

SESSION OF 2010

SUPPLEMENTAL NOTE ON SENATE BILL NO. 351

As Amended by Senate Committee of the Whole

Brief*

SB 351, as amended, would create the crime that prohibits text messaging while operating a moving motor vehicle. The bill would make it unlawful for a person to use a handheld wireless communication device for text messaging or electronic mail communication while driving a moving motor vehicle. The bill would provide that a first conviction would be a traffic infraction and be subject to a \$100 fine pursuant to the uniform fine schedule; a second or subsequent conviction would be a class B misdemeanor, except where a person convicted of this crime causes serious injury to another person as a result of the violation, the person would be guilty of a class A misdemeanor.

The bill would:

- Clarify that handheld wireless communication device does not include a voice-operated or hands-free device;
- Clarify that text messaging would not include an emergency, traffic, or weather alert or message related to the operation or navigation of a motor vehicle;
- Clarify that it would not be unlawful to activate or deactivate a feature or function of a voice-operated or hands-free device; and

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Clarify that a person would not be prohibited from reading, selecting, or entering a telephone number or name in a handheld wireless communication device for the purpose of making or receiving a phone call.

Background

The proponents of the bill, as introduced, who presented testimony in the Senate Committee hearing were Representative Raj Goyle, and representatives of the Kansas Department of Transportation; the AAA Allied Group, the Kansas Association of Chiefs of Police, the Kansas Peace Officers Association, the Kansas Department of Health and Environment Bureau of Health Promotions, AT&T, the Alliance of Automobile Manufacturers, the Kansas Highway Patrol, the Kansas County Highway Association, Farmers Insurance Group, and private citizens.

Providing neutral testimony on the bill in the Senate Committee hearing was a representative of the Kansas Sentencing Commission.

The Senate Committee amended the bill to:

- Clarify that handheld wireless communication device does not include a voice-operated or hands-free device;
- Clarify that text messaging would not include an emergency, traffic, or weather alert or message related to the operation or navigation of a motor vehicle;
- Clarify that it would not be unlawful to activate or deactivate a feature or function of a voice-operated or hands-free device;
- Clarify that a person would not be prohibited from reading, selecting, or entering a telephone number or name in a handheld wireless communication device for the purpose of making or receiving a phone call;

- Make the crime of text messaging or electronic mail communication while driving a moving motor vehicle on a highway is a traffic infraction on the first conviction;
- Delete the section creating new law regarding involuntary manslaughter while driving and texting; and
- Delete the section expanding the current law regarding involuntary manslaughter to include unlawful driving while texting.

The Senate Committee of the Whole amended the bill to clarify that if the person convicted of texting while driving a moving motor vehicle causes bodily injury, the person would be guilty of a class A misdemeanor whether it is a first, second, or subsequent offense for unlawful text messaging. Further, the Senate Committee of the Whole amended the bill to include the traffic infraction of texting while driving a moving motor vehicle in the uniform fine schedule.

According to the fiscal note on the bill, as introduced, the Kansas Department of Transportation states it would include the provisions in SB 351 in their public information and education programs and any additional cost could be absorbed within existing agency resources. The Kansas Department of Revenue indicates there would be no additional administrative costs to the agency resulting from the passage of SB 351.

SB 351 has the potential for increasing litigation in the courts because of the new crime created by the bill. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. In any case, the fiscal effect would most

likely be accommodated within the existing schedule of court cases and would not require additional resources.

The Kansas Sentencing Commission fiscal note on SB 351 may not be applicable because the felonies were deleted from the bill by the Senate Committee.