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 an individual from writing, sending, or reading text messages while operating a motor vehicle.

IN THE SENATE OF THE UNITED STATES
JULY 29, 2009
Mr. SCHUMER (for himself, Mr. MENENDEZ, Mrs. HAGAN, and Ms. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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 an individual from writing, sending, or reading text messages while operating a motor vehicle.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Avoiding Life-Endangering and Reckless Texting by Drivers Act of 2009” or the “ALERT Drivers Act”.

1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2. SECTION 1. SHORT TITLE.

3. This Act may be cited as the “Avoiding Life-Endangering and Reckless Texting by Drivers Act of 2009” or the “ALERT Drivers Act”.
SEC. 2. FINDINGS.

Congress finds that—

(1) cell phones and other electronic devices are not only instrumentalities and channels of interstate commerce, but products of interstate commerce;

(2) for those reasons, regulation of the use of cellular telephones or other electronic devices to send text messages is covered by the power of Congress to regulate interstate commerce as enumerated in article I, section 8 of the Constitution;

(3) additionally, the Supreme Court held in South Dakota v. Dole, 483 U.S. 203 (June 23, 1987), that Congress may condition Federal highway funding on State compliance with certain conditions;

(4) people in the United States are using cellular telephones and other personal electronic devices to send text messages or emails, more commonly known as “texting”, with increasing frequency;

(5) according to the New York Times, more than 110,000,000,000 text messages were sent in the United States during the month of December 2008 alone, a tenfold increase in just 3 years;

(6) texting and portable email are valuable to consumers, businesses, and private individuals throughout the United States, but those services also
create an extreme risk when used by individuals
while operating motor vehicles;

(7) a 2008 study by Nationwide Insurance
found that 20 percent of drivers in the United
States send text messages while operating motor ve-
hicles;

(8) according to a study by Car and Driver
Magazine, texting while driving is more dangerous
than driving while intoxicated;

(9) a recent study by the Virginia Tech Trans-
portation Institute found operators of motor vehicles
who sent text messages while driving had a collision
risk that was 23 times greater while texting as com-
pared to the risk when the operators were not
texting;

(10) another study by the University of Utah
found that college students using a driving simulator
were 8 times more likely to have an accident while
texting;

(11) after a serious accident occurred on the
Boston public trolley system in May 2009, the trol-
ley operator was found to have been texting at the
time of the accident;

(12) the problem of texting while driving has
been recognized across the United States;
as of the date of enactment of this Act, 14 States and the District of Columbia ban all drivers from texting while operating motor vehicles, and 11 other States have a modified ban on texting while driving;

(14) the risks created by texting while driving are increasing nationwide as the use of texting increases nationwide;

(15) it is necessary for Congress to act to protect the safety of all people in the United States on highways and roads in the United States; and

(16) a Federal law to address the problem of texting while driving is necessary to ensure minimum standards of protection across the United States, in the same manner as the national minimum drinking age provides a uniform standard of protection.

SEC. 3. OPERATION OF MOTOR VEHICLES WHILE TEXTING.

(a) In General.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

“§ 167. Operation of motor vehicles while texting

“(a) Definitions.—In this section:

“(1) Hand-held mobile telephone.—
“(A) In general.—The term ‘hand-held mobile telephone’ means a mobile telephone or other portable electronic communication device with which a user engages in a call or writes, sends, or reads a text message using at least 1 hand.

“(B) Exclusion.—The term ‘hand-held mobile telephone’ does not include a voice-activated device.

“(2) Motor vehicle.—The term ‘motor vehicle’ means—

“(A) a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways; and

“(B) a railcar or other component of a fixed guideway system that is not subject to regulation by the Federal Railroad Administration.

“(3) Text message.—The term ‘text message’ includes a text-based message, instant message, electronic message, and email.

“(4) Writing; sending; reading.—The terms ‘writing’, ‘sending’, and ‘reading’, with respect to a text message, mean the manual entry, sending, or
retrieval of a text message, respectively, to commu-
nicate with any person or device.

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

“(1) IN GENERAL.—On October 1 of the second
fiscal year beginning after the date of promulgation
of the regulations under subsection (d), and annually
thereafter, the Secretary shall withhold 25 percent
of the amount required to be apportioned to any
State under each of paragraphs (1), (3), and (4) of
section 104(b) for the fiscal year if the Secretary de-
determines that the State does not meet the require-
ment under paragraph (2) as of that date.

“(2) REQUIREMENT.—A State shall meet the
requirement under this paragraph if the State has
enacted and is enforcing a law that—

“(A) except in the event of an emergency,
prohibits an operator of a moving motor vehicle
from writing, sending, or reading a text mes-
sage using a hand-held mobile telephone; and

“(B) requires, upon conviction of a viola-
tion of that prohibition, the imposition of pen-
alties in accordance with the requirements for
minimum penalties described in the regulations
promulgated under subsection (d).
“(c) Recovery of Funds Withheld.—All funds withheld under this section from apportionment to a State for 1 or more fiscal years shall be available for apportionment to the State immediately upon a determination by the Secretary that the State meets the requirement under paragraph (2).

“(d) Regulations.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section, including requirements for minimum penalties for violations of the prohibition under subsection (b)(2)(A) that—

“(1) specify a minimum penalty for a first offense; and

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

(b) Conforming Amendment.—The analysis for title 23, United States Code, is amended by adding at the end of the items relating to chapter 1 the following:

“167. Operation of motor vehicles while texting.”.