



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

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<b>Bill Number:</b>	S. 0248	Amended by Senate Transportation on January 25, 2022
<b>Author:</b>	Young	
<b>Subject:</b>	South Carolina Hands-Free Act	
<b>Requestor:</b>	Senate Transportation	
<b>RFA Analyst(s):</b>	Gardner and Griffith	
<b>Impact Date:</b>	February 16, 2022	

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### **Fiscal Impact Summary**

This bill creates the South Carolina Hands-Free and Distracted Driving Act (act), which modifies provisions related to the unlawful use of a mobile electronic device while operating a motor vehicle and creates an expanded penalty structure for distracted driving, including increasing associated fines, and changing the offense from non-criminal to criminal.

This bill will have no expenditure impact for Judicial, as it anticipates being able to manage any additional expenses associated with the potential increase in caseloads in general sessions court using existing General Fund resources.

This bill will have no expenditure impact for the Commission on Prosecution Coordination (CPC) nor the Commission on Indigent Defense, as both agencies anticipate being able to perform any additional activities within the normal course of agency business.

The bill will increase Other Funds expenditures by \$225,000 for the Department of Transportation (DOT) in FY 2022-23 for the department to erect a sign advertising this act at every interstate highway egress.

This bill will result in an undetermined increase in Other Funds expenditures for the Department of Public Safety (DPS) beginning in FY 2022-23 to educate the public on the dangers of distracted driving among other topics. However, DPS anticipates the Other Fund revenue from the fines imposed for distracted driving violations will offset these expenditures.

This bill will result in an undetermined increase in Other Funds revenue for DPS beginning in FY 2022-23 due to the reception of 25 percent of all fines for distracted driving. DPS will use this increased revenue to offset the cost to implement an education program on the dangers of distracted driving as well as the requirements of the act.

The Revenue and Fiscal Affairs Office (RFA) anticipates this bill will have no local expenditure impact, as any additional responsibilities for local law enforcement and local courts can be managed within the normal scope of business.

Also, RFA anticipates this bill may result in an undetermined impact to General Fund revenue, Other Funds revenue, and local revenue due to the modifications in fines and fees collected in court.

## **Explanation of Fiscal Impact**

### **Introduced on January 12, 2021**

#### **State Expenditure**

This bill creates the “South Carolina Hands-Free and Distracted Driving Act,” (act) which modifies provisions related to the operation of a mobile electronic device while operating a motor vehicle and distracted driving.

The bill expands the penalty schedule for distracted driving, increases associated fines, and changes the offense from non-criminal to criminal. Currently, any offense for distracted driving is punishable by a fine of not more than \$25. The bill modifies the penalty structure such that a first offense is punishable by a fine of not more than \$150 and a second or subsequent offense is punishable by a fine of not more than \$300 and a two-point assessment against the offender’s driving record. During the first 60 days after the effective date of the bill, law enforcement officers may only issue warnings for distracted driving violations. DPS will receive 25 percent of the assessed fines for distracted driving to be used to conduct a public education campaign on the hands-free requirements and the dangers of distracted driving.

Additionally, the bill requires DMV to maintain and provide distracted driving citations to DPS. Further, the bill requires DOT to erect a sign advising motorists of the act at every interstate highway ingress.

**Judicial.** This bill expands the penalty structure for distracted driving violations, increases associated fines, and changes the offense from non-criminal to criminal. In FY 2018-19, there were six dispositions for these offenses in general sessions courts, all of which were *nolle proseed*. In FY 2020-21, there were no dispositions for these offenses in general sessions courts. There is no data to estimate how many drivers would be first or subsequent offenders once the bill is implemented and the 60-day warning period expires. Judicial indicates implementation of the bill may result in an increase in the general sessions court caseload, but anticipates being able to use existing General Fund resources to absorb costs associated with any increase in caseloads. Therefore, this bill will have no expenditure impact for Judicial.

**Commission on Prosecution Coordination.** The bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill will not have an expenditure impact for CPC. However, CPC stated that if there is a large caseload increase, additional prosecutors in the Offices of Solicitor may be needed. If this becomes the case, funding to support the hiring of additional prosecutors will be requested.

**Commission on Indigent Defense.** The bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact for the Commission on Indigent Defense.

**Department of Public Safety.** This bill requires DPS to use a portion of fines imposed for distracted driving convictions to educate the public on the dangers of distracted driving among other topics. The increase in Other Funds expenditures for this education program is undetermined. However, DPS indicates the cost of the education campaign will be covered in full by its allocation of fines imposed for distracted driving violations.

**Department of Motor Vehicles.** This bill requires DMV to maintain and provide distracted driving citations to DPS. This would require 36 hours of database programming at a cost of \$110 per hour, resulting in an expenditure impact of \$3,960. The department intends to use existing General Fund resources to absorb this expense. Therefore, this bill will have no expenditure impact for DMV.

**Department of Transportation.** This bill requires DOT to erect at every interstate highway ingress a sign advising motorists of the act. This will result in a one-time expenditure of \$225,000 in other operating funds.

### **State Revenue**

This bill increases the penalties for distracted driving violations. Currently, any violation is punishable by a \$25 fine, no part of which may be suspended. The bill creates a first offense punishable by a fine of not more than \$150, no part of which may be suspended. It also creates a second or subsequent offense punishable by a fine of not more than \$300, no part of which may be suspended, and assessment of two points against the offender's driving record. The bill also authorizes DPS to receive 25 percent of fines imposed for distracted driving violations.

The bill authorizes DPS to receive 25 percent of fines imposed for distracted driving violations. As there is no data to estimate how many drivers convicted for distracted driving would be first or subsequent offenders once the bill is implemented and the 60-day warning period expires, the amount of additional Other Funds revenue that DPS may receive is undetermined.

Additionally, this bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds and local funds. Therefore, the Revenue and Fiscal Affairs Office (RFA) anticipates this bill may result in an undetermined impact to General Fund revenue, Other Funds revenue, and local revenue due to the modifications in fines and fees collected in court.

### **Local Expenditure**

This bill expands the penalty structure and increases fines for distracted driving convictions. The majority of distracted driving cases are heard in magistrate and municipal courts. In FY 2018-19, magistrate and municipal courts had 2,744 dispositions, of which 1,373 offenders paid the fine prior to the hearing date, 1,234 offenders were convicted, 80 offenders were *nolle prossed*, 52 offenders were found not guilty, and 5 offenders had their cases dismissed. This represents an average of 1,304 offenders who either paid or would have been required to pay the \$25 fine. In FY 2020-21, magistrate and municipal courts had 1,460 dispositions, of which 834 offenders paid the fine prior to the hearing date, 558 offenders were convicted, 38 offenders were *nolle*

*prossed*, 22 offenders were found not guilty, and 8 offenders had their cases dismissed. This represents an average of 696 offenders who either paid or would have been required to pay the \$25 fine. The bill may result in an increase in caseloads heard in magistrate and municipal courts. However, since there is no data to estimate how many drivers would be first or subsequent offenders once the bill is implemented and the 60-day warning period expires, the expenditure impact is undetermined. The Municipal Association of South Carolina and all counties were surveyed as to what, if any, expenditure impact this bill would have on local governments. Only the Municipal Association of South Carolina and Dorchester County responded, and report that the bill will have no local expenditure impact. Based on these responses, Revenue and Fiscal Affairs expects all local governments would be able to absorb any costs associated with increased caseloads using existing resources.

### **Local Revenue**

This bill expands the penalty structure and increases fines for distracted driving violations. In FY 2018-19, magistrate and municipal courts had 2,744 dispositions, of which 1,373 offenders paid the fine prior to the hearing date, 1,234 offenders were convicted, 80 offenders were *nolle prossed*, 52 offenders were found not guilty, and 5 offenders had their cases dismissed. This represents an average of 1,304 offenders who either paid or would have been required to pay the \$25 fine. In FY 2020-21, magistrate and municipal courts had 1,460 dispositions, of which 834 offenders paid the fine prior to the hearing date, 558 offenders were convicted, 38 offenders were *nolle prossed*, 22 offenders were found not guilty, and 8 offenders had their cases dismissed. This represents an average of 696 offenders who either paid or would have been required to pay the \$25 fine.

While counties retain a portion of any fines collected for distracted driving offenses, there is no data to estimate the collection amount due to the expansion of the distracted driving penalty schedule. Therefore, the amount of additional local revenue that counties may generate as a result of the bill is undetermined.



Frank A. Rainwater, Executive Director