HB229

138043-3

By Representative Hubbard (J)

RFD: Public Safety and Homeland Security

First Read: 08-FEB-12
A BILL
TO BE ENTITLED
AN ACT

Relating to public K-12 education; to prohibit the use of cell phones by school bus drivers; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) For the purposes of this section, the following terms shall have the following meanings:

(1) ADDITIONAL TECHNOLOGY. Any technology that provides access to digital media including, but not limited to, cameras, electronic mail, music, the Internet, and games.

(2) EMERGENCY SITUATION. Circumstances such as medical concerns, unsafe road conditions, matters of public safety, or mechanical problems that create a risk of harm for the operator or the passengers of a school bus.

(3) MOBILE TELEPHONE. Includes, but is not limited to, all of the following:
a. A device with which a user engages in communication using at least one hand.

b. A 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, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate, or initiate a function of such telephone.

c. A citizens band radio, a citizens band radio hybrid, or any other two-way radio.

(4) SCHOOL BUS. Every motor vehicle owned by a public, private, or parochial school or school district or operated under contract or hire for a public, private, or parochial school or school district and used for the transportation of children to or from school or school-sponsored activities.

(b) Except as otherwise provided in this section, no person shall operate a school bus on a public or private street or highway or a public or private vehicular area while using a mobile telephone or any additional technology associated with a mobile telephone while the school bus is in motion. This prohibition does not apply to the use of a mobile telephone or additional technology associated with a mobile telephone in an appropriately secured, stationary school bus parked in a safe area off of a public or private street or highway or a public or private vehicular area.
(c) This section may not be construed as authorizing the seizure or forfeiture of a mobile telephone or additional technology, unless otherwise provided by law.

(d) This section does not prohibit the use of a mobile telephone or additional technology associated with a mobile telephone for the sole purpose of communicating in an emergency situation.

(e) No local government may pass any ordinance regulating the use of mobile telephones or additional technology associated with a mobile telephone by the operator of a school bus.

(f) Violation of this section shall be a Class C misdemeanor, punishable by a fine of not more than five hundred dollars ($500), and shall result in the assessment of not more than 2 points per offense on the operator's driver's license record. Failure to comply with this section does not constitute negligence per se or contributory negligence by the operator in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a school bus.

(g) Any school bus driver employed by a public school system who is convicted of a repeat offense under this section, in addition to the fines and points provided in subsection (f), shall be subject to the suspension or revocation of his or her school bus driver certificate as issued by the State Department of Education. The decision to suspend or revoke a school bus driver certificate shall be made by the State Superintendent of Education in accordance
with Section 16-23-5, Code of Alabama 1975, and rules promulgated by the State Board of Education.

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, because the bill defines a new crime or amends the definition of an existing crime.

Section 3. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
Read for the first time and referred to the House of Representatives committee on Public Safety and Homeland Security.............. 08-FEB-12

Read for the second time and placed on the calendar with 1 substitute and................................ 01-MAR-12

Read for the third time and passed as amended............................ 14-MAR-12

Yeas 83, Nays 1, Abstains 3