To amend title 23, United States Code, to require the Secretary of Transportation to withhold a portion of Federal-aid Highway funds apportioned to a State unless the State enacts and implements a law establishing penalties for using a cell phone to make telephone calls or text while driving with a minor in the vehicle.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2011

Ms. Wilson of Florida introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 23, United States Code, to require the Secretary of Transportation to withhold a portion of Federal-aid Highway funds apportioned to a State unless the State enacts and implements a law establishing penalties for using a cell phone to make telephone calls or text while driving with a minor in the vehicle.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as “Drive to Stay Alive Act
5 of 2011”.
SEC. 2. WITHHOLDING FEDERAL-AID HIGHWAY FUNDS FOR STATES FAILING TO ENACT AND IMPLEMENT LAWS ESTABLISHING PENALTIES FOR USING A CELL PHONE WHILE DRIVING WITH A MINOR IN THE VEHICLE.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

“SEC. 413. PENALTIES FOR USING A CELL PHONE WHILE DRIVING WITH A MINOR IN THE VEHICLE.

“(a) WITHHOLDING FUNDS FOR NONCOMPLIANCE.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2012, and on October 1 of each year thereafter, if the State has not enacted and implemented a law that meets the requirements of subsection (b) by that date.

“(b) REQUIREMENTS.—

“(1) Prohibition on cell phone use while driving.—A State law meets the requirements of subsection (b) if the law—

“(A) prohibits a driver from using a personal wireless communications device to conduct a telephone call or text while driving if there is a minor in the vehicle;
“(B) makes violation of the law a primary offense;

“(C) establishes—

“(i) minimum fines for a first violation of the law; and

“(ii) increased fines for repeat violations; and

“(D) provides for increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using a personal wireless communications device in violation of the law.

“(2) PERMITTED EXCEPTIONS.—A law that meets the requirements of paragraphs (1) may provide exceptions for—

“(A) use of a hands-free device that enables a driver, other than a driver who is a minor, to initiate, conduct, or receive a telephone call without holding the hands-free device or the personal wireless communications device;

“(B) use of a personal wireless communications device by a driver to contact emergency services;

“(C) use of a personal wireless communications device by emergency services personnel
while operating an emergency services vehicle
and engaged in the performance of their duties
as emergency services personnel; and

“(D) use of a device by an individual em-
ployed as a commercial motor vehicle driver, or
a school bus driver, within the scope of such in-
dividual’s employment if such use is permitted
under the regulations promulgated pursuant to
section 31152 of title 49.

“(c) Period of Availability; Effect of Compli-
ance and Noncompliance.—

“(1) Period of availability.—Any funds
withheld under subsection (a) shall remain available
until the end of the fiscal year for which the funds
are authorized to be appropriated.

“(2) Apportionment of withheld funds
after compliance.—If, before the last day of the
fiscal year for which funds are withheld under sub-
section (a), the State enacts a law that meets the re-
quirements of subsection (b), the Secretary shall, on
the first day on which the State meets the require-
ments, apportion to the State the funds withheld
under subsection (a) for such State.

“(3) Effect of noncompliance.—If, at the
end of the period for which funds withheld under
subsection (a) are available for apportionment to a State under paragraph (1), the State does not enact and implement a law that meets the requirements of subsection (b), the funds shall lapse.

“(d) DEFINITIONS.—In this section:

“(1) DRIVING.—The term ‘driving’ means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

“(2) HANDS-FREE DEVICE.—The term ‘hands-free device’ means a device that allows a driver to use a personal wireless communications device to initiate, conduct, or receive a telephone call without holding the personal wireless communications device.

“(3) MINOR.—The term ‘minor’ means an individual who has not attained the age of 18.

“(4) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—The term ‘personal wireless communications device’ means a device through which personal wireless services (as defined in section 332(e)(7)(C)(i) of the Communications Act of 1934
(47 U.S.C. 332(c)(7)(C)(i))) are transmitted. It does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

“(5) PRIMARY OFFENSE.—The term ‘primary offense’ means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

“(6) TEXT.—The term ‘text’ means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, e-mailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end the following:

“413. Minimum penalties for using a cell phone while driving with a minor in the vehicle.”.