

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5097

To amend title 23, United States Code, to reduce the amount of funding available to States that do not enact a law prohibiting an individual from using a wireless communication device while operating a motor vehicle in a school zone, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2010

Ms. MARKEY of Colorado 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 reduce the amount of funding available to States that do not enact a law prohibiting an individual from using a wireless communication device while operating a motor vehicle in a school zone, 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.**

4 This Act may be cited as “Erica’s Law”.

1 **SEC. 2. WIRELESS COMMUNICATION DEVICE USE WHILE**  
2 **OPERATING A MOTOR VEHICLE IN A SCHOOL**  
3 **ZONE.**

4 (a) IN GENERAL.—Chapter 1 of title 23, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7 **“§ 167. Wireless communication device use while op-**  
8 **erating a motor vehicle in a school zone**

9 “(a) WITHHOLDING APPORTIONMENTS.—On October  
10 1 of the second fiscal year beginning after the date of the  
11 issuance of regulations under subsection (d) and October  
12 1 of each fiscal year thereafter, if the Secretary deter-  
13 mines that a State does not meet the requirement under  
14 subsection (b), the Secretary shall withhold 15 percent of  
15 the amount required to be apportioned to the State under  
16 each of paragraphs (1), (3), and (4) of section 104(b) for  
17 the fiscal year.

18 “(b) REQUIREMENT.—

19 “(1) IN GENERAL.—A State meets the require-  
20 ment under this subsection if the State has enacted  
21 and is enforcing a law that—

22 “(A) prohibits an individual from operating  
23 a motor vehicle in a school zone in the State  
24 while the individual is using a wireless commu-  
25 nication device to engage in a call or to com-  
26 pose, read, or send an electronic message; and

1           “(B) requires, upon conviction of a viola-  
2           tion of the prohibition under subparagraph (A),  
3           the imposition of penalties in accordance with  
4           the requirements for minimum penalties de-  
5           scribed in the regulations issued under sub-  
6           section (d).

7           “(2) EXCEPTIONS.—Paragraph (1)(A) does not  
8           apply if a wireless communication device is used—

9           “(A) for obtaining emergency assistance  
10          to—

11                  “(i) report a traffic accident, medical  
12                  emergency, or serious traffic hazard; or

13                  “(ii) prevent a crime about to be com-  
14                  mitted;

15                  “(B) in the reasonable belief that an indi-  
16                  vidual’s life or safety is in immediate danger;

17                  “(C) in an authorized emergency vehicle  
18                  while in the performance of official duties;

19                  “(D) when a motor vehicle is stopped and  
20                  the driver has the motor vehicle transmission in  
21                  neutral or park; and

22                  “(E) in other circumstances, as identified  
23                  by the Secretary by regulation, in which use of  
24                  a wireless communication device does not ad-  
25                  versely affect safety.

1       “(c) RECOVERY OF FUNDS WITHHELD.—If, within  
2 4 years from the date that an apportionment for a State  
3 is withheld in accordance with this section, the Secretary  
4 determines that the State meets the requirement under  
5 subsection (b), the apportionment of the State shall be in-  
6 creased by an amount equal to the amount withheld. If,  
7 at the end of such 4-year period, a State does not meet  
8 the requirement under subsection (b) any amounts so  
9 withheld from the State shall lapse.

10       “(d) REGULATIONS.—Not later than 180 days after  
11 the date of enactment of this section, the Secretary shall  
12 issue regulations to carry out this section, including re-  
13 quirements for minimum penalties for violations of the  
14 prohibition under subsection (b)(1)(A) that—

15               “(1) specify a minimum penalty for a first of-  
16 fense; and

17               “(2) stipulate that penalties shall be graduated  
18 for repeated offenses.

19       “(e) DEFINITIONS.—In this section, the following  
20 definitions apply:

21               “(1) ELECTRONIC MESSAGE.—

22                       “(A) IN GENERAL.—The term ‘electronic  
23 message’ means a self-contained piece of digital  
24 communication that is designed or intended to  
25 be transmitted between physical devices.

1           “(B) INCLUSIONS.—The term ‘electronic  
2 message’ includes an email, a text message, an  
3 instant message, a command or request to ac-  
4 cess a World Wide Web page, or other data  
5 that uses a commonly recognized electronic  
6 communications protocol. The term does not in-  
7 clude data transmitted automatically by a wire-  
8 less communication device without direct initi-  
9 ation by an individual.

10           “(2) MOTOR VEHICLE.—The term ‘motor vehi-  
11 cle’ has the same meaning given the term in section  
12 154(a).

13           “(3) SCHOOL ZONE.—

14           “(A) IN GENERAL.—The term ‘school  
15 zone’ means—

16                   “(i) in or on the grounds of a public,  
17 parochial, or private school; or

18                   “(ii) within a distance of 1,000 feet  
19 from the grounds of a public, parochial, or  
20 private school.

21           “(B) STATE DEFINITIONS.—With respect  
22 to a State, the Secretary may substitute, for the  
23 definition under subparagraph (A), a definition  
24 of the term ‘school zone’ established by the

1 State if the Secretary determines that such sub-  
2 stitution is appropriate.

3 “(4) WIRELESS COMMUNICATION DEVICE.—

4 “(A) IN GENERAL.—The term ‘wireless  
5 communication device’ means a mobile tele-  
6 phone or other portable electronic device with  
7 which a user may engage in a call or compose,  
8 send, or read an electronic message.

9 “(B) EXCLUSION.—The term does not in-  
10 clude a device that is permanently affixed to the  
11 motor vehicle, including a global positioning  
12 system or navigation system.”.

13 (b) CLERICAL AMENDMENT.—The analysis for such  
14 chapter is amended by adding at the end the following:

“167. Wireless communication device use while operating a motor vehicle in a  
school zone.”.

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