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Senate Bill 756 (as introduced 10-13-11)  
Sponsor: Senator Howard C. Walker  
Committee: Energy and Technology

Date Completed: 2-21-12

### **CONTENT**

**The bill would amend the Michigan Vehicle Code to prohibit a person issued a level 2 graduated driver license from using a cellular telephone while operating a motor vehicle, and designate a violation as a civil infraction.**

Specifically, the bill would add Section 602c to the Code to prohibit a person issued a level 2 license from using a cellular telephone while operating motor vehicle upon a highway or street. ("Use" would mean to initiate or answer a call, or listen to or engage in verbal communication through the cellular telephone.)

A violator would be responsible for a civil infraction. (Under the Code, for a civil infraction, a person may be ordered to pay a civil fine of up to \$100, as well as the costs of the action up to \$100. In addition, unless the total fine and costs imposed are \$10 or less, the person may be ordered to pay a justice system assessment of \$40.)

The bill's prohibition would not apply to an individual who was using a cellular telephone to do any of the following:

- Report a traffic accident, medical emergency, or serious road hazard.
- Report a situation in which the person believed his or her personal safety was in jeopardy.
- Report or avert the perpetration or potential perpetration of a criminal act against the individual or another person.
- Carry out official duties as a police officer, law enforcement official, member of a paid or volunteer fire department, or emergency vehicle operator.

Enforcement of the ban by State or local law enforcement agencies could be accomplished only as a secondary action when the vehicle operator had been detained for a suspected violation of another section of the Code or the vehicle had been involved in a collision with any vehicle, person, or object.

The bill provides that Section 602c would supersede all local ordinances regulating the use of a communications device while operating a motor vehicle in motion on a highway or street. A unit of local government, however, could adopt an ordinance or enforce an existing one substantially corresponding to the bill.

Under the Code, a court may not submit, and the Secretary of State must discard and not enter on the master driving record, an abstract for a conviction or civil infraction determination for certain violations. The bill would extend this to a violation of proposed Section 602c. Also, no points could be entered for this violation.

## **BACKGROUND**

Under Michigan's graduated driver license system, a person who is at least 14 years and nine months old may be issued a level 1 status if he or she meets certain conditions, including successful completion of segment 1 of a driver education course that involves at least six hours of on-the-road driving time with the instructor. A level 1 driver may operate a motor vehicle only when accompanied by a licensed parent or legal guardian or, with the parent's or guardian's permission, another licensed driver who is at least 21. A person must operate under a level 1 status for at least six months.

A person may be issued a level 2 status if he or she has had a level 1 status for at least six months and successfully completed segment 2 of a driver education course. The person cannot have incurred a moving violation resulting in a conviction or civil infraction determination or have been involved in an accident for which the police report indicates a moving violation on his or her part within 90 days before application. In addition, the person must have accumulated at least 50 hours of behind-the-wheel experience, including at least 10 nighttime hours, while accompanied by a parent or legal guardian, or other licensed driver who is at least 21. Also, the person must successfully complete a driving skills test approved by the Secretary of State. A person must operate under a level 2 status for at least six months. A level 2 driver may not operate a vehicle between 10 p.m. and 5 a.m., or with more than one passenger under the age of 21, subject to several exceptions.

A person who is at least 17 years old may be issued a level 3 licensing status if he or she has completed 12 consecutive months without a moving violation; an accident in which a moving violation resulted; or an accident, suspension or restricted period violation for which the Code authorizes an extended provisional period while operating under a level 2 status.

Legislative Analyst: Julie Cassidy

## **FISCAL IMPACT**

There are no data to indicate how many Level 2 graduated drivers would be found in violation of this secondary offense; however, additional fine revenue would benefit public libraries.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.