



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 86

131st General Assembly  
(As Introduced)

Rep. Grossman

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## BILL SUMMARY

- Creates the offense of "distracted driving," but limits application and prosecution of the offense to persons who also commit a moving violation or a vehicular homicide offense at the same time as the distracted driving offense.

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## CONTENT AND OPERATION

### The offense of "distracted driving"

The bill creates the offense of "distracted driving," but limits application and prosecution of the offense to persons who also commit a moving violation or a vehicular homicide offense at the same time as the distracted driving offense. First, the bill prohibits any person from committing a moving violation while doing either of the following:

(1) Using in any manner an electronic wireless communications device; or

(2) Engaging in any activity that is not necessary to the driving of a motor vehicle and impairs, or reasonably would be expected to impair, the ability of the person to drive the motor vehicle safely.<sup>1</sup>

The bill then prohibits any person from committing any vehicular homicide offense while doing either of the above two actions.<sup>2</sup> Whoever violates either of the two above prohibitions is guilty of distracted driving, a misdemeanor.<sup>3</sup>

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<sup>1</sup> R.C. 4511.206(B)(1) and (2).

<sup>2</sup> R.C. 4511.206(C)(1) and (2).

<sup>3</sup> R.C. 4511.206(D).

## Penalties

A person who pleads guilty to or is convicted of distracted driving while committing a moving violation is subject to the following penalties:

- (1) A fine of \$100 on a first offense; or
- (2) A fine of \$300 for a second or subsequent offense.<sup>4</sup>

The court must impose the applicable fine in addition to any penalties the court imposes for the underlying moving violation.<sup>5</sup> If a law enforcement officer issues a person a ticket, citation, or summons for a moving violation and also for the offense of distracted driving while committing a moving violation, the person who is issued the ticket is not permitted to enter a written plea of guilty and waive the person's right to contest the ticket, citation, or summons in a trial but instead is required to appear in person in the proper court to answer the charge.<sup>6</sup>

A person who pleads guilty to or is convicted of distracted driving while committing a vehicular homicide offense is subject to the following penalties:

- (1) A fine that is twice the maximum fine permitted for a violation of a specified provision of the vehicular homicide statute (R.C. 2903.06(A)(3)) (see **COMMENT**); and
- (2) A jail or prison term that is twice the maximum term permitted for a violation of a specified provision of the vehicular homicide statute (R.C. 2903.06(A)(3)) (see **COMMENT**).<sup>7</sup>

The court must impose the applicable fine or prison term in addition to any penalties the court imposes for the underlying vehicular homicide violation.<sup>8</sup>

## Driver Education Fund

The bill creates the Driver Education Fund in the state treasury, consisting of all fines collected for state distracted driving offenses. The Department of Public Safety is required to use all money in the Fund to pay for the Department's driver safety

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<sup>4</sup> R.C. 4511.206(E)(1) and (2).

<sup>5</sup> R.C. 4511.206(E).

<sup>6</sup> R.C. 4511.206(G).

<sup>7</sup> R.C. 4511.206(F)(1) and (2).

<sup>8</sup> R.C. 4511.206(F).



activities and programs, as prescribed in rules the bill requires the Department to adopt.<sup>9</sup>

### **Definitions**

For purposes of the bill, "electronic wireless communications device" includes any of the following:

- (1) A wireless telephone;
- (2) A text-messaging device;
- (3) A personal digital assistant;
- (4) A computer, including a laptop computer and a computer tablet; or

(5) Any other substantially similar wireless device that is designed or used to communicate text.<sup>10</sup>

"Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles, streetcars, or trackless trolleys on the highways or streets. "Moving violation" does not include a violation of the state seat belt law or a substantially equivalent municipal ordinance, or a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, vehicle size or load limitations, vehicle fitness requirements, or vehicle registration.<sup>11</sup>

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### **COMMENT**

Under the bill, a person who pleads guilty to, or is convicted of, distracted driving while committing a vehicular homicide offense is subject to a fine of double the maximum fine permitted for a violation of a specified provision of the vehicular homicide statute (R.C. 2903.06(A)(3)) and a jail or prison term that is double the maximum term permitted for a violation of that statute. It is unclear which fine and which jail or prison term for a violation of R.C. 2903.06(A)(3) would constitute the basis for the distracted driving penalties.

Generally, a violation of R.C. 2903.06(A)(3) is a first degree misdemeanor and the offender is subject to a fine of up to \$1,000 and up to 180 days in jail. However, a

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<sup>9</sup> R.C. 4511.206(I).

<sup>10</sup> R.C. 4511.206(A)(1).

<sup>11</sup> R.C. 4511.206(A)(2).



violation of R.C. 2903.06(A)(3) is a fourth degree felony and an offender is subject to a prison term of up to 18 months and a fine of up to \$5,000 if the offender:

(1) Committed the violation while under a driver's license suspension or cancellation;

(2) Did not have a valid driver's license and was not eligible to obtain a driver's license renewal without taking a driver's license examination; or

(3) Was previously convicted of, or pleaded guilty to, a traffic-related homicide, manslaughter, or assault.

It is not clear whether the bill requires a court to impose upon a distracted driving offender penalties equal to double the maximum penalties for a vehicular homicide offense committed under the circumstances specified in (1) through (3) above, i.e., double the \$5,000 fine and 18 months in prison, even if the offender did not commit the offense under those circumstances.

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## HISTORY

ACTION	DATE
Introduced	02-25-15

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