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**H.B. 119**  
**133<sup>rd</sup> General Assembly**

## Bill Analysis

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**Version:** As Passed by the House

**Primary Sponsor:** Rep. Stoltzfus

Carlen Zhang-D'Souza, Attorney

### SUMMARY

- Makes clarifying changes to the texting-while-driving and distracted driving law.
- Adds (1) failure to control and (2) passing a stopped school bus to the list of specified offenses to which an additional distracted driving penalty – either an additional fine or a distracted driving course – applies.

### DETAILED ANALYSIS

#### Distracted driving specified offenses

In the distracted driving law, if a person commits certain specified traffic offenses while distracted, such as eating food or watching a video, the person is subject to not only the penalty for the underlying traffic offense, but also either a fine or a distracted driving course (or the person may contest the ticket). The bill adds (1) failure to control and (2) passing a stopped school bus (that is loading or unloading passengers) to the list of specified traffic offenses to which this additional distracted driving penalty would apply.<sup>1</sup>

#### Texting-while-driving and distracted driving corrective changes

The bill makes several clarifying changes to the texting-while-driving and distracted driving law.

First, the bill amends the portion of the texting-while-driving statute that addresses allied offenses of similar conduct. Current law provides that the prosecution of the state texting-while-driving offense does not preclude a separate prosecution for a violation of a substantially equivalent municipal ordinance for the same conduct, but it states that the offenses are allied offenses of similar import. When an offender's conduct can be construed to

<sup>1</sup> R.C. 4511.202(C), 4511.75(F), and 4511.991.

constitute two or more allied offenses of similar import, the offender may be **charged** with **all** of the offenses, but prior to the conviction stage, the offenses merge and the offender may be **convicted** of **only one**. But, current law related to texting while driving, as enacted in H.B. 95 of the 132<sup>nd</sup> General Assembly, states: “However, if an offender is convicted of or pleads guilty to a violation **and is also convicted** of or pleads guilty to a violation of a substantially equivalent municipal ordinance based on the same conduct, the two offenses are allied offenses of similar import . . . .”<sup>2</sup>

Thus, current law implies that a person may be **convicted of both** offenses, which is inconsistent with the underlying concept of allied offenses. The bill clarifies that there may only be one conviction. The bill makes a similar change in the provision regarding minors violating both the state prohibition on using phones while driving and a substantially equivalent municipal ordinance.

Second, in the distracted driving law, the bill changes “Subject to Traffic Rule 13” to “Subject to the mandatory appearance requirements of Traffic Rule 13.” This clarifies that driving distracted, while violating certain offenses for which a court appearance is mandatory, would still require the offender to appear in court per Traffic Rule 13 (an offender is generally allowed to pay the fine for distracted driving and not appear in court).

Third, the bill makes corrective changes to clarify small inconsistencies in the definition of “distracted” in the distracted driving law.<sup>3</sup>

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## HISTORY

Action	Date
Introduced	03-05-19
Reported, H. Criminal Justice	10-17-19
Passed House (91-2)	10-24-19

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<sup>2</sup> R.C. 4511.204(F) and 4511.205(D).

<sup>3</sup> R.C. 4511.991.