

SESSION OF 2010

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2439

As Amended by House Committee on
Transportation

Brief*

HB 2439 would prohibit a person who is operating a motor vehicle on a public road or highway from “texting,” using a wireless communications device to write, send, or read a written communication. The bill would define “wireless communications device” to include any type of device that sends or receives messages but to exclude voice-operated devices.

The bill would include these exceptions to the ban:

- Law enforcement officers or emergency service personnel acting within the course and scope of their employment;
- When the motor vehicle is stopped off the regular traveled portion of the roadway;
- When the wireless communications device is being used to make or receive a phone call;
- Use of a global positioning or navigational system;
- To report current or ongoing illegal activity to law enforcement;
- To prevent imminent injury to a person or property; and
- To relay information between a transit or for-hire operator and the operator’s dispatcher, if the device is permanently affixed to the motor vehicle.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Law enforcement officers would be required to issue a warning citation for violation until July 1, 2011.

The fine for unlawful text messaging would be \$100.

Background

Representatives of AT&T Kansas; Kansas Department of Transportation; AAA Allied Group; League of Kansas Municipalities; Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association; Alliance of Automobile Manufacturers; Ford Motor Company; Kansas Department of Health and Environment; and Kansas Highway Patrol testified in support of the bill. Written proponent testimony was submitted by representatives of the Kansas County Highway Association and Farmers Insurance Group. Among the points made by proponents are that researchers have found texting to significantly increase the probability of a crash, that the bill would create law that would be enforceable, and that the law could save annually as many as 29 lives and avoid as many as 4,100 injury crashes in Kansas.

There was no testimony opposing the bill.

The House Committee on Transportation amended the bill to specify that a “wireless communication device” does not include a voice-operated device, to specify that the bill’s provisions would not apply to law enforcement officers and emergency service personnel acting within the course and scope of their employment, and to make a technical correction.

The graduated driver’s license law enacted in 2009 prohibits those with instruction permits, farm permits, and restricted licenses from operating wireless communication devices except to report illegal activity or to summon emergency help. (These requirements are codified at KSA 2009 Supp. 8-2,101(b)(4), 8-2,101(e), and 8-296(e).) That law’s definition of “wireless communication device,” codified at

KSA 2009 Supp. 8-234a(a)(6), is the same as that proposed in this bill except that HB 2439 would exclude voice-operated devices and so permit their use by those with full driver's licenses.

According to the fiscal note on HB 2439 as introduced, the bill has the potential for increasing litigation in the courts because of the new violation it would create. The Office of Judicial Administration indicates it could not estimate a precise fiscal effect on the court system but that any fiscal effect would most likely be accommodated within existing resources.