

As Reported by the House Criminal Justice Committee

133rd General Assembly

Regular Session

2019-2020

Sub. H. B. No. 119

Representative Stoltzfus

**Cosponsors: Representatives Becker, Brinkman, Hood, Keller, Koehler, Lang,
Merrin, Riedel, Seitz**

A BILL

To amend sections 4511.202, 4511.204, 4511.205,
4511.75, and 4511.991 of the Revised Code to
make corrective changes to the distracted
driving and texting-while-driving law and to add
the offenses of failure to control and passing a
stopped school bus to the distracted driving
law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4511.202, 4511.204, 4511.205,
4511.75, and 4511.991 of the Revised Code be amended to read as
follows:

Sec. 4511.202. (A) No person shall operate a motor
vehicle, trackless trolley, streetcar, agricultural tractor, or
agricultural tractor that is towing, pulling, or otherwise
drawing a unit of farm machinery on any street, highway, or
property open to the public for vehicular traffic without being
in reasonable control of the vehicle, trolley, streetcar,
agricultural tractor, or unit of farm machinery.

(B) Whoever violates this section is guilty of operating a motor vehicle or agricultural tractor without being in control of it, a minor misdemeanor.

(C) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 4511.991 of the Revised Code.

Sec. 4511.204. (A) No person shall drive a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication.

(B) Division (A) of this section does not apply to any of the following:

(1) A person using a handheld electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;

(3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;

(4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a

telephone call; 47

(5) A person receiving wireless messages on a device 48
regarding the operation or navigation of a motor vehicle; 49
safety-related information, including emergency, traffic, or 50
weather alerts; or data used primarily by the motor vehicle; 51

(6) A person receiving wireless messages via radio waves; 52

(7) A person using a device for navigation purposes; 53

(8) A person conducting wireless interpersonal 54
communication with a device that does not require manually 55
entering letters, numbers, or symbols or reading text messages, 56
except to activate, deactivate, or initiate the device or a 57
feature or function of the device; 58

(9) A person operating a commercial truck while using a 59
mobile data terminal that transmits and receives data; 60

(10) A person using a handheld electronic wireless 61
communications device in conjunction with a voice-operated or 62
hands-free device feature or function of the vehicle. 63

(C) (1) Notwithstanding any provision of law to the 64
contrary, no law enforcement officer shall cause an operator of 65
an automobile being operated on any street or highway to stop 66
the automobile for the sole purpose of determining whether a 67
violation of division (A) of this section has been or is being 68
committed or for the sole purpose of issuing a ticket, citation, 69
or summons for a violation of that nature or causing the arrest 70
of or commencing a prosecution of a person for a violation of 71
that nature, and no law enforcement officer shall view the 72
interior or visually inspect any automobile being operated on 73
any street or highway for the sole purpose of determining 74
whether a violation of that nature has been or is being 75

committed. 76

(2) On January 31 of each year, the department of public 77
safety shall issue a report to the general assembly that 78
specifies the number of citations issued for violations of this 79
section during the previous calendar year. 80

(D) Whoever violates division (A) of this section is 81
guilty of a minor misdemeanor. 82

(E) This section shall not be construed as invalidating, 83
preempting, or superseding a substantially equivalent municipal 84
ordinance that prescribes penalties for violations of that 85
ordinance that are greater than the penalties prescribed in this 86
section for violations of this section. 87

(F) A prosecution for ~~a~~an offense in violation of this 88
section does not preclude a prosecution for ~~a~~an offense in 89
violation of a substantially equivalent municipal ordinance 90
based on the same conduct. ~~However, if an offender is convicted~~ 91
~~of or pleads guilty to a violation of this section and is also~~ 92
~~convicted of or pleads guilty to a violation of a substantially~~ 93
~~equivalent municipal ordinance based on the same conduct,~~ the 94
two offenses are allied offenses of similar import under section 95
2941.25 of the Revised Code. 96

(G) As used in this section: 97

(1) "Electronic wireless communications device" includes 98
any of the following: 99

(a) A wireless telephone; 100

(b) A text-messaging device; 101

(c) A personal digital assistant; 102

(d) A computer, including a laptop computer and a computer
tablet; 103
104

(e) Any other substantially similar wireless device that 105
is designed or used to communicate text. 106

(2) "Voice-operated or hands-free device" means a device 107
that allows the user to vocally compose or send, or to listen to 108
a text-based communication without the use of either hand except 109
to activate or deactivate a feature or function. 110

(3) "Write, send, or read a text-based communication" 111
means to manually write or send, or read a text-based 112
communication using an electronic wireless communications 113
device, including manually writing or sending, or reading 114
communications referred to as text messages, instant messages, 115
or electronic mail. 116

Sec. 4511.205. (A) No holder of a temporary instruction 117
permit who has not attained the age of eighteen years and no 118
holder of a probationary driver's license shall drive a motor 119
vehicle on any street, highway, or property used by the public 120
for purposes of vehicular traffic or parking while using in any 121
manner an electronic wireless communications device. 122

(B) Division (A) of this section does not apply to either 123
of the following: 124

(1) A person using an electronic wireless communications 125
device for emergency purposes, including an emergency contact 126
with a law enforcement agency, hospital or health care provider, 127
fire department, or other similar emergency agency or entity; 128

(2) A person using an electronic wireless communications 129
device whose motor vehicle is in a stationary position and the 130
motor vehicle is outside a lane of travel; 131

(3) A person using a navigation device in a voice-operated 132
or hands-free manner who does not manipulate the device while 133
driving. 134

(C) (1) Except as provided in division (C) (2) of this 135
section, whoever violates division (A) of this section shall be 136
fined one hundred fifty dollars. In addition, the court shall 137
impose a class seven suspension of the offender's driver's 138
license or permit for a definite period of sixty days. 139

(2) If the person previously has been adjudicated a 140
delinquent child or a juvenile traffic offender for a violation 141
of this section, whoever violates this section shall be fined 142
three hundred dollars. In addition, the court shall impose a 143
class seven suspension of the person's driver's license or 144
permit for a definite period of one year. 145

(D) The filing of a sworn complaint against a person for a 146
juvenile offense in violation of this section does not preclude 147
the filing of a sworn complaint for a juvenile offense in 148
violation of a substantially equivalent municipal ordinance for 149
the same conduct. However, ~~if a person is adjudicated a~~ 150
~~delinquent child or a juvenile traffic offender for a violation~~ 151
~~of this section and is also adjudicated a delinquent child or a~~ 152
~~juvenile traffic offender for a violation of a substantially~~ 153
~~equivalent municipal ordinance for the same conduct,~~ the two 154
offenses are allied offenses of similar import under section 155
2941.25 of the Revised Code. 156

(E) As used in this section, "electronic wireless 157
communications device" includes any of the following: 158

(1) A wireless telephone; 159

(2) A personal digital assistant; 160

(3) A computer, including a laptop computer and a computer
tablet; 161
162

(4) A text-messaging device; 163

(5) Any other substantially similar electronic wireless 164
device that is designed or used to communicate via voice, image, 165
or written word. 166

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 167
trackless trolley upon meeting or overtaking from either 168
direction any school bus stopped for the purpose of receiving or 169
discharging any school child, person attending programs offered 170
by community boards of mental health and county boards of 171
developmental disabilities, or child attending a program offered 172
by a head start agency, shall stop at least ten feet from the 173
front or rear of the school bus and shall not proceed until such 174
school bus resumes motion, or until signaled by the school bus 175
driver to proceed. 176

It is no defense to a charge under this division that the 177
school bus involved failed to display or be equipped with an 178
automatically extended stop warning sign as required by division 179
(B) of this section. 180

(B) Every school bus shall be equipped with amber and red 181
visual signals meeting the requirements of section 4511.771 of 182
the Revised Code, and an automatically extended stop warning 183
sign of a type approved by the state board of education, which 184
shall be actuated by the driver of the bus whenever but only 185
whenever the bus is stopped or stopping on the roadway for the 186
purpose of receiving or discharging school children, persons 187
attending programs offered by community boards of mental health 188
and county boards of developmental disabilities, or children 189

attending programs offered by head start agencies. A school bus 190
driver shall not actuate the visual signals or the stop warning 191
sign in designated school bus loading areas where the bus is 192
entirely off the roadway or at school buildings when children or 193
persons attending programs offered by community boards of mental 194
health and county boards of developmental disabilities are 195
loading or unloading at curbside or at buildings when children 196
attending programs offered by head start agencies are loading or 197
unloading at curbside. The visual signals and stop warning sign 198
shall be synchronized or otherwise operated as required by rule 199
of the board. 200

(C) Where a highway has been divided into four or more 201
traffic lanes, a driver of a vehicle, streetcar, or trackless 202
trolley need not stop for a school bus approaching from the 203
opposite direction which has stopped for the purpose of 204
receiving or discharging any school child, persons attending 205
programs offered by community boards of mental health and county 206
boards of developmental disabilities, or children attending 207
programs offered by head start agencies. The driver of any 208
vehicle, streetcar, or trackless trolley overtaking the school 209
bus shall comply with division (A) of this section. 210

(D) School buses operating on divided highways or on 211
highways with four or more traffic lanes shall receive and 212
discharge all school children, persons attending programs 213
offered by community boards of mental health and county boards 214
of developmental disabilities, and children attending programs 215
offered by head start agencies on their residence side of the 216
highway. 217

(E) No school bus driver shall start the driver's bus 218
until after any child, person attending programs offered by 219

community boards of mental health and county boards of 220
developmental disabilities, or child attending a program offered 221
by a head start agency who may have alighted therefrom has 222
reached a place of safety on the child's or person's residence 223
side of the road. 224

(F) (1) Whoever violates division (A) of this section may 225
be fined an amount not to exceed five hundred dollars. A person 226
who is issued a citation for a violation of division (A) of this 227
section is not permitted to enter a written plea of guilty and 228
waive the person's right to contest the citation in a trial but 229
instead must appear in person in the proper court to answer the 230
charge. 231

(2) In addition to and independent of any other penalty 232
provided by law, the court or mayor may impose upon an offender 233
who violates this section a class seven suspension of the 234
offender's driver's license, commercial driver's license, 235
temporary instruction permit, probationary license, or 236
nonresident operating privilege from the range specified in 237
division (A) (7) of section 4510.02 of the Revised Code. When a 238
license is suspended under this section, the court or mayor 239
shall cause the offender to deliver the license to the court, 240
and the court or clerk of the court immediately shall forward 241
the license to the registrar of motor vehicles, together with 242
notice of the court's action. 243

(3) If the offender commits the offense while distracted 244
and the distracting activity is a contributing factor to the 245
commission of the offense, the offender is subject to the 246
additional fine established under section 4511.991 of the 247
Revised Code. 248

(G) As used in this section: 249

(1) "Head start agency" has the same meaning as in section 250
3301.32 of the Revised Code. 251

(2) "School bus," as used in relation to children who 252
attend a program offered by a head start agency, means a bus 253
that is owned and operated by a head start agency, is equipped 254
with an automatically extended stop warning sign of a type 255
approved by the state board of education, is painted the color 256
and displays the markings described in section 4511.77 of the 257
Revised Code, and is equipped with amber and red visual signals 258
meeting the requirements of section 4511.771 of the Revised 259
Code, irrespective of whether or not the bus has fifteen or more 260
children aboard at any time. "School bus" does not include a van 261
owned and operated by a head start agency, irrespective of its 262
color, lights, or markings. 263

Sec. 4511.991. (A) As used in this section and each 264
section referenced in division (B) of this section, all of the 265
following apply: 266

(1) "Distracted" means doing either of the following while 267
operating a vehicle: 268

(a) Using ~~a handheld~~ an electronic wireless communications 269
device, as defined in section 4511.204 of the Revised Code, that 270
is handheld, except when utilizing any of the following: 271

(i) The device's speakerphone function; 272

(ii) A wireless technology standard for exchanging data 273
over short distances; 274

(iii) A ~~"voice-operated or hands-free" device~~ feature that 275
allows the person to use the ~~electronic wireless communications~~ 276
device without the use of either hand except to activate, 277
deactivate, or initiate a feature or function; 278

(iv) Any device that is physically or electronically 279
integrated into the motor vehicle. 280

(b) Engaging in any activity that is not necessary to the 281
operation of a vehicle and impairs, or reasonably would be 282
expected to impair, the ability of the operator to drive the 283
vehicle safely. 284

(2) "Distracted" does not include operating a motor 285
vehicle while wearing an earphone or earplug over or in both 286
ears at the same time. A person who so wears earphones or 287
earplugs may be charged with a violation of section 4511.84 of 288
the Revised Code. 289

(3) "Distracted" does not include conducting any activity 290
while operating a utility service vehicle or a vehicle for or on 291
behalf of a utility, provided that the driver of the vehicle is 292
acting in response to an emergency, power outage, or a 293
circumstance affecting the health or safety of individuals. 294

As used in division (A) (3) of this section: 295

(a) "Utility" means an entity specified in division (A), 296
(C), (D), (E), or (G) of section 4905.03 of the Revised Code. 297

(b) "Utility service vehicle" means a vehicle owned or 298
operated by a utility. 299

(B) If an offender violates section 4511.03, 4511.051, 300
4511.12, 4511.121, 4511.132, 4511.202, 4511.21, 4511.211, 301
4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 302
4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 303
4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 304
4511.43, 4511.431, 4511.44, 4511.441, 4511.451, 4511.46, 305
4511.47, 4511.54, 4511.55, 4511.57, 4511.58, 4511.59, 4511.60, 306
4511.61, 4511.64, 4511.71, 4511.711, 4511.712, 4511.713, 307

4511.72, ~~or~~ 4511.73, or 4511.75 of the Revised Code while 308
distracted and the distracting activity is a contributing factor 309
to the commission of the violation, the offender is subject to 310
the applicable penalty for the violation and, notwithstanding 311
section 2929.28 of the Revised Code, is subject to an additional 312
fine of not more than one hundred dollars as follows: 313

(1) Subject to the mandatory appearance requirements of 314
Traffic Rule 13, if a law enforcement officer issues an offender 315
a ticket, citation, or summons for a violation of any of the 316
aforementioned sections of the Revised Code that indicates that 317
the offender was distracted while committing the violation and 318
that the distracting activity was a contributing factor to the 319
commission of the violation, the offender may enter a written 320
plea of guilty and waive the offender's right to contest the 321
ticket, citation, or summons in a trial provided that the 322
offender pays the total amount of the fine established for the 323
violation and pays the additional fine of one hundred dollars. 324

In lieu of payment of the additional fine of one hundred 325
dollars, the offender instead may elect to attend a distracted 326
driving safety course, the duration and contents of which shall 327
be established by the director of public safety. If the offender 328
attends and successfully completes the course, the offender 329
shall be issued written evidence that the offender successfully 330
completed the course. The offender shall be required to pay the 331
total amount of the fine established for the violation, but 332
shall not be required to pay the additional fine of one hundred 333
dollars, so long as the offender submits to the court both the 334
offender's payment in full and such written evidence. 335

(2) If the offender appears in person to contest the 336
ticket, citation, or summons in a trial and the offender pleads 337

guilty to or is convicted of the violation, the court, in 338
addition to all other penalties provided by law, may impose the 339
applicable penalty for the violation and may impose the 340
additional fine of not more than one hundred dollars. 341

If the court imposes upon the offender the applicable 342
penalty for the violation and an additional fine of not more 343
than one hundred dollars, the court shall inform the offender 344
that, in lieu of payment of the additional fine of not more than 345
one hundred dollars, the offender instead may elect to attend 346
the distracted driving safety course described in division (B) 347
(1) of this section. If the offender elects the course option 348
and attends and successfully completes the course, the offender 349
shall be issued written evidence that the offender successfully 350
completed the course. The offender shall be required to pay the 351
total amount of the fine established for the violation, but 352
shall not be required to pay the additional fine of not more 353
than one hundred dollars, so long as the offender submits to the 354
court the offender's payment and such written evidence. 355

Section 2. That existing sections 4511.202, 4511.204, 356
4511.205, 4511.75, and 4511.991 of the Revised Code are hereby 357
repealed. 358