

SECOND REGULAR SESSION

# HOUSE BILL NO. 1292

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HENDERSON.

4481H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 304.820, RSMo, and to enact in lieu thereof one new section relating text messaging while in a school zone, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 304.820, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.820, to read as follows:

304.820. 1. Except as otherwise provided in this section, no person twenty-one years of age or younger operating a moving motor vehicle upon the highways of this state shall, by means of a hand-held electronic wireless communications device, send, read, or write a text message or electronic message.

2. Except as otherwise provided in this section, no person shall operate a commercial motor vehicle while using a hand-held mobile telephone.

3. Except as otherwise provided in this section, no person shall operate a commercial motor vehicle while using a wireless communications device to send, read, or write a text message or electronic message.

4. **Except as otherwise provided in this section, no person of any age shall operate a motor vehicle within a school zone while using a wireless communications device to send, read, or write a text message or electronic message. For purposes of this subsection, "school zone" means any area upon or around any street or highway as defined in section 302.010 that is visibly marked by a sign erected by a county or municipality as an area in which a school building is located and the sections of street or highway on or adjacent to the school property that are designated by signs indicating that it is a school and showing the posted speed limit.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18           **5.** The provisions of subsection 1 through subsection ~~[3]~~ **4** of this section shall not apply  
19 to a person operating:

20           (1) An authorized emergency vehicle; or

21           (2) A moving motor vehicle while using a hand-held electronic wireless communications  
22 device to:

23           (a) Report illegal activity;

24           (b) Summon medical or other emergency help;

25           (c) Prevent injury to a person or property; or

26           (d) Relay information between a transit or for-hire operator and that operator's  
27 dispatcher, in which the device is permanently affixed to the vehicle.

28           ~~[5-]~~ **6.** Nothing in this section shall be construed or interpreted as prohibiting a person  
29 from making or taking part in a telephone call, by means of a hand-held electronic wireless  
30 communications device, while operating a noncommercial motor vehicle upon the highways of  
31 this state.

32           ~~[6-]~~ **7.** As used in this section, "electronic message" means a self-contained piece of  
33 digital communication that is designed or intended to be transmitted between hand-held  
34 electronic wireless communication devices. "Electronic message" includes, but is not limited  
35 to, electronic mail, a text message, an instant message, or a command or request to access an  
36 internet site.

37           ~~[7-]~~ **8.** As used in this section, "hand-held electronic wireless communications device"  
38 includes any hand-held cellular phone, palm pilot, blackberry, or other mobile electronic device  
39 used to communicate verbally or by text or electronic messaging, but shall not apply to any  
40 device that is permanently embedded into the architecture and design of the motor vehicle.

41           ~~[8-]~~ **9.** As used in this section, "making or taking part in a telephone call" means listening  
42 to or engaging in verbal communication through a hand-held electronic wireless communication  
43 device.

44           ~~[9-]~~ **10.** As used in this section, "send, read, or write a text message or electronic  
45 message" means using a hand-held electronic wireless telecommunications device to manually  
46 communicate with any person by using an electronic message. Sending, reading, or writing a  
47 text message or electronic message does not include reading, selecting, or entering a phone  
48 number or name into a hand-held electronic wireless communications device for the purpose of  
49 making a telephone call.

50           ~~[10-]~~ **11.** A violation of this section shall be deemed an infraction and shall be deemed  
51 a moving violation for purposes of point assessment under section 302.302.

52           ~~[11-]~~ **12.** The state preempts the field of regulating the use of hand-held electronic  
53 wireless communications devices in motor vehicles, and the provisions of this section shall

54 supercede any local laws, ordinances, orders, rules, or regulations enacted by a county,  
55 municipality, or other political subdivision to regulate the use of hand-held electronic wireless  
56 communication devices by the operator of a motor vehicle.

57 ~~[42.]~~ **13.** The provisions of this section shall not apply to:

58 (1) The operator of a vehicle that is lawfully parked or stopped;

59 (2) Any of the following while in the performance of their official duties: a law  
60 enforcement officer; a member of a fire department; or the operator of a public or private  
61 ambulance;

62 (3) The use of factory-installed or aftermarket global positioning systems (GPS) or  
63 wireless communications devices used to transmit or receive data as part of a digital dispatch  
64 system;

65 (4) The use of voice-operated technology;

66 (5) The use of two-way radio transmitters or receivers by a licensee of the Federal  
67 Communications Commission in the Amateur Radio Service.

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