

112TH CONGRESS
1ST SESSION

H. R. 1772

To amend titles 23 and 49, United States Code, to reduce injuries and deaths caused by cell phone use and texting while driving, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2011

Mr. ENGEL introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend titles 23 and 49, United States Code, to reduce injuries and deaths caused by cell phone use and texting while driving, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Distracted Driving Prevention Act of 2011”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 2. Distracted driving prevention incentive grants.
- Sec. 3. Distracted driving national education program.
- Sec. 4. Research and data collection.
- Sec. 5. Research program.
- Sec. 6. FCC report on distracted driving technology.
- Sec. 7. Provision of information to States.
- Sec. 8. Commercial motor vehicles and school buses.
- Sec. 9. Funding.

1 **SEC. 2. DISTRACTED DRIVING PREVENTION INCENTIVE**
 2 **GRANTS.**

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

6 **“§ 413. Distracted driving prevention incentive**
 7 **grants**

8 “(a) IN GENERAL.—Subject to the amounts made
 9 available to carry out this section, the Secretary shall
 10 make a grant under this section each fiscal year to each
 11 State that enacts and implements a law that meets the
 12 requirements of subsections (b) and (c).

13 “(b) PROHIBITION ON TEXTING WHILE DRIVING.—
 14 A State law meets the requirements of this subsection if
 15 the law—

16 “(1) prohibits the use of a personal wireless
 17 communications device by a driver for texting while
 18 driving;

19 “(2) makes violation of the law a primary of-
 20 fense;

21 “(3) establishes—

1 “(A) a minimum fine for a first violation
2 of the law; and

3 “(B) increased fines for repeat violations;
4 and

5 “(4) provides increased civil and criminal pen-
6 alties, as compared to those that would otherwise
7 apply, if a vehicle accident is caused by a driver who
8 is using such a device in violation of the law.

9 “(c) PROHIBITION ON HANDHELD CELL PHONE USE
10 WHILE DRIVING.—A State law meets the requirements of
11 this subsection if the law—

12 “(1) prohibits a driver from holding a personal
13 wireless communications device to conduct a tele-
14 phone call while driving;

15 “(2) allows the use of a hands-free device by a
16 driver, other than a driver who has not attained the
17 age of 18 years, for initiating, conducting, or receiv-
18 ing a telephone call;

19 “(3) makes violation of the law a primary of-
20 fense;

21 “(4) requires distracted driving issues to be
22 tested as part of the driver’s license examination of
23 the State;

24 “(5) establishes—

1 “(A) a minimum fine for a first violation
2 of the law; and

3 “(B) increased fines for repeat violations;
4 and

5 “(6) provides increased civil and criminal pen-
6 alties, as compared to those that would otherwise
7 apply, if a vehicle accident is caused by a driver who
8 is using a personal wireless communications device
9 in violation of the law.

10 “(d) PERMITTED EXCEPTIONS.—A State law meets
11 the requirements of subsections (b) and (c) without regard
12 to whether the law provides exceptions for—

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

15 “(2) manipulation of a personal wireless com-
16 munications device by a driver to activate, deacti-
17 vate, or initialize the hands-free functionality of the
18 device;

19 “(3) use of a personal wireless communications
20 device by emergency services personnel while oper-
21 ating an emergency services vehicle and engaged in
22 the performance of the duties of emergency services
23 personnel; and

24 “(4) use of a device by an individual employed
25 as a commercial motor vehicle driver or a school bus

1 driver within the scope of such individual’s employ-
2 ment, if such use is permitted under the regulations
3 issued pursuant to section 31152 of title 49.

4 “(e) GRANT YEAR.—The Secretary shall make a
5 grant under this section to a State in each year in which
6 the State—

7 “(1) enacts a law that meets the requirements
8 of subsections (b) and (c) before July 1 of that year;
9 or

10 “(2) maintains a law that—

11 “(A) meets the requirements of subsections
12 (b) and (c);

13 “(B) was enacted prior to that year; and

14 “(C) is in effect at least from January 1
15 through June 30 of that year.

16 “(f) DISBURSEMENT AND APPORTIONMENT.—Grants
17 to States under this section shall be disbursed after July
18 1 each year according to the apportionment criteria under
19 section 402(c).

20 “(g) USE OF GRANT FUNDS.—A State that receives
21 a grant under this section—

22 “(1) shall use at least 50 percent of the grant
23 amount—

24 “(A) to educate the public regarding and
25 advertise information on the dangers of a driver

1 using a personal wireless communications device
2 for texting or conducting a telephone call that
3 requires holding the device while driving;

4 “(B) for signs that notify drivers about the
5 law of the State that made the State eligible for
6 the grant;

7 “(C) for law enforcement of that law; or

8 “(D) for a combination of such uses; and

9 “(2) may use up to 50 percent of the grant
10 amount for other projects that improve traffic safety
11 and that are consistent with the programs specified
12 in section 402(a).

13 “(h) DEFINITIONS.—In this section, the following
14 definitions apply:

15 “(1) DRIVING.—The term ‘driving’ means oper-
16 ating a motor vehicle on a public road, including op-
17 eration while temporarily stationary because of traf-
18 fic, a traffic light, a stop sign, or another reason.
19 The term does not include operating a motor vehicle
20 when the vehicle has pulled over to the side of, or
21 off, an active roadway and has stopped in a location
22 where it can safely remain stationary.

23 “(2) HANDS-FREE DEVICE.—The term ‘hands-
24 free device’ means a device that allows a driver to
25 use a personal wireless communications device to ini-

1 tiate, conduct, or receive a telephone call without
2 holding the personal wireless communications device.

3 “(3) PERSONAL WIRELESS COMMUNICATIONS
4 DEVICE.—The term ‘personal wireless communica-
5 tions device’ means a device through which personal
6 wireless services (as defined in section
7 332(c)(7)(C)(i) of the Communications Act of 1934
8 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted. The
9 term does not include a global navigation satellite
10 system receiver used for positioning, emergency noti-
11 fication, or navigation purposes.

12 “(4) PRIMARY OFFENSE.—The term ‘primary
13 offense’ means an offense for which a law enforce-
14 ment officer may stop a vehicle solely for the pur-
15 pose of issuing a citation in the absence of evidence
16 of another offense.

17 “(5) PUBLIC ROAD.—The term ‘public road’
18 has the meaning given that term in section 402(c).

19 “(6) TEXTING.—The term ‘texting’ means
20 reading from or manually entering data into a per-
21 sonal wireless communications device, including
22 doing so for the purpose of SMS texting, e-mailing,
23 instant messaging, or engaging in any other form of
24 electronic data retrieval or electronic data commu-
25 nication.”.

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

“413. Distracted driving prevention incentive grants.”.

4 **SEC. 3. DISTRACTED DRIVING NATIONAL EDUCATION PRO-**
5 **GRAM.**

6 (a) IN GENERAL.—The Administrator of the Na-
7 tional Highway Traffic Safety Administration shall estab-
8 lish and administer a program under which at least 2
9 high-visibility education and advertising campaigns related
10 to distracted driving will be carried out for the purpose
11 specified in subsection (b) during fiscal years 2012 and
12 2013.

13 (b) PURPOSE.—The purpose of an education and ad-
14 vertising campaign under this section shall be to educate
15 the public about the risks associated with distracted driv-
16 ing, including those associated with—

17 (1) a driver using a personal wireless commu-
18 nications device for texting while driving; and

19 (2) a driver holding a personal wireless commu-
20 nications device to conduct a telephone call while
21 driving.

22 (c) USE OF FUNDS.—The Administrator may use, or
23 authorize the use of, funds made available to carry out
24 this section to pay for the development, production, publi-
25 cation, and broadcast of electronic and print media adver-

1 tising. In carrying out campaigns under this section, the
2 Administrator—

3 (1) shall give consideration to advertising di-
4 rected at non-English speaking populations, includ-
5 ing those who listen to, read, or watch nontradi-
6 tional media; and

7 (2) may use a portion of the funds available to
8 target advertising in local jurisdictions that have en-
9 acted laws prohibiting the use of personal wireless
10 communications devices for texting or conducting a
11 telephone call that requires holding the device while
12 driving.

13 (d) COORDINATION WITH STATES.—The Adminis-
14 trator may coordinate with States to carry out the edu-
15 cation and advertising campaigns under this section in a
16 manner that coincides with high-visibility enforcement of
17 State laws prohibiting the use of personal wireless commu-
18 nications devices for texting or conducting a telephone call
19 that requires holding the device while driving.

20 (e) ANNUAL EVALUATION.—The Administrator shall
21 conduct an annual evaluation of the effectiveness of the
22 education and advertising campaigns under this section
23 and report the results of such evaluations to the Com-
24 mittee on Commerce, Science, and Transportation of the
25 Senate, the Committee on Energy and Commerce of the

1 House of Representatives, and the Committee on Trans-
2 portation and Infrastructure of the House of Representa-
3 tives.

4 (f) DEFINITIONS.—The definitions in section 413(h)
5 of title 23, United States Code, apply to this section.

6 **SEC. 4. RESEARCH AND DATA COLLECTION.**

7 (a) IN GENERAL.—Section 408(e)(2) of title 23,
8 United States Code, is amended to read as follows:

9 “(2) DATA ON USE OF ELECTRONIC DEVICES.—

10 “(A) IN GENERAL.—The model data ele-
11 ments required under paragraph (1) shall in-
12 clude data elements, as determined appropriate
13 by the Secretary, in consultation with the
14 States and appropriate elements of the law en-
15 forcement community, on the impact on traffic
16 safety of the use of electronic devices while driv-
17 ing.

18 “(B) REQUIREMENTS.—In order to meet
19 the requirements of subparagraph (A), State
20 and local governments shall—

21 “(i) require that official vehicle acci-
22 dent investigation reports include a des-
23 ignated space to record information on
24 whether or not a personal wireless commu-
25 nications device (as defined in section

1 413(h)(3)) was in use at the time of an ac-
2 cident by any driver involved in the acci-
3 dent;

4 “ (ii) require that all law enforcement
5 officers, as part of a vehicle accident inves-
6 tigation, inquire about and record the in-
7 formation described in clause (i); and

8 “ (iii) incorporate the information de-
9 scribed in clause (i) into the traffic safety
10 information system.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall apply with respect to grants under sec-
13 tion 408 of title 23, United States Code, for fiscal years
14 beginning after fiscal year 2011.

15 **SEC. 5. RESEARCH PROGRAM.**

16 (a) IN GENERAL.—Not later than 180 days after the
17 date of enactment of this Act, the Secretary of Transpor-
18 tation shall establish a research program to study dis-
19 tracted driving by passenger and commercial vehicle driv-
20 ers.

21 (b) SCOPE.—The program shall include studies of—

22 (1) driver behavior;

23 (2) vehicle technology; and

1 (3) portable electronic devices that are com-
2 monly brought into passenger or commercial vehi-
3 cles.

4 (c) RESEARCH AGREEMENTS.—

5 (1) IN GENERAL.—In carrying out this section
6 the Secretary may grant research contracts to non-
7 governmental entities to study distracted driving.

8 (2) LIMITATIONS.—The Secretary may not
9 grant a research contract under this section to any
10 person that produces or sells—

11 (A) electronic equipment that is used in ve-
12 hicles;

13 (B) portable electronic equipment com-
14 monly brought into passenger or commercial ve-
15 hicles; or

16 (C) passenger or commercial vehicles.

17 (d) REPORT.—Not later than one year after the date
18 of enactment of this Act, the Secretary shall submit to
19 the Committee on Commerce, Science, and Transportation
20 of the Senate, the Committee on Energy and Commerce
21 of the House of Representatives, and the Committee on
22 Transportation and Infrastructure of the House of Rep-
23 resentatives a report on the results of the research pro-
24 gram under this section.

1 **SEC. 6. FCC REPORT ON DISTRACTED DRIVING TECH-**
2 **NOLOGY.**

3 Not later than 180 days after the date of enactment
4 of this Act, the Federal Communications Commission shall
5 submit to the Committee on Commerce, Science, and
6 Transportation of the Senate and the Committee on En-
7 ergy and Commerce of the House of Representatives a re-
8 port that identifies—

9 (1) data the Commission can collect and ana-
10 lyze that will assist in understanding and reducing
11 the problem of distracted driving involving the use of
12 personal wireless communications devices;

13 (2) existing and developing wireless communica-
14 tions technology that may be used to reduce prob-
15 lems associated with distracted driving; and

16 (3) existing authority that the Commission may
17 use to assist in reducing those problems.

18 **SEC. 7. PROVISION OF INFORMATION TO STATES.**

19 Section 30105 of title 49, United States Code, is
20 amended by adding at the end the following:

21 “(c) EXCEPTION.—Subsection (a) shall not apply to
22 the provision of Government-sponsored research and high-
23 way safety data or technical assistance relating to a legis-
24 lative proposal addressing the dangers or potential dan-
25 gers of—

1 “(1) a driver using a personal wireless commu-
2 nications device (as defined in section 413(h)(3) of
3 title 23) for texting while driving; or

4 “(2) a driver holding a personal wireless com-
5 munications device (as defined in section 413(h)(3)
6 of title 23) to conduct a telephone call while driv-
7 ing.”.

8 **SEC. 8. COMMERCIAL MOTOR VEHICLES AND SCHOOL**
9 **BUSES.**

10 (a) IN GENERAL.—Subchapter III of chapter 311 of
11 title 49, United States Code, is amended by adding at the
12 end the following:

13 **“§ 31152. Regulation of the use of distracting devices**
14 **in commercial motor vehicles and school**
15 **buses**

16 “(a) IN GENERAL.—Not later than one year after the
17 date of enactment of the Distracted Driving Prevention
18 Act of 2011, the Secretary of Transportation shall issue
19 regulations on the use of electronic or wireless devices, in-
20 cluding cell phones and other distracting devices, by an
21 individual employed as the operator of—

22 “(1) a commercial motor vehicle (as defined in
23 section 31301(4)) while that individual is engaged in
24 the performance of such individual’s duties as the
25 operator of the commercial motor vehicle; or

1 “(2) a school bus (as defined in section
2 30125(a)(1)) that is a commercial motor vehicle (as
3 defined in section 31301(4)) while that individual is
4 engaged in the performance of such individual’s du-
5 ties as the operator of the school bus.

6 “(b) BASIS FOR REGULATIONS.—The Secretary shall
7 base the regulations required under subsection (a) on acci-
8 dent data analysis, the results of ongoing research, and
9 other information, as appropriate.

10 “(c) PROHIBITED USE.—The Secretary shall prohibit
11 the use of the devices described in subsection (a) in cir-
12 cumstances in which the Secretary determines that such
13 use interferes with a driver’s safe operation of a school
14 bus or commercial motor vehicle.

15 “(d) PERMITTED USE.—Under the regulations, the
16 Secretary may permit the use of a device, the use of which
17 is prohibited under subsection (c), if the Secretary deter-
18 mines that such use is necessary for the safety of the driv-
19 er or the public in emergency circumstances.”.

20 (b) CONFORMING AMENDMENT.—The analysis for
21 chapter 311 of title 49, United States Code, is amended
22 by inserting after the item relating to section 31151 the
23 following:

 “31152. Regulation of the use of distracting devices in commercial motor vehi-
 cles and school buses.”.

1 **SEC. 9. FUNDING.**

2 Section 2001(a) of SAFETEA-LU is amended—

3 (1) in paragraph (4)—

4 (A) by striking “and \$124,500,000” and
5 inserting “\$124,500,000”; and

6 (B) by striking “2011.” and inserting
7 “2011, \$94,500,000 for fiscal year 2012, and
8 \$94,500,000 for fiscal year 2013. If any
9 amount of the funds authorized by this para-
10 graph has not been allocated to States meeting
11 the criteria of section 406 of title 23, United
12 States Code, by July 1 of a fiscal year begin-
13 ning after fiscal year 2011, the unallocated
14 amount shall be allocated to States through
15 grants under section 413 of that title.”; and

16 (2) by redesignating paragraph (11) as para-
17 graph (12) and inserting after paragraph (10) the
18 following:

19 “(11) **DISTRACTED DRIVING PROGRAM.**—For
20 carrying out section 3 of the Distracted Driving Pre-
21 vention Act of 2011 \$30,000,000 for each of fiscal
22 years 2012 and 2013.”.

○