 Section 1. Section 14-296aa of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) For purposes of this section, the following terms have the
4 following meanings:

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

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

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

12 (4) "Hands-free accessory" means an attachment, add-on, built-in
13 feature, or addition to a mobile telephone, whether or not permanently
14 installed in a motor vehicle, that, when used, allows the vehicle
15 operator to maintain both hands on the steering wheel.

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

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

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

31 (8) "Mobile electronic device" means any hand-held or other
32 portable electronic equipment capable of providing data
33 communication between two or more persons, including a text
34 messaging device, a paging device, a personal digital assistant, a
35 laptop computer, equipment that is capable of playing a video game or
36 a digital video disk, or equipment on which digital photographs are
37 taken or transmitted, or any combination thereof, but does not include
38 any audio equipment or any equipment installed in a motor vehicle for
39 the purpose of providing navigation, emergency assistance to the
40 operator of such motor vehicle or video entertainment to the
41 passengers in the rear seats of such motor vehicle.

42 (b) (1) Except as otherwise provided in this subsection and
43 subsections (c) and (d) of this section, no person shall operate a motor

44 vehicle upon a highway, as defined in section 14-1, while using a
45 hand-held mobile telephone to engage in a call or while using a mobile
46 electronic device while such vehicle is in motion. An operator of a
47 motor vehicle who types, sends or reads a text message with a hand-
48 held mobile telephone or mobile electronic device while such vehicle is
49 in motion shall be in violation of this section. (2) An operator of a
50 motor vehicle who holds a hand-held mobile telephone to, or in the
51 immediate proximity of, his or her ear while such vehicle is in motion
52 is presumed to be engaging in a call within the meaning of this section.
53 The presumption established by this subdivision is rebuttable by
54 evidence tending to show that the operator was not engaged in a call.
55 (3) The provisions of this subsection shall not be construed as
56 authorizing the seizure or forfeiture of a hand-held mobile telephone
57 or a mobile electronic device, unless otherwise provided by law. (4)
58 Subdivision (1) of this subsection does not apply to: (A) The use of a
59 hand-held mobile telephone for the sole purpose of communicating
60 with any of the following regarding an emergency situation: An
61 emergency response operator; a hospital, physician's office or health
62 clinic; an ambulance company; a fire department; or a police
63 department, or (B) any of the following persons while in the
64 performance of their official duties and within the scope of their
65 employment: A peace officer, as defined in subdivision (9) of section
66 53a-3, a firefighter or an operator of an ambulance or authorized
67 emergency vehicle, as defined in section 14-1, or a member of the
68 armed forces of the United States, as defined in section 27-103, while
69 operating a military vehicle, or (C) the use of a hands-free mobile
70 telephone.

71 (c) No person shall use a hand-held mobile telephone or other
72 electronic device, including those with hands-free accessories, or a
73 mobile electronic device while operating a moving school bus that is
74 carrying passengers, except that this subsection does not apply to (1) a
75 school bus driver who places an emergency call to school officials, or
76 (2) the use of a hand-held mobile telephone as provided in
77 subparagraph (A) of subdivision (4) of subsection (b) of this section.

78 (d) No person under eighteen years of age shall use any hand-held
79 mobile telephone, including one with a hands-free accessory, or a
80 mobile electronic device while operating a moving motor vehicle on a
81 public highway, except as provided in subparagraph (A) of
82 subdivision (4) of subsection (b) of this section.

83 (e) Except as provided in subsections (b) to (d), inclusive, of this
84 section, no person shall engage in any activity not related to the actual
85 operation of a motor vehicle in a manner that interferes with the safe
86 operation of such vehicle on any highway, as defined in section 14-1.

87 (f) Any law enforcement officer who issues a summons for a
88 violation of subsection (b), (c), (d) or (i) of this section shall record, on
89 any summons form issued in connection with the matter, the specific
90 nature of any distracted driving behavior observed by such officer that
91 contributed to the issuance of such summons.

92 [(g) Any person who violates subsection (b) of this section shall be
93 fined one hundred dollars for a first violation, one hundred fifty
94 dollars for a second violation and two hundred dollars for a third or
95 subsequent violation.

96 (h) Any person who violates subsection (c) or (d) of this section shall
97 be fined not more than one hundred dollars.]

98 (g) Any law enforcement officer who issues a summons to a person
99 for a second or subsequent violation of subsection (b), (c) or (d) of this
100 section may, acting on behalf of the Commissioner of Motor Vehicles,
101 immediately suspend and take possession of the motor vehicle
102 operator's license of such person or, if such person is a nonresident,
103 suspend the nonresident operating privilege of such person, for a
104 twenty-four-hour period.

105 (h) Any person who violates subsection (b), (c) or (d) of this section
106 shall (1) for a first violation, be fined one hundred dollars, and (2) for a
107 second or subsequent violation, be fined not more than five hundred
108 dollars.

109 (i) An operator of a motor vehicle who commits a moving violation,
110 as defined in subsection (a) of section 14-111g, while engaged in any
111 activity prohibited under subsection (e) of this section shall be fined
112 one hundred dollars in addition to any penalty or fine imposed for the
113 moving violation.

114 (j) The state shall remit to a municipality twenty-five per cent of the
115 amount received with respect to each summons issued by such
116 municipality for a violation of this section. Each clerk of the Superior
117 Court or the Chief Court Administrator, or any other official of the
118 Superior Court designated by the Chief Court Administrator, shall, on
119 or before the thirtieth day of January, April, July and October in each
120 year, certify to the Comptroller the amount due for the previous
121 quarter under this subsection to each municipality served by the office
122 of the clerk or official.

123 Sec. 2. Subsection (b) of section 51-164n of the general statutes is
124 repealed and the following is substituted in lieu thereof (*Effective*
125 *October 1, 2011*):

126 (b) Notwithstanding any provision of the general statutes, any
127 person who is alleged to have committed (1) a violation under the
128 provisions of section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-35, 7-41, 7-83, 7-
129 283, 7-325, 7-393, 8-25, 8-27, 9-63, 9-296, 9-305, 9-322, 9-350, 10-193, 10-
130 197, 10-198, 10-230, 10-251, 10-254, 12-52, 12-170aa, 12-292 or 12-326g,
131 subdivision (4) of section 12-408, subdivision (3), (5) or (6) of section
132 12-411, section 12-435c, 12-476a, 12-476b, 12-487, 13a-71, 13a-107, 13a-
133 113, 13a-114, 13a-115, 13a-117b, 13a-123, 13a-124, 13a-139, 13a-140, 13a-
134 143b, 13a-247 or 13a-253, subsection (f) of section 13b-42, section 13b-
135 90, 13b-221, 13b-292, 13b-336, 13b-337, 13b-338, 13b-410a, 13b-410b or
136 13b-410c, subsection (a), (b) or (c) of section 13b-412, section 13b-414,
137 subsection (d) of section 14-12, section 14-20a or 14-27a, subsection (e)
138 of section 14-34a, subsection (d) of section 14-35, section 14-43, 14-49,
139 14-50a or 14-58, subsection (b) of section 14-66, section 14-66a, 14-66b
140 or 14-67a, subsection (g) of section 14-80, subsection (f) of section 14-
141 80h, section 14-97a, 14-100b, 14-103a, 14-106a, 14-106c, 14-146, 14-152,

142 14-153 or 14-163b, a first violation as specified in subsection (f) of
143 section 14-164i, section 14-219 as specified in subsection (e) of said
144 section, subdivision (1) of section 14-223a, section 14-240, 14-249, 14-
145 250 or 14-253a, subsection (a) of section 14-261a, section 14-262, 14-264,
146 14-267a, 14-269, 14-270, 14-275a, 14-278 or 14-279, subsection (e) of
147 section 14-283, section 14-291 [] or 14-293b, subdivision (1) of
148 subsection (h) of section 14-296aa, as amended by this act, section 14-
149 319, 14-320, 14-321, 14-325a, 14-326, 14-330 or 14-332a, subdivision (1),
150 (2) or (3) of section 14-386a, section 15-33, subsection (a) of section 15-
151 115, section 16-256, 16-256e, 16a-15 or 16a-22, subsection (a) or (b) of
152 section 16a-22h, section 17a-24, 17a-145, 17a-149, 17a-152, 17a-465, 17a-
153 642, 17b-124, 17b-131, 17b-137 or 17b-734, subsection (b) of section 17b-
154 736, section 19a-30, 19a-33, 19a-39 or 19a-87, subsection (b) of section
155 19a-87a, section 19a-91, 19a-105, 19a-107, 19a-215, 19a-219, 19a-222,
156 19a-224, 19a-286, 19a-287, 19a-297, 19a-301, 19a-309, 19a-335, 19a-336,
157 19a-338, 19a-339, 19a-340, 19a-425, 19a-502, 20-7a, 20-14, 20-158, 20-231,
158 20-257, 20-265 or 20-324e, section 20-341l, 20-597, 20-608, 20-610, 21-30,
159 21-38, 21-39, 21-43, 21-47, 21-48, 21-63, 21-76a, 21a-21, 21a-25, 21a-26 or
160 21a-30, subsection (a) of section 21a-37, section 21a-46, 21a-61, 21a-63
161 or 21a-77, subsection (b) of section 21a-79, section 21a-85, 21a-154, 21a-
162 159, 22-13, 22-14, 22-15, 22-16, 22-29, 22-34, 22-35, 22-36, 22-38, 22-39,
163 22-39a, 22-39b, 22-39c, 22-39d, 22-39e, 22-49, 22-54, 22-61, 22-89, 22-90,
164 22-98, 22-99, 22-100, 22-111o, 22-279, 22-280a, 22-318a, 22-320h, 22-324a,
165 22-326 or 22-342, subsection (b) or (e) of section 22-344, section 22-359,
166 22-366, 22-391, 22-413, 22-414, 22-415, 22a-66a or 22a-246, subsection (a)
167 of section 22a-250, subsection (e) of section 22a-256h, section 22a-381d,
168 22a-449, 22a-461, 23-37, 23-38, 23-46 or 23-61b, subsection (a) or (b) of
169 section 23-65, section 25-37, 25-40, 26-19, 26-21, 26-31, 26-40, 26-40a, 26-
170 49, 26-54, 26-59, 26-61, 26-64, 26-79, 26-89, 26-97, 26-107, 26-117, 26-128,
171 26-131, 26-132, 26-138, 26-141, 26-207, 26-215, 26-224a, 26-227, 26-230,
172 26-294, 28-13, 29-6a, 29-109, 29-143o, 29-143z or 29-156a, subsection (b),
173 (d), (e) or (g) of section 29-161q, section 29-161y, 29-161z, 29-198, 29-
174 210, 29-243, 29-277, subsection (c) of section 29-291c, section 29-316, 29-
175 318, 29-381, 30-48a, 30-86a, 31-3, 31-10, 31-11, 31-12, 31-13, 31-14, 31-15,
176 31-16, 31-18, 31-23, 31-24, 31-25, 31-28, 31-32, 31-36, 31-38, 31-38a, 31-40,

177 31-44, 31-47, 31-48, 31-51, 31-51k, 31-52, 31-52a or 31-54, subsection (a)
 178 or (c) of section 31-69, section 31-70, 31-74, 31-75, 31-76, 31-76a, 31-89b
 179 or 31-134, subsection (i) of section 31-273, section 31-288, 36a-787, 42-
 180 230, 45a-450, 45a-634 or 45a-658, subdivision (13) or (14) of section 46a-
 181 54, section 46a-59, 46b-22, 46b-24, 46b-34, 46b-38dd, 46b-38gg, 46b-
 182 38kk, 47-34a, 47-47, 49-8a, 49-16 or 53-133, or section 53-212a, 53-249a,
 183 53-252, 53-264, 53-302a, 53-303e, 53-311a, 53-321, 53-322, 53-323, 53-331,
 184 53-344 or 53-450, or (2) a violation under the provisions of chapter 268,
 185 or (3) a violation of any regulation adopted in accordance with the
 186 provisions of section 12-484, 12-487 or 13b-410, or (4) a violation of any
 187 ordinance, regulation or bylaw of any town, city or borough, except
 188 violations of building codes and the health code, for which the penalty
 189 exceeds ninety dollars but does not exceed two hundred fifty dollars,
 190 unless such town, city or borough has established a payment and
 191 hearing procedure for such violation pursuant to section 7-152c, shall
 192 follow the procedures set forth in this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	14-296aa
Sec. 2	<i>October 1, 2011</i>	51-164n(b)

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Judicial Dept.	GF - Revenue Gain	519,000	692,000

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 12 \$	FY 13 \$
Various Municipalities	Revenue Gain	173,000	231,000

Explanation

The bill increases the fine for a second or subsequent offense for the use of a hand-held or mobile electronic devise while driving, which will result in a revenue gain to the General Fund of \$519,000 in FY 12¹ and \$692,000 in FY 13. This change will also result in a revenue gain of \$173,000 in FY 12 and \$231,000 in FY 13 to municipalities.² The estimate assumes 15% of offenders will re-offend, a similar number of convictions for this offense are made in the future and the total revenue collected will increase proportionally to current collections.³

The Out Years

The annualized ongoing revenue identified above would remain constant into the future since fine amounts are set by statute.

¹ This figure reflects an October 1, 2011 effective date.

² Per CGS 14-296aa(8)(j), 25% of revenue received for using a cell phone or texting while driving shall be remitted to municipalities.

³ In 2010, 31,565 convictions were made for using a cell phone or texting while driving, and \$1,801,000 in fine revenue was collected. \$497,000 of this total was for second and subsequent offenses. The total revenue collected represents 60% of the value of tickets issued.

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis**sHB 6366*****AN ACT CONCERNING THE PENALTY FOR USING A CELLULAR TELEPHONE WHILE OPERATING A MOTOR VEHICLE.*****SUMMARY:**

This bill increases the maximum penalties for a second or subsequent violation for unlawfully using a cell phone or other mobile electronic device while driving. In addition, it changes the penalties for a first or subsequent violation for violators who are under age 18 or who commit a violation while driving a school bus carrying passengers.

For anyone who receives a summons for a second or subsequent violation, the bill allows the law enforcement officer issuing the summons, on the motor vehicle commissioner's behalf, to suspend and take possession of the violator's driver's license for 24 hours. If the violator is a non-resident, the officer may suspend the person's operating privileges for 24 hours.

The bill also specifies that violators may follow the procedures for infractions only for a first violation. Under these procedures, a violator may mail the fine to the Centralized Infractions Bureau instead of appearing in court.

EFFECTIVE DATE: October 1, 2011

PENALTIES FOR USING CELL PHONES WHILE DRIVING

The bill changes the penalties for using cell phones or other mobile electronic devices while driving, as Tables 1 and 2 outline.

Table 1: Penalties for Adults (Other than School Bus Drivers)

	<i>Existing Law</i>	<i>The Bill</i>
First Violation	\$100 fine	\$100 fine
Second Violation	\$150 fine	Up to a \$500 fine, plus possible 24-hour suspension of driver's license or nonresident driving privilege
Subsequent Violations	\$200 fine	Up to a \$500 fine, plus possible 24-hour suspension of driver's license or nonresident driving privilege

Table 2: Penalties for Minors and School Bus Drivers

	<i>Existing Law</i>	<i>The Bill</i>
First Violation	Up to a \$100 fine	\$100 fine
Subsequent Violations	Up to a \$100 fine	Up to a \$500 fine, plus possible 24-hour suspension of driver's license or nonresident driving privilege

By law, the prohibition applies, with certain exceptions, to using a hand-held mobile phone or mobile electronic device while driving, and includes text messaging. The prohibition also applies to using a mobile phone or electronic device, even with a hands-free accessory, if the driver is (1) a school bus driver carrying passengers or (2) under age 18. The prohibition does not apply (1) in emergency situations or (2) for people other than minors and school bus drivers, to any of the following people while performing their official duties and within the scope of their employment: peace officers, firefighters, ambulance and emergency vehicle drivers, or members of the military when operating a military vehicle.

BACKGROUND

Related Bill

sHB 6581 (File 395), favorably reported by the Transportation Committee, increases fines for using a cell phone or texting while driving and imposes additional penalties for texting while driving a commercial motor vehicle.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 23 Nay 20 (04/14/2011)