

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

6 JAN 19 P3:55

SENATE
S.B. No. 2195 RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The 1987 Constitution, Article 2, Section 5 states:


Section 5. The maintenance of peace and order, the protection of life, liberty, and property, and promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.

This bill seeks to implement this policy by imposing penalties to motorists who will be caught using their mobile phones while driving.

There have been various studies regarding the risk of accident if the driver is using a mobile phone while driving. A 1997 published report of Dr. Don Redelmeier of the University of Toronto in the *New England Journal of Medicine* states that talking on a cellphone while driving quadrupled a person's risk of an accident. Redelmeier recently repeated his call to ban cellphone use by drivers, saying he actually underestimated the risks when he made the study. The Canadian Medical Association joined Redelmeier in calling for a ban. Redelmeier now says his study didn't take into account other distractions on top of talking on the mobile phone. A study conducted by the University of Montreal, which included 36,000 people, found that if a person is using a mobile phone while driving, he is 38 percent more likely to get into an accident than if he is not using his mobile phone.

In the United States, as of November 2003, 18 states have already enacted legislations banning the use of mobile phones while driving.

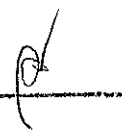
In the Philippines, where the drivers not only call, but also send text messages while driving, it is high time that a law be passed prohibiting such dangerous distractions while driving for the safety of motorists and pedestrians.


MIRIAM DEFENSOR SANTIAGO

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AN ACT
TO PROHIBIT THE USE OF MOBILE PHONES WHILE DRIVING, PROVIDING
PENALTIES AND EXCEPTIONS THERETO

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* – This Act shall be known as the “Anti-Cellphone Use While Driving Act of 2006.”

SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the State to maintain peace and order, protect life, liberty, and property, and promote the general welfare by ensuring the safety of motorists and pedestrians by prohibiting the use of mobile phones while driving.

SECTION 3. *Definition of Terms.* – For purposes of this Act –

- (A) “Mobile telephone” means the device used by subscribers and other users of wireless telephone service to access such service.
- (B) “Hand-held mobile telephone” means a mobile telephone with which a user engages in a call using at least one hand.
- (C) “Hands-free mobile telephone” means a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such 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.
- (D) “Wireless telephone service” means two-way real time voice telecommunications

service that is interconnected to a public switched telephone network and is provided by a commercial mobile telephone service.

(E) "Using" means holding a mobile telephone to, or in the immediate proximity of, the user's ear and/or sending text messages.

(F) "Engaged in a call" means talking into or listening on a hand-held mobile telephone, but shall not include holding a mobile telephone to activate, deactivate or initiate a function of such telephone.

(G) "Immediate proximity" means the distance that permits the operator of a mobile telephone to hear telecommunications transmitted over such mobile telephone, but shall not require physical contact with such operator's ear.

SECTION 4. *Acts Punished.* – (A) Except as otherwise provided in this Act, no person shall operate a motor vehicle upon a public highway while using a mobile telephone to engage in a call or to send text messages while such vehicle is in motion.

(B) An operator of a motor vehicle who holds a mobile telephone to, or in the immediate proximity of his or her ear, while such vehicle is in motion is presumed to be engaging in a call within the meaning of this Act. The presumption established by this section can be rebutted by evidence tending to show that the operator was not engaged in a call.

(C) The provisions of this Act shall not be construed as authorizing the seizure or forfeiture of a mobile telephone, unless otherwise provided by law.

SECTION 5. *Exceptions.* – The prohibitions of this Act shall not apply to:

(A) The use of a mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office or health clinic; an ambulance company; a fire department; or a police department;

(B) Any of the following persons while in the performance of their official duties: a police officer or peace officer; a member of a fire department; or the operator of an authorized emergency vehicle; or

(C) The use of a hands-free mobile telephone.

SECTION 6. *Penalties.* – Whoever violates this Act, or any regulation issued pursuant thereto, shall be considered as reckless driving and shall be punishable by a fine of not more than one thousand pesos (P1,000.00) for the first offense, three thousand pesos (P3,000.00) for the second offense and five thousand pesos (P5,000.00), confiscation of the driver’s license and 5 days imprisonment for the third and succeeding offenses.

SECTION 7. *Separability Clause.* – If any provision or part thereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 8. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 9. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,

jps/1-5-06