

112TH CONGRESS  
1ST SESSION

# H. R. 2575

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.

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## 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

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## 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”.

1 **SEC. 2. WITHHOLDING FEDERAL-AID HIGHWAY FUNDS FOR**  
2 **STATES FAILING TO ENACT AND IMPLEMENT**  
3 **LAWS ESTABLISHING PENALTIES FOR USING**  
4 **A CELL PHONE WHILE DRIVING WITH A**  
5 **MINOR IN THE VEHICLE.**

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

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

11 “(a) WITHHOLDING FUNDS FOR NONCOMPLIANCE.—  
12 The Secretary shall withhold 5 percent of the amount re-  
13 quired to be apportioned to any State under each of para-  
14 graphs (1), (3), and (4) of section 104(b) on October 1,  
15 2012, and on October 1 of each year thereafter, if the  
16 State has not enacted and implemented a law that meets  
17 the requirements of subsection (b) by that date.

18 “(b) REQUIREMENTS.—

19 “(1) PROHIBITION ON CELL PHONE USE WHILE  
20 DRIVING.—A State law meets the requirements of  
21 subsection (b) if the law—

22 “(A) prohibits a driver from using a per-  
23 sonal wireless communications device to conduct  
24 a telephone call or text while driving if there is  
25 a minor in the vehicle;

1           “(B) makes violation of the law a primary  
2 offense;

3           “(C) establishes—

4                 “(i) minimum fines for a first viola-  
5 tion of the law; and

6                 “(ii) increased fines for repeat viola-  
7 tions; and

8           “(D) provides for increased civil and crimi-  
9 nal penalties than would otherwise apply if a  
10 vehicle accident is caused by a driver who is  
11 using a personal wireless communications device  
12 in violation of the law.

13           “(2) PERMITTED EXCEPTIONS.—A law that  
14 meets the requirements of paragraphs (1) may pro-  
15 vide exceptions for—

16                 “(A) use of a hands-free device that en-  
17 ables a driver, other than a driver who is a  
18 minor, to initiate, conduct, or receive a tele-  
19 phone call without holding the hands-free device  
20 or the personal wireless communications device;

21                 “(B) use of a personal wireless commu-  
22 nications device by a driver to contact emer-  
23 gency services;

24                 “(C) use of a personal wireless communica-  
25 tions device by emergency services personnel

1 while operating an emergency services vehicle  
2 and engaged in the performance of their duties  
3 as emergency services personnel; and

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

10 “(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLI-  
11 ANCE AND NONCOMPLIANCE.—

12 “(1) PERIOD OF AVAILABILITY.—Any funds  
13 withheld under subsection (a) shall remain available  
14 until the end of the fiscal year for which the funds  
15 are authorized to be appropriated.

16 “(2) APPORTIONMENT OF WITHHELD FUNDS  
17 AFTER COMPLIANCE.—If, before the last day of the  
18 fiscal year for which funds are withheld under sub-  
19 section (a), the State enacts a law that meets the re-  
20 quirements of subsection (b), the Secretary shall, on  
21 the first day on which the State meets the require-  
22 ments, apportion to the State the funds withheld  
23 under subsection (a) for such State.

24 “(3) EFFECT OF NONCOMPLIANCE.—If, at the  
25 end of the period for which funds withheld under

1 subsection (a) are available for apportionment to a  
2 State under paragraph (1), the State does not enact  
3 and implement a law that meets the requirements of  
4 subsection (b), the funds shall lapse.

5 “(d) DEFINITIONS.—In this section:

6 “(1) DRIVING.—The term ‘driving’ means oper-  
7 ating a motor vehicle on a public road, including op-  
8 eration while temporarily stationary because of traf-  
9 fic, a traffic light or stop sign, or otherwise. It does  
10 not include operating a motor vehicle when the vehi-  
11 cle has pulled over to the side of, or off, an active  
12 roadway and has stopped in a location where it can  
13 safely remain stationary.

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

19 “(3) MINOR.—The term ‘minor’ means an indi-  
20 vidual who has not attained the age of 18.

21 “(4) PERSONAL WIRELESS COMMUNICATIONS  
22 DEVICE.—The term ‘personal wireless communica-  
23 tions device’ means a device through which personal  
24 wireless services (as defined in section  
25 332(c)(7)(C)(i) of the Communications Act of 1934

1 (47 U.S.C. 332(e)(7)(C)(i)) are transmitted. It does  
2 not include a global navigation satellite system re-  
3 ceiver used for positioning, emergency notification,  
4 or navigation purposes.

5 “(5) PRIMARY OFFENSE.—The term ‘primary  
6 offense’ means an offense for which a law enforce-  
7 ment officer may stop a vehicle solely for the pur-  
8 pose of issuing a citation in the absence of evidence  
9 of another offense.

10 “(6) TEXT.—The term ‘text’ means reading  
11 from or manually entering data into a personal wire-  
12 less communications device, including doing so for  
13 the purpose of SMS texting, e-mailing, instant mes-  
14 saging, or engaging in any other form of electronic  
15 data retrieval or electronic data communication.”.

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

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

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