



**Filed: 4/20/2005**

09400SB0392sam001

LRB094 08736 LCB 45338 a

1 AMENDMENT TO SENATE BILL 392

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 392 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by adding  
5 Section 12-610.1 as follows:

6 (625 ILCS 5/12-610.1 new)

7 Sec. 12-610.1. Use of mobile telephones.

8 (a) For purposes of this Section:

9 "Mobile telephone" means the device used by  
10 subscribers and other users of wireless telephone service  
11 to access the service.

12 "Wireless telephone service" means 2-way real time  
13 voice telecommunications service that is interconnected to  
14 a public switched telephone network and is provided by a  
15 commercial mobile radio service.

16 "Using" means holding a mobile telephone to, or in the  
17 immediate proximity of, the user's ear.

18 "Hand-held mobile telephone" means a mobile telephone  
19 with which a user engages in a call using at least one  
20 hand.

21 "Hands-free mobile telephone" means a mobile telephone  
22 that has an internal feature or function, or that is  
23 equipped with an attachment or addition, whether or not  
24 permanently part of such mobile telephone, by which a user

1 engages in a call without the use of either hand, whether  
2 or not the use of either hand is necessary to activate,  
3 deactivate, or initiate a function of the telephone.

4 "Engage in a call" means talking into or listening on a  
5 hand-held mobile telephone, but shall not include holding a  
6 mobile telephone to activate, deactivate, or initiate a  
7 function of the telephone.

8 "Immediate proximity" means that distance as permits  
9 the operator of a mobile telephone to hear  
10 telecommunications transmitted over the mobile telephone,  
11 but shall not require physical contact with the operator's  
12 ear.

13 (b) Except as otherwise provided in this Section, no person  
14 shall operate a motor vehicle upon a public highway while using  
15 a mobile telephone to engage in a call while the vehicle is in  
16 motion. An operator of a motor vehicle who holds a mobile  
17 telephone to or in the immediate proximity of his or her ear  
18 while the vehicle is in motion is presumed to be engaging in a  
19 call within the meaning of this Section. The presumption  
20 established by this subsection (b) is rebuttable by evidence  
21 tending to show that the operator was not engaged in a call.

22 (c) The provisions of this Section shall not be construed  
23 as authorizing the seizure or forfeiture of a mobile telephone,  
24 unless otherwise provided by law.

25 (d) Subsection (b) of this Section shall not apply to:

26 (1) the use of a mobile telephone for the sole purpose  
27 of communicating with any of the following regarding an  
28 emergency situation: (i) an emergency response operator;  
29 (ii) a hospital, physician's office, or health clinic;  
30 (iii) an ambulance company or corps; (iv) a fire  
31 department, district, or company; or (v) a police  
32 department;

33 (2) any of the following persons while in the  
34 performance of their official duties: (i) a police officer

1       or peace officer; (ii) a member of a fire department,  
2       district, or company; or (iii) the operator of an  
3       authorized emergency vehicle; or

4               (3) the use of a hands-free mobile telephone.

5       (e) A violation of this Section is a petty offense  
6       punishable by a fine of not more than \$100."