

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1394**

**Amendment Number: H1**

**Bill Subtitle: TO MAKE OUR ROADS SAFER BY PROVIDING FOR EDUCATION AND TESTING CONCERNING DISTRACTED DRIVING; AND TO ENSURE DETERRENCE FROM TEXTING WHILE DRIVING BY INCREASING THE RELATED PENALTIES.**

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### **Basic Change :**

Sponsors: Representatives Fielding, Baltz, Hawthorne, House, Julian, McGill, Sabin, F. Smith, D. Whitaker, Word and Senator Irvin

The bill amends various sections of the law providing for education and testing concerning distracted driving to ensure deterrence from texting while driving and also increases the penalties for texting while driving. The increased penalties include not only an increased fine, but provide for driver's license suspension as follows:

- For a first offense the driver's license suspension not more than 30 days and a fine of \$200.
- For a second offense occurring within five (5) years of the first offense a suspension of not more than 90 days and a fine of \$300.
- For a third and subsequent offense occurring within five (5) years of the first offense, a suspension of not more than 1 year and pay a fine of \$500.

Upon request of a person whose license has been suspended, the Office of Driver Services may issue a restricted driving permit.

The amendment clarifies that a global positioning system device is not included in the definition as a handheld wireless device. Also, the amendment adds another subsection that states a person shall not use a handheld wireless telephone while driving or operating a vehicle in such a careless manner as to evidence a failure to keep a proper lookout for other traffic, vehicular or otherwise, or in such a manner as to evidence a failure to maintain proper control on the public roads or private property. If they do, then the increased fines and penalties in this bill will apply.

This amendment provides different fines and penalties for drivers who are under 21 years of age and violate the law providing restrictions on the use of a wireless telephone by underage drivers. They are:

- For a first offense a warning citation shall be issued and maintained on the driving record.
- For a second offense a person shall be fined \$50.00

However under this amendment, an underage driver who violates the law while driving in a school zone, in a highway work zone, or in such a careless manner as to evidence a failure to keep a proper lookout for other traffic, vehicular or otherwise, or in such a manner as to evidence a failure to maintain proper control on the public roads or private property will also have the increased fines and penalties assessed. The increased penalties include not only an increased fine, but provide for driver's license suspension as follows:

- For a first offense the driver's license suspension not more than 30 days and a fine of \$200.
- For a second offense occurring within five (5) years of the first offense a suspension of not more than 90 days and a fine of \$300.
- For a third and subsequent offense occurring within five (5) years of the first offense, a suspension of not more than 1 year and pay a fine of \$500.

Upon request of a person whose license has been suspended, the Office of Driver Services may issue a restricted driving permit.

This law will not apply to a person operating a commercial motor vehicle.

### **Revenue Impact :**

None

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**Taxpayer Impact :**

There are increased fines and suspension of license provided for texting while driving convictions.

**Resources Required :**

None

**Time Required :**

None

**Procedural Changes :**

The Office of Driver Services Hearing Officers will issue a new restricted permit if this bill is passed.

**Legal Analysis :**

The primary change to the bill effected by Amendment No. 1 to House Bill 1394 is a change to the penalties imposed on drivers for texting while driving.

As amended, the sections of the bill amending Paul's Law provide that a person who uses a handheld wireless telephone for wireless interactive communication while operating a motor vehicle in such a careless manner as to evidence a failure to keep a proper lookout or a failure to maintain proper control is subject to criminal penalties upon conviction or plea, including a fine, and driver's license suspension by the court.

The section of the bill amending the Fewer Distractions Mean Safer Driving Act (§ 27-51-1601, et seq.) prohibit drivers under the age of 18 from using a wireless telephone while operating a motor vehicle except for emergency purposes. The same prohibition applies to drivers who are at least age 18, but not yet age 21, except that they may use a hands-free device. The amendment makes additional changes to the penalty provisions of the Fewer Distractions Law to add a fine and driver's license suspension by the court provisions that mirror those added to Paul's Law.

As amended, the bill continues to exclude from its application a person operating a commercial motor vehicle under either Paul's Law or the Fewer Distractions Mean Safer Driving Act.