

SENATE BILL No. 120

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2-177.3; IC 9-21-8; IC 35-52-9-19.5.

Synopsis: Use of telecommunications devices while driving. Makes it a Level 5 felony if a person uses hands free or voice operated technology while operating a moving motor vehicle unless the device is used to call 911 to report a bona fide emergency. Revises the term "telecommunications device" for purposes related to motor vehicle operation.

Effective: July 1, 2018.

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January 3, 2018, read first time and referred to Committee on Rules and Legislative Procedure.



Second Regular Session 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

SENATE BILL No. 120

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-13-2-177.3, AS AMENDED BY P.L.198-2016,
2 SECTION 171, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2018]: Sec. 177.3. (a) "Telecommunications
4 device", for purposes of IC 9-21-8, IC 9-25-4-7, IC 9-24-11-3.3 (before
5 its repeal), and IC 9-24-11-3.7, means an electronic or digital
6 telecommunications device. The term includes a:
7 (1) wireless telephone;
8 (2) personal digital assistant;
9 (3) pager; ~~or~~
10 (4) text messaging device; **or**
11 **(5) functional equivalent or successor to a device listed in**
12 **subdivisions (1) through (4).**
13 (b) The term does not include:
14 (1) amateur radio equipment that is being operated by a person
15 licensed as an amateur radio operator by the Federal
16 Communications Commission under 47 CFR Part 97; or
17 (2) a communications system installed in a commercial motor



vehicle weighing more than ten thousand (10,000) pounds.

SECTION 2. IC 9-21-8-49, AS AMENDED BY P.L.188-2015, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 49. Except as provided in sections 35, 50, 51, 52, 55, 56, ~~and 58, and 59~~ of this chapter, a person who violates this chapter commits a Class C infraction.

SECTION 3. IC 9-21-8-59, AS AMENDED BY P.L.191-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 59. (a) **Except as provided in subsection (b),** a person ~~may not use who knowingly or intentionally uses~~ a telecommunications device ~~to:~~

(1) ~~type a text message or an electronic mail message;~~

(2) ~~transmit a text message or an electronic mail message; or~~

(3) ~~read a text message or an electronic mail message;~~

while operating a moving motor vehicle ~~unless the device is used in conjunction with hands free or voice operated technology; or unless the device is used to call 911 to report a bona fide emergency.~~ **commits the offense of operating a vehicle while using a telecommunications device, a Level 5 felony.**

(b) It is a defense to a prosecution under this section that the accused person used the device to call 911 to report a bona fide emergency.

~~(b)~~ (c) A police officer may not, without the consent of the person:

(1) confiscate a telecommunications device for the purpose of determining compliance with this section;

(2) confiscate a telecommunications device and retain it as evidence pending trial for a violation of this section; or

(3) extract or otherwise download information from a telecommunications device for a violation of this section unless:

(A) the police officer has probable cause to believe that the telecommunications device has been used in the commission of a crime;

(B) the information is extracted or otherwise downloaded under a valid search warrant; or

(C) otherwise authorized by law.

SECTION 4. IC 35-52-9-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 19.5. IC 9-21-8-59 defines a crime concerning traffic regulation.**

