

1 H.496

2 Introduced by Representatives Mrowicki of Putney, Andrews of Rutland City,
3 Bissonnette of Winooski, Bohi of Hartford, Botzow of Pownal,
4 Browning of Arlington, Consejo of Sheldon, Copeland-Hanzas
5 of Bradford, Courcelle of Rutland City, Edwards of Brattleboro,
6 Emmons of Springfield, French of Randolph, Hooper of
7 Montpelier, Johnson of South Hero, Lanpher of Vergennes,
8 Lenes of Shelburne, Leriche of Hardwick, Martin of
9 Springfield, Minter of Waterbury, Nuovo of Middlebury, Pellett
10 of Chester, Peltz of Woodbury, Ram of Burlington, Shand of
11 Weathersfield, Smith of Mendon, Stevens of Waterbury,
12 Waite-Simpson of Essex, Webb of Shelburne and Wizowaty of
13 Burlington

14 Referred to Committee on

15 Date:

16 Subject: Motor vehicles; operator; junior operator; commercial vehicle;
17 texting; prohibition

18 Statement of purpose: This bill proposes to prohibit all persons operating a
19 motor vehicle from texting on a cellular telephone or other electronic device
20 while driving on the traveled portion of a highway.

1 An act relating to prohibiting texting while operating a motor vehicle

2 It is hereby enacted by the General Assembly of the State of Vermont:

3 Sec. 1. 23 V.S.A. § 1095a is added to read:

4 § 1095a. TEXTING WITH ELECTRONIC DEVICES;

5 LEARNERS, JUNIOR OPERATORS, AND OPERATORS

6 (a) Texting prohibited. A person operating a motor vehicle with a learner
7 permit under section 617 of this title, a junior operator license under section
8 607 of this title, an operator license under section 601 of this title, or a
9 commercial vehicle operator license under section 4107 of this title shall not
10 engage in texting with a cellular telephone nor with any other electronic device
11 while operating on the traveled portion of a highway.

12 (b) Warrant for records. A law enforcement officer, an attorney for the
13 state, or any other person authorized by law may seek a warrant in accordance
14 with Rule 41 of the Vermont Rules of Criminal Procedure to obtain and review
15 the mobile wireless communication billing records of an individual arrested for
16 any violation of the provisions of subsection (a) of this section.

17 (c) Penalties. Violations of the provisions of subsection (a) of this section
18 may be penalized as follows:

19 (1) First offense. A first-time violator of subsection (a) of this section
20 may be fined not more than \$750.00 or imprisoned for not more than two
21 years, or both.

1 (2) Second offense. A person convicted of violating subsection (a) of
2 this section who has been convicted of another violation of that section shall be
3 finned not more than \$1,500.00 or imprisoned not more than two years, or both.
4 At least 200 hours of community service shall be performed or 60 consecutive
5 hours of the sentence of imprisonment shall be served and may not be
6 suspended or deferred or served as a supervised sentence.

7 (3) Third or subsequent offense. A person convicted of violating
8 subsection (a) of this section who has twice been convicted of violation of the
9 subsection shall be fined not more than \$2,500.00 or imprisoned not more than
10 five years, or both. At least 400 hours of community service shall be
11 performed or 100 consecutive hours of the sentence of imprisonment shall be
12 served and may not be suspended or deferred or served as a supervised
13 sentence.

14 (d) Death resulting.

15 (1) If the death of any person results from a violation of subsection (a)
16 of this section, the person convicted of the violation shall be fined not more
17 than \$10,000.00 or imprisoned not less than one year nor more than 15 years,
18 or both. The provisions of this subsection do not limit or restrict prosecutions
19 for manslaughter.

1 (2) If the death of more than one person results from a violation of
2 subsection (a) of this section, the operator may be convicted of a separate
3 violation of this subdivision for each decedent.

4 (e) Injury resulting.

5 (1) If serious bodily injury, as defined in 13 V.S.A. § 1021(2), results to
6 any person, other than the operator, from a violation of subsection (a) of this
7 section, the person convicted of the violation shall be fined not more than
8 \$5,000.00 or imprisoned not more than 15 years, or both.

9 (2) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to
10 more than one person other than the operator from a violation of subsection (a)
11 of this section, the operator may be convicted of a separate violation of this
12 subdivision for each person injured.

13 (f) Determination of fines. In determining appropriate fines under this
14 section the court may take into account the total cost to a defendant of alcohol
15 screening, participation in the alcohol and driving education program and
16 therapy, and the income of the defendant.

17 (g) Surcharges.

18 (1) A person convicted of violating subsection (a) of this section shall be
19 assessed a surcharge of \$60.00, which shall be added to any fine imposed by
20 the court. The court shall collect and transfer the surcharge to the department

1 of health for deposit in the health department's laboratory services special
2 fund.

3 (2) A person convicted of violating subsection (a) of this section shall be
4 assessed a surcharge of \$50.00, which shall be added to any fine or surcharge
5 imposed by the court. The court shall collect and transfer the surcharge
6 assessed under this subsection to the office of defender general for deposit in
7 the public defender special fund specifying the source of the monies being
8 deposited. The collection procedures described in 13 V.S.A. § 5240 shall be
9 utilized in the collection of this surcharge.

10 (3) A person convicted of violating subsection (a) of this section shall be
11 assessed a surcharge of \$50.00, which shall be added to any fine or surcharge
12 imposed by the court. The court shall collect and transfer the surcharge
13 assessed under this subsection to be credited to the DUI enforcement fund.
14 The collection procedures described in 13 V.S.A. § 5240 shall be utilized in
15 the collection of this surcharge.