

111TH CONGRESS  
1ST SESSION

# H. R. 3829

To amend title 23, United States Code, to reduce the amount of Federal highway funding available to States that do not enact a law prohibiting the use of certain communication devices while operating a motor vehicle, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 2009

Mr. BRADY of Pennsylvania introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

---

## A BILL

To amend title 23, United States Code, to reduce the amount of Federal highway funding available to States that do not enact a law prohibiting the use of certain communication devices while operating a motor vehicle, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fighting Occupied Cell  
5 Use So Everyone Drives More Safely Act of 2009” or the  
6 “FOCUS Act of 2009”.

1 **SEC. 2. OPERATION OF MOTOR VEHICLES WHILE USING A**  
2 **COMMUNICATION DEVICE.**

3 (a) IN GENERAL.—Chapter 1 of title 23, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 **“§ 167. Operation of motor vehicles while using a**  
7 **communication device**

8 “(a) DEFINITIONS.—In this section, the following  
9 definitions apply:

10 “(1) COMMUNICATION DEVICE.—The term  
11 ‘communication device’ means any mobile telephone  
12 or other portable electronic communication device  
13 with which a user engages in a call or writes, sends,  
14 or reads a message.

15 “(2) MOTOR VEHICLE.—The term ‘motor vehi-  
16 cle’ has the meaning given the term in section  
17 154(a).

18 “(b) WITHHOLDING OF APPORTIONMENTS FOR NON-  
19 COMPLIANCE.—

20 “(1) IN GENERAL.—On October 1 of the second  
21 fiscal year beginning after the date of the issuance  
22 of the regulations under subsection (d), and annually  
23 thereafter, the Secretary shall withhold 25 percent  
24 of the amount required to be apportioned to any  
25 State under each of paragraphs (1), (3), and (4) of  
26 section 104(b) for the fiscal year if the Secretary de-

1       termines that the State does not satisfy the require-  
2       ment under paragraph (2) of this subsection as of  
3       that date.

4               “(2) REQUIREMENT.—A State satisfies the re-  
5       quirement under this paragraph if the State has en-  
6       acted and is enforcing a law that—

7                       “(A) except in the event of an emergency,  
8       prohibits an operator of a moving motor vehicle  
9       from—

10                               “(i) utilizing any communication de-  
11       vice if such operator is under the age of  
12       21; and

13                               “(ii) utilizing a hand-held communica-  
14       tion device if such operator is 21 years of  
15       age or older; and

16                       “(B) requires, upon conviction of a viola-  
17       tion of a prohibition under subparagraph (A),  
18       the imposition of penalties in accordance with  
19       the requirements for minimum penalties de-  
20       scribed in the regulations issued under sub-  
21       section (d).

22               “(c) RECOVERY OF FUNDS WITHHELD.—All funds  
23       withheld under this section from apportionment to a State  
24       for 1 or more fiscal years shall be available for appor-  
25       tionment to the State immediately upon a determination by

1 the Secretary that the State satisfies the requirement  
2 under subsection (b)(2).

3 “(d) REGULATIONS.—Not later than 180 days after  
4 the date of enactment of this section, the Secretary shall  
5 issue regulations to carry out this section, including re-  
6 quirements for minimum penalties for violations of a pro-  
7 hibition under subsection (b)(2)(A) that—

8 “(1) specify a minimum penalty for a first of-  
9 fense; and

10 “(2) stipulate that penalties shall be graduated  
11 for repeated offenses.”.

12 (b) CLERICAL AMENDMENT.—The analysis for such  
13 chapter is amended by adding at the end the following:

“167. Operation of motor vehicles while using a communication device.”.

○