**South Carolina General Assembly**

120th Session, 2013-2014

**H. 3858**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Bowen, Whipper, Cobb‑Hunter, Owens, Hiott, Skelton, J.R. Smith, Spires, Douglas, Bales, Anderson, Hosey, Munnerlyn, Bowers, Jefferson, Southard, Merrill, Norman, Huggins, Stavrinakis, R.L. Brown, Clyburn, Crosby, Daning, Finlay, Funderburk, Gagnon, Gambrell, George, Hardee, Hart, Herbkersman, Hixon, Hodges, Howard, Lucas, M.S. McLeod, Mitchell, D.C. Moss, V.S. Moss, Pitts, Powers Norrell, Putnam, Ridgeway, Rivers, Ryhal, J.E. Smith, Sottile, Taylor, Wells, Williams, Willis and Wood

Document Path: l:\council\bills\swb\5151cm13.docx

Companion/Similar bill(s): 3121

Introduced in the House on March 21, 2013

Currently residing in the House Committee on **Judiciary**

Summary: Electronic communication device

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/21/2013 House Introduced and read first time ([House Journal‑page 13](file:///h:\HJ%20Archive\2013\03-21-13.docx))

3/21/2013 House Referred to Committee on **Education and Public Works** ([House Journal‑page 13](file:///h:\HJ%20Archive\2013\03-21-13.docx))

4/17/2013 House Recalled from Committee on **Education and Public Works** ([House Journal‑page 44](file:///h:\HJ%20Archive\2013\04-17-13.docx))

4/17/2013 House Referred to Committee on **Judiciary** ([House Journal‑page 44](file:///h:\HJ%20Archive\2013\04-17-13.docx))

**VERSIONS OF THIS BILL**

[3/21/2013](file:///p:\pprever\2013-14\3858_20130321.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 56‑5‑3890 AND 56‑5‑3897 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO USE AN ELECTRONIC COMMUNICATION DEVICE WHILE DRIVING A MOTOR VEHICLE UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE A PENALTY, AND TO PROVIDE FOR THE DISTRIBUTION OF MONIES COLLECTED FROM FINES ASSOCIATED WITH VIOLATIONS OF THIS PROVISION; TO AMEND SECTION 56‑1‑720, RELATING TO THE ASSESSMENT OF POINTS AGAINST A PERSON’S DRIVING RECORD FOR CERTAIN MOTOR VEHICLE VIOLATIONS, SO AS TO PROVIDE THAT POINTS MUST BE ASSESSED AGAINST THE DRIVING RECORD OF A PERSON CONVICTED OF DISTRACTED DRIVING; AND TO AMEND SECTION 56‑5‑2920, RELATING TO RECKLESS DRIVING, SO AS TO PROVIDE THAT RECKLESS DRIVING INCLUDES DISTRACTED DRIVING OR INATTENTIVE DRIVING THAT INCLUDES TEXTING WHILE DRIVING WHEN BODILY INJURY OCCURS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 31, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑3890. (A) For purposes of this section:

(1) ‘Electronic communication device’ means an electronic device used for the purpose of composing, reading, or sending an electronic message, but does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.

(2) ‘Electronic message’ means a self‑contained piece of digital communication that is designed or intended to be transmitted between physical devices. ‘Electronic message’ includes, but is not limited to electronic mail, a text message, an instant message, or a command or request to access an Internet site.

(B) A person may not use an electronic communication device to compose, send, or read an electronic message while operating a motor vehicle on a roadway.

(C) This section does not apply to a person operating a motor vehicle while:

(1) off the traveled portion of a roadway;

(2) using an electronic communication device in hands‑free, voice‑activated, or voice‑operated mode that allows the user to review, prepare and transmit an electronic message without the use of either hand except to activate, deactivate, or initiate a feature or function;

(3) summoning medical or other emergency assistance; or

(4) using a citizens band radio, commercial two‑way radio communication device, in‑vehicle security, or amateur or ham radio device.

(D) A person who violates this section where no great bodily injury or death resulted from the violation, is guilty of misdemeanor distracted driving and, upon conviction, must be fined not more than one hundred dollars, pay a twenty‑five dollar Trauma Care Fund surcharge in accordance with Section 56‑5‑3897, and have two points assessed against his driving record in accordance with Section 56‑1‑720. The fine is subject to all applicable court costs, assessments, and surcharges.

(E) This section preempts local ordinances, regulations, and resolutions adopted by municipalities, counties, and other local government entities regarding persons using hand‑held and hands‑free wireless electronic communication devices while operating motor vehicles on the public streets and highways of this State.

(F) Nothing in this section is intended to conflict with enforcement of applicable restrictions or requirements imposed on commercial motor vehicle operators pursuant to the federal Motor Carrier Safety Regulations.”

SECTION 2. Article 31, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑3897. Monies received by the Trauma Care Fund pursuant to Section 56‑5‑3890 must be deposited with the city or county treasurer, as applicable, for remittance to the State Treasurer. The State Treasurer shall deposit the Trauma Care Fund surcharge in the South Carolina State Trauma Care Fund. The Trauma Care Fund surcharge must not be used by the Department of Health and Environmental Control for the payment of the department’s administrative or operating expenses or for any purpose other than providing financial aid to participating trauma care providers and grants related to trauma care in this State. The Trauma Care Fund surcharge is not subject to the provisions of Section 44‑61‑520(G).”

SECTION 3. Section 56‑1‑720 of the 1976 Code is amended to read:

“Section 56‑1‑720. There is established a point system for the evaluation of the operating record of persons to whom a license to operate motor vehicles has been granted and for the determination of the continuing qualifications of these persons for the privileges granted by the license to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations in accordance with the following schedule:

VIOLATION POINTS

Reckless driving 6

Passing stopped school bus 6

Hit‑and‑run, property damages only 6

Driving too fast for conditions, or speeding:

(1) No more than 10 m.p.h. above the

posted limits 2

(2) More than 10 m.p.h. but less than

25 m.p.h. above the posted limits 4

(3) 25 m.p.h. or above the posted limits 6

Disobedience of any official traffic

control device 4

Disobedience to officer directing traffic 4

Failing to yield right of way 4

Driving on wrong side of road 4

Passing unlawfully 4

Turning unlawfully 4

Driving through or within safety zone 4

Failing to give signal or giving improper

signal for stopping, turning, or suddenly

decreased speed 4

Shifting lanes without safety precaution 2

Improper dangerous parking 2

Following too closely 4

Failing to dim lights 2

Operating with improper lights 2

Operating with improper brakes 4

Operating a vehicle in unsafe condition 2

Driving in improper lane 2

Improper backing 2

Distracted driving 2.”

SECTION 4. Section 56‑5‑2920 of the 1976 Code is amended to read:

“Section 56‑5‑2920. Any person who drives any vehicle in such a manner as to indicate either a wilful or wanton disregard for the safety of persons or property, or while distracted or in an inattentive manner which shall include texting while driving when bodily injury occurs is guilty of reckless driving. The Department of Motor Vehicles, upon receiving satisfactory evidence of the conviction, of the entry of a plea of guilty or the forfeiture of bail of any person charged with a second and subsequent offense for the violation of this section shall forthwith suspend the driver’s license of any such person for a period of three months. Only those offenses which occurred within a period of five years including and immediately preceding the date of the last offense shall constitute prior offenses within the meaning of this section. Any person violating the provisions of this section shall, upon conviction, entry of a plea of guilty or forfeiture of bail, be punished by a fine of not less than twenty‑five dollars nor more than two hundred dollars or by imprisonment for not more than thirty days.”

SECTION 5. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑