

Legislative Analysis



USE OF A MOBILE ELECTRONIC DEVICE WHILE OPERATING A MOTOR VEHICLE

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

House Bill 4181 (H-1) as referred to second committee
Sponsor: Rep. Mari Manoogian

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

House Bill 4198 (H-5) as referred
Sponsor: Rep. Triston Cole

House Bill 4199 as referred
Sponsor: Rep. Jason M. Sheppard

1st Committee: Transportation
2nd Committee: Ways and Means
Complete to 5-16-19

SUMMARY:

House Bills 4181, 4198, and 4199 would amend various sections of the Michigan Vehicle Code to revise prohibitions and penalties regarding a driver's use of electronic devices while operating a motor vehicle.

House Bill 4198 would amend section 602b of the Vehicle Code to prohibit an individual from digitally communicating with a handheld mobile electronic device while operating a motor vehicle.

Section 602b currently 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 amend these provisions to prohibit a person from *digitally communicating* using a *mobile electronic device* in his or her hand or lap while *operating* a motor vehicle that is not a commercial vehicle.

Digitally communicate would mean manual interaction on a mobile electronic device limited to writing, sending, or reading a text-based communication, mobile gaming, viewing or posting on a *social networking site*, or viewing, capturing, recording, or transmitting a video or photo on a mobile electronic device. It would not include hands-free interaction, voice communication, or a navigation function.

Mobile electronic device would mean a mobile telephone as defined in 49 CFR 390.5.¹ It would include a computer. It would not include a watch, a GPS or navigation system affixed to a motor vehicle, or two-way or Citizens Band (CB) radio services.

¹ See <https://www.law.cornell.edu/cfr/text/49/390.5>

Operate would mean to drive a motor vehicle on a public road or highway, including when the vehicle is not moving temporarily (for up to five minutes) because of traffic, road conditions, or a traffic light or stop sign. It would not apply to a motor vehicle that is lawfully parked.

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.

The above prohibition would not apply to a person who uses a mobile electronic device to do any of the following:

- Carry out his or her official duties as a police officer, law enforcement official, member of a fire department, or operator of an emergency vehicle.
- Respond to a public utility emergency as a public utility employee or contractor.
- Report or avert an emergency, including texting 9-1-1.
- Operate or program the operation of an automated motor vehicle while testing or operating it without a human operator.

The bill would also prohibit a person from digitally communicating using a mobile electronic device in his or her hand or lap while operating a commercial motor vehicle or a school bus. The bill would amend the current prohibition against voice communication on a hand-held mobile telephone while operating a commercial vehicle or school bus to remove an exception for vehicles that are stopped in a location where they can safely remain stationary.

The bill would also allow a law enforcement officer to treat a violation of section 602b as the primary or sole reason for issuing a citation to a driver. However, an officer could not search a motor vehicle or a driver or passenger solely because of a violation of section 602b.

Finally, the bill would exempt the use of radio equipment allowed under 47 CFR 90 or 47 CFR 97 from the provisions of section 602b.²

MCL 257.602b

House Bill 4181 would amend section 602c of the Michigan Vehicle Code to prohibit the use of a cell phone while driving by any individual who is under 18 years of age.

Currently, section 602c prohibits an individual with a level 1 or level 2 graduated driver's license from using a cell phone while operating a motor vehicle. (Level 1 and level 2 graduated licenses are restricted licenses issued in conjunction with driver education courses, the accumulation of behind-the-wheel experience, and related testing and other criteria.) The prohibition does not apply if the phone is being used to report a traffic

² Generally speaking, these federal regulations cover private land mobile radio services and amateur radio service. See <https://www.law.cornell.edu/cfr/text/47/part-90> and <https://www.law.cornell.edu/cfr/text/47/part-97>

accident, medical emergency, serious road hazard, crime, or threat to personal safety or if the individual is using a voice-operated system that is integrated into the vehicle.

The bill would extend the above prohibition against using a cell phone while driving to apply also to all individuals under the age of 18.

The bill would also eliminate the exception allowing use of a voice-operated system that is integrated with the vehicle. (The exceptions related to emergency calls would be retained.)

Under both current law and the bill, using a cell phone means making a call, answering a call, or listening to or engaging in verbal communication over the phone.

MCL 257.602c

House Bill 4199 would amend the Michigan Vehicle Code to increase the civil fine for a violation of section 602b from \$100 to \$250 for a first violation and from \$200 to \$500 for a second or subsequent violation.

MCL 257.602b and 257.907

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 state could see an increase in revenue as Justice System assessment revenue is deposited into the state Justice System Fund, which supports various justice-related endeavors in the judicial and legislative branches of government and the Departments of State Police, Corrections, Health and Human Services, and Treasury.

POSITIONS:

Representatives of the following entities testified in support of the bills:

- AAA Michigan (5-1-19)
- ABATE of Michigan (4-30-19)
- League of Michigan Bicyclists (4-30-19)
- Mitchel Kiefer Foundation (4-30-19)
- Stop Distractions.Org (4-30-19)

The following entities indicated support for the bills (4-30-19):

- APCIA
- Bloomfield Hills School Board
- Detroit Regional Chamber

- West Bloomfield Police
- Michigan Association of Chiefs of Police
- MI Sheriff's Association

The Prosecuting Attorneys Association of Michigan indicated support in concept for the bills. (4-30-19)

A representative of the Michigan State Police testified, indicating a position of neutral with concerns on the bills. (4-30-19)

Representatives of the following entities testified in opposition to the bills (4-30-19):

- ACLU Michigan
- American Radio Relay League-Amateur Radio Operators

Legislative Analyst: E. Best
Fiscal Analyst: Robin Risko

■ 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.