

House Proposal of Amendment

S. 280

The House proposes to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SHORT TITLE

This act shall be known as and may be cited as the “Highway Traffic Safety Act of 2010.”

* * * Legislative Findings * * *

Sec. 2. LEGISLATIVE FINDINGS

The general assembly finds that:

* * * General Findings * * *

(1) In December 2006, the governor transmitted to the Division Administrator of the Federal Highway Administration the Strategic Highway Plan for Vermont that stated “The first half of 2006 was trending toward a near record-breaking year for highway deaths and incapacitating injuries.” In response to this trend, the Strategic Highway Safety Plan for Vermont was created with the mission to “minimize the occurrence and severity of crashes, related human suffering, and economic losses on the Vermont transportation network.”

(2) According to the governor’s highway safety office, traffic crashes cost the nation about \$230 billion each year in medical expenses, lost productivity, property damage, and related costs. Vermont pays \$221 million of those costs. In 2008, workplace traffic crash injuries cost Vermonters more than \$39 million.

(3) According to the governor’s highway safety program, each highway fatality cost the state of Vermont more than \$900,000.00.

(4) In recognition of the terrible toll in terms of human suffering and financial loss resulting from motor vehicle crashes, on July 6, 2006, the Vermont department of health's injury prevention program hosted the 2006 Symposium on Preventing Crashes Among Young Drivers at the Inn at Essex, Vermont. The symposium brought together key leaders in highway safety, transportation, public health, and youth development for an in-depth multidisciplinary exploration of the causes of crashes among young drivers and opportunities for prevention.

* * * Teen Driving Safety * * *

(1) The Strategic Highway Safety Plan for Vermont of 2006, signed by the governor and endorsed by state agencies, stated that "new language" should be added to the existing graduated driver license legislation to achieve:

(A) Restrictions on passengers in cars driven by young drivers.

(B) Nighttime limitations for young drivers.

(C) Primary safety belt enforcement to the age of 18.

(D) No cell phone or electronic device use by junior operators.

(2) From a public health perspective, "motor vehicle crashes are among the most serious problems facing teenagers." (Anatomy of Crashes Involving Young Drivers–Preventing Teen Motor Crashes.) According to the Centers for Disease Control and Prevention, highway injuries and deaths constitute the largest reason for youth injuries and deaths, and therefore constitute a public health risk warranting remedial action.

(3) According to these sources, the 2002 cost of crashes involving drivers ages 20 through 25 was \$40.8 billion (National Center for Injury Prevention and Control, 2006).

(4) According to the Vermont Safety Education Center (VSEC), junior operator passenger restrictions are essential components of graduated licensing. Crash risks for teenage drivers increase incrementally with one, two, three, or more passengers. With three or more passengers, fatal crash risk is about three times higher than if a beginner were driving alone.

(5) According to VSEC, the presence of passengers is a major contributor to the teenage death toll. About two-thirds of all crash deaths of teens that involve 16-year-old drivers occur when the beginners were driving with teen passengers. Studies indicate that passenger restrictions can reduce this problem.

(6) According to VSEC, four out of every 10 deaths of teens in motor vehicles occur between 9:00 p.m. and 6:00 a.m. Nighttime is one of the riskiest times of day for junior operators due to DUI, darkness, and sleep deprivation in teens. Midnight to 2:00 a.m. is the most dangerous nighttime period.

* * * Cell Phones and Electronic Devices * * *

(1) The National Highway Traffic Safety Administration policy on cell phones states, "The primary responsibility of the driver is to operate a motor vehicle safely. The task of driving requires full attention and focus. Cell phone use can distract drivers from this task, risking harm to themselves and others. Therefore, the safest course of action is to refrain from using a cell phone while driving."

(2) Teens, driving, and cell phones are a dangerous mix due to teens' vulnerability to distractions and accidents ("Most Wanted Transportation Safety Improvements," National Transportation Safety Board, November 2008).

(3) In 2008, the National Safety Council called for a ban on cell phones while driving, stating that “drivers talking on a cell phone are four times as likely to have an accident as drivers who are not.”

* * * Safety Belts * * *

(1) States with primary enforcement average 10-percent higher usage than states with secondary enforcement.

(2) A crash involving an unrestrained person costs 55 percent more than one involving someone who was restrained.

(3) Approximately 74 percent of the costs associated with crashes are paid for by society; the victim pays the balance.

(4) Traffic crashes are not just an enforcement issue.

* * * Nighttime Restrictions * * *

Sec. 3. 23 V.S.A. § 614(c) and (d) are added to read:

(c) A person operating with a junior operator’s license shall not operate a motor vehicle between midnight and 5:00 a.m. except when accompanied by a parent or guardian or when carrying the signed and dated written permission of a parent or guardian that contains the parent’s or guardian’s home and work addresses and telephone numbers.

(d) A person in violation of subsection (c) of this section shall be allowed to drive home, on a direct route, following issuance of a traffic ticket by a law enforcement officer.

* * * Safety Restriction on the Use of Wireless Telephones and Handheld
Electronic Devices * * *

Sec. 4. 23 V.S.A. § 1095a is added to read:

§ 1095a. USE OF WIRELESS TELEPHONES AND HANDHELD
ELECTRONIC DEVICES

(a)(1) For the purposes of this section, “wireless telephone” shall mean a telephone that is:

(A) capable of sending or receiving telephone communications without being physically connected to a telephone wire or cord; and

(B) used pursuant to a subscription with a commercial entity that provides wireless telephone service.

(2) “Wireless telephone” shall not be construed to include:

(A) a two-way radio that is operated by using a push-to-talk feature and does not require proximity to the ear of the user; or

(B) a communication feature of a voice-activated global positioning or navigation system that is affixed within the passenger compartment of a motor vehicle.

(b) For the purposes of this section, “hands-free use” shall refer to the use of a mobile telephone or electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of the mobile telephone or electronic communication device, by which a user engages in a conversation without the use of either hand; provided, however, this definition shall not preclude the use of either hand to activate, deactivate, or initiate a function of the telephone or device.

(c) Subject to the exceptions set forth in subsection (b) of this section, for the purposes of this section, the term “use,” when referring to the utilization of a wireless telephone or handheld electronic device, shall include telephone calls, texting, and all other functions.

(d) A person under 18 years of age shall not use any wireless telephone or handheld electronic device while operating a moving motor vehicle on a highway. This prohibition shall not apply if it is necessary to place an emergency 911 call.

(e) A person 18 years of age or older shall not use a wireless telephone or electronic communication device while operating a moving motor vehicle on a highway. This prohibition shall not apply to:

(1) hands-free use;

(2) placement of an emergency 911 call; or

(3) use by the following persons for the purpose of and during the course of performing their official duties:

(A) law enforcement officers;

(B) firefighters;

(C) operators of authorized emergency vehicles as defined in section 4 of this title; and

(D) state or municipal employees and their contractors who are actively engaged in road maintenance activities.

Sec. 5. WIRELESS TELEPHONE AND HANDHELD ELECTRONIC
DEVICE REPORT

By July 1, 2012, the Vermont League of Cities and Towns, the Vermont state firefighters association, and the Vermont department of public safety, after consulting with their constituents and other appropriate entities whether or not under their direct control, shall submit to the house committee on judiciary a report regarding their constituents' progress toward utilization of hands-free communications technology in the course of motor vehicle operation.

* * * Texting Prohibition, Penalties, and Educational Campaign * * *

Sec. 6. 23 V.S.A. § 1099 is added to read:

§ 1099. TEXTING PROHIBITED

(a) As used in this section, “texting” means the composing, reading, or sending of electronic communications including text messages, instant messages, or e-mails using a portable electronic device. As used in this section, “portable electronic device” means a portable electronic or computing device including a cellular telephone, personal digital assistant (PDA), or laptop computer.

(b) A person operating a moving motor vehicle, electric personal mobility device, or farm tractor on a highway; or operating a moving snowmobile, all-terrain vehicle (as defined in section 3501 of this title), or all-surface vehicle on or off a highway; or operating a moving motorboat (as defined in section 3302 of this title) shall not engage in texting.

(c) A person who violates this section commits a traffic violation as defined in section 2302 of this title and shall be subject to a penalty of \$100.00 upon adjudication of a first violation and \$250.00 upon adjudication of a second or subsequent violation within any two-year period.

Sec. 7. 23 V.S.A. § 607a is amended to read:

§ 607a. RECALL OF LEARNER’S PERMIT OR JUNIOR OPERATOR’S
LICENSE

(a) A learner’s permit or junior operator’s license shall contain an admonition that it is recallable and that the later procurement of an operator’s license is conditional on the establishment of a record which is satisfactory to the commissioner and showing compliance with the motor vehicle laws of this and other states. The commissioner may recall any license issued to a minor

whenever he or she is satisfied, from information provided by a credible person and upon investigation, that the operator is mentally or physically unfit or, because of his or her habits or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. On recommendation of a diversion or reparative board, the commissioner may recall the learner's permit or junior operator's license of a person in a diversion or reparative program for up to 30 days. The commissioner shall also recall any learner's permit or junior operator's license for 30 days when an operator is adjudicated of a single texting violation under section 1099 of this title, 90 days following adjudication of a single speeding violation resulting in a three-point assessment ~~or, 90 days when a total of six points has been accumulated, or 90 days when an operator is convicted for~~ adjudicated of a violation of section 678 of this title. When a learner's permit or junior operator's license is so recalled, it shall be reinstated upon expiration of a specific term, and, if required by the commissioner, when the person has passed a reexamination approved by the commissioner.

* * *

Sec. 8. 23 V.S.A. § 2502 are amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Any person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(LL) § 1095. Operating with television set installed;

(MM)	§ 1099.	<u>Texting prohibited—first offense;</u>
(MM) (NN)	§ 1113.	Illegal backing;
(NN) (OO)	§ 1114.	Illegal riding on motorcycles;
(OO) (PP)	§ 1115.	Illegal operation of motorcycles on roadways laned for traffic;
(PP) (QQ)	§ 1116.	Clinging to other vehicles;
(QQ) (RR)	§ 1117.	Illegal footrests and handlebars;
(RR) (SS)	§ 1118.	Obstructing the driver's view;
(SS) (TT)	§ 1119.	Improper opening and closing vehicle doors;
(TT) (UU)	§ 1121.	Coasting prohibited;
(UU) (VV)	§ 1122.	Following fire apparatus prohibited;
(VV) (WW)	§ 1123.	Driving over fire hose;
(WW) (XX)	§ 1124.	Position of operator;
(XX) (YY)	§ 1127.	Unsafe control in presence of horses and cattle;
(YY) (ZZ)	§ 1131.	Failure to give warning signal;
(ZZ) (AAA)	§ 1132.	Illegal driving on sidewalk;
(AAA) (BBB)	§ 1243.	Lighting requirements;
(BBB) (CCC)	§ 1256.	Motorcycle headgear;
(CCC) (DDD)	§ 1257.	Face protection;
(DDD) (EEE)	§ 800.	Operating without financial

responsibility;

~~(EEE)~~(FFF)

All other moving violations which have
no specified points;

* * *

(4) Five points assessed for:

(A) § 1050. Failure to yield to emergency vehicles;

(B) § 1075. Illegal passing of school bus;

(C) § 1099. Texting prohibited—second and
subsequent offenses;

~~(C)~~(D) § 676. Operating after suspension, revocation or
refusal—civil violation;

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Sec. 9. EDUCATIONAL CAMPAIGN

The commissioner of motor vehicles, in consultation with the commissioner of education, shall formulate a plan to educate operators as to the dangers of operating while texting and the penalties that may be imposed pursuant to this act.

* * * Primary Enforcement of Safety Belt Law; Federal Funds * * *

Sec. 10. REPEAL; PRIMARY ENFORCEMENT OF SAFETY BELT LAW; ACCEPTANCE OF FEDERAL FUNDS

(a) 23 V.S.A. § 1259(e) (secondary enforcement of safety belt law) is repealed.

(b) The state is authorized to accept any additional funding available from the federal government attributable to the passage of this section.

* * * Operation by a Junior Operator after Recall is a Civil Violation * * *

Sec. 11. 23 V.S.A. § 676 is amended to read:

§ 676. OPERATION AFTER SUSPENSION, REVOCATION, ~~OR~~
REFUSAL, OR RECALL - CIVIL VIOLATION

(a) A person whose license or privilege to operate a motor vehicle has been revoked, suspended ~~or~~, refused, or recalled by the commissioner of motor vehicles for any reason other than a violation of sections 1091(b), 1094(b), 1128(b) or (c), or 1201 or a suspension under section 1205 of this title and who operates or attempts to operate a motor vehicle upon a public highway before the license or privilege of the person to operate a motor vehicle has been reinstated by the commissioner commits a civil traffic violation.

(b) In establishing a prima facie case against a person accused of violating this section, the judicial bureau shall accept as evidence, a printout attested to by the law enforcement officer as the person's motor vehicle record showing convictions and resulting license suspensions. The admitted motor vehicle record shall establish a permissive inference that the person was under suspension or had his or her license revoked or recalled on the dates and time periods set forth in the record. The judicial bureau shall not require a certified copy of the person's motor vehicle record from the department of motor vehicles to establish the permissive inference.

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2010.

and that after passage, the title of the bill be amended to read: "An act relating to the operation of motor vehicles by junior operators, operating with wireless or handheld devices, prohibiting texting, and primary safety belt enforcement"