

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: H.527 Name of Bill: Motor vehicles; distracted driving; DUI Enforcement Special Fund

Agency/Dept: Public Safety Author of Bill Review: Lt. John Flannigan

Date of Bill Review: January 11, 2016 Related Bills and Key Players: Rep. LaLonde, Head, Jewett, Pugh, Townsend

Status of Bill: (check one)

☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both bodies

Recommended Position:

☐ Support ☐ Oppose ☐ Remain Neutral ☒ Support with modifications identified in # 8 below

Analysis of Bill

1. **Summary of bill and issue it addresses.** *Make changes to the portable electronic device law by changing allowed exceptions, adding points, recall license of Jr Operators for second or subsequent convictions. Allows a LEO to look at the subject's phone for suspected violations of this section through implied consent. Prohibiting voice text capabilities and creates an addition to the DUI special fund, to fund distracted driving enforcement.*
2. **Is there a need for this bill?** *Distracted driving is a major contributing cause in serious motor vehicle crashes resulting in injury and death. This bill adds extra protections by strengthening the existing law.*
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?** *No negative implications. A special fund could create dedicated patrols for distracted driving.*
4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** *It is believed that this law would have little impact on the state (State's Attorney, District Courts, DMV) both fiscally and programmatically.*
5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc) It is believed that this law would have little impact on others stakeholders throughout the state.*

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why? *Advocates include Representative LaLonde (sponsor), law enforcement in general, highway safety advocacy groups.*

6.2 Who else is likely to oppose the proposal and why? *Defender general and other rights groups as it related to a new implied consent law and search of an electronic device / phone.*

7. Rationale for recommendation: *Distracted driving remains a major contributing cause in serious motor vehicle crashes resulting in injury and death in Vermont and the U.S. I spoke with the lead sponsor of the bill, Rep. LaLonde. LaLonde stated that the reason he introduced this was because of many constituents believe the existing law isn't working as effective as intended and drivers are still using their devices while operating. He believes that this bill brings attention to the issue and that this will help in compliance with the law.*

The implied consent search, as proposed will be met with wide criticism as a violation of the 4th amendment and is not seen as practical. However, Rep. LaLonde realizes that is a civil infraction the warrant requirements cannot be met and leave law enforcement with no other options to support a violation with reasonable suspicion or probable cause without examining the device.

Currently a violation for first offense under 23 VSA 1095b carries no points upon conviction, this is not consistent with other driving behaviors or moving violations and points should be assessed.

The proposal to add "distracted driving" to the DUI fund may increase dedicated enforcement, and education to these laws, in addition to what LE is already doing when enforcing other laws. However, existing dedicated DUI fund should not be compromised.

Tougher penalties for Jr Operators can be effective as a deterrent and holding those accountable who violate this section for a second or subsequent offense.

While voice commands can be a distraction too, short of a total electronics ban these should be made available under a "hands free" law.

8. Specific modifications that would be needed to recommend support of this bill: *Removing language related to implied consent, and language related to specific voice commands.*

9. Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many? NO

Secretary/Commissioner has reviewed this document



Date: 1/29/16