

FIRST REGULAR SESSION

# HOUSE BILL NO. 304

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ROBERTS.

0876H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal section 304.820, RSMo, and to enact in lieu thereof one new section relating to the operation of motor vehicles while using electronic devices, 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Section A. Section 304.820, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.820, to read as follows: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.]~~ As used in this section, the following terms mean:

(1) "Commercial motor vehicle", the same meaning as is ascribed to such term under section 302.700;

(2) "Electronic message", a self-contained piece of digital communication that is designed or intended to be transmitted via an electronic wireless communication device including, but not limited to, electronic mail, text messages, instant messages, or commands or requests to access an internet site;

(3) "Electronic wireless communication device", includes, but is not limited to, cell phones, personal digital assistants, electronic devices with mobile data access, laptop computers, pagers, broadband personal communication devices, electronic games, or portable computing devices. "Electronic wireless communication device" shall not include global navigation satellite system receivers used for positioning, emergency notification, or navigation purposes, or two-way or citizens band radio services;

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           (4) "Hands-free electronic wireless communication device", an electronic  
19 wireless communication device that has an internal feature or function, or that is  
20 equipped with an attachment or addition, whether or not permanently part of such  
21 device, by which a user engages with the device without the use of either hand; provided,  
22 however, this definition shall not preclude the use of either hand merely to activate,  
23 deactivate, or initiate a function of the device;

24           (5) "Highway", any public thoroughfare for vehicles including state roads;  
25 county roads; and public streets, avenues, boulevards, parkways, or alleys in any  
26 municipality;

27           (6) "Noncommercial motor vehicle", the same meaning as is ascribed to such  
28 term under section 302.700;

29           (7) "Operate", to physically drive or control the movement of a motor vehicle,  
30 including while temporarily stationary because of traffic, a traffic light, stop sign, or  
31 otherwise. A person is not operating a motor vehicle for purposes of this section when  
32 the vehicle has pulled over to the side of or off a highway and has stopped in a location  
33 where it can safely remain stationary.

34           2. Except as otherwise provided in this subsection or subsection 5 of this section,  
35 no person shall operate a noncommercial motor vehicle upon the highways of this state  
36 while using an electronic wireless communication device. Prohibited uses include, but  
37 are not limited to: reading, composing, viewing, or posting any electronic message;  
38 initiating, receiving, or conducting a conversation; or manually entering data into any  
39 electronic wireless communication device. A person may operate a noncommercial  
40 motor vehicle upon the highways of this state while using a hands-free electronic  
41 wireless communication device, provided that the operator is not holding the hands-free  
42 electronic wireless communication device in his or her hand or hands, and provided that  
43 the operator does not divert his or her attention from the lawful operation of the motor  
44 vehicle. The provisions of this subsection shall not prohibit the use of either hand  
45 merely to activate, deactivate, or initiate a function of a hands-free electronic wireless  
46 communication device while operating a noncommercial motor vehicle.

47           3. Except as otherwise provided in subsection 5 of this section, no person shall  
48 operate a commercial motor vehicle upon the highways of this state while using a hand-held  
49 mobile telephone.

50           [3-] 4. Except as otherwise provided in subsection 5 of this section, no person shall  
51 operate a commercial motor vehicle upon the highways of this state while using [a] an  
52 electronic wireless [communications] communication device to send, read, or write a text  
53 message or electronic message unless such message is sent, read, or written by touching a

54 **single button and the driver remains seated and is restrained by a seat belt as required**  
55 **by law.**

56 ~~[4.]~~ **5.** The provisions of ~~[subsection 1 through subsection 3]~~ **subsections 2 to 4** of  
57 this section shall not apply to a person operating:

58 (1) An authorized emergency vehicle, **as such term is defined in section 304.022**; or

59 (2) A ~~[moving]~~ motor vehicle while using ~~[a hand-held]~~ **an** electronic wireless  
60 ~~[communications]~~ **communication** device to:

61 (a) ~~[Report illegal activity;~~

62 (b) ~~Summon medical or other emergency help;~~

63 (c) ~~Prevent injury to a person or property; or~~

64 ~~(d)]~~ **Contact emergency services; or**

65 (b) Relay information between a transit or for-hire **motor vehicle** operator and that  
66 operator's dispatcher, ~~[in which]~~ **when** the device is ~~[permanently]~~ affixed to the vehicle.

67 ~~[5. Nothing in this section shall be construed or interpreted as prohibiting a person~~  
68 ~~from making or taking part in a telephone call, by means of a hand-held electronic wireless~~  
69 ~~communications device, while operating a noncommercial motor vehicle upon the highways~~  
70 ~~of this state.~~

71 ~~6. As used in this section, "electronic message" means a self-contained piece of~~  
72 ~~digital communication that is designed or intended to be transmitted between hand-held~~  
73 ~~electronic wireless communication devices. "Electronic message" includes, but is not limited~~  
74 ~~to, electronic mail, a text message, an instant message, or a command or request to access an~~  
75 ~~internet site.~~

76 ~~7. As used in this section, "hand-held electronic wireless communications device"~~  
77 ~~includes any hand-held cellular phone, palm pilot, blackberry, or other mobile electronic~~  
78 ~~device used to communicate verbally or by text or electronic messaging, but shall not apply to~~  
79 ~~any device that is permanently embedded into the architecture and design of the motor~~  
80 ~~vehicle.~~

81 ~~8. As used in this section, "making or taking part in a telephone call" means listening~~  
82 ~~to or engaging in verbal communication through a hand-held electronic wireless~~  
83 ~~communication device.~~

84 ~~9. As used in this section, "send, read, or write a text message or electronic message"~~  
85 ~~means using a hand-held electronic wireless telecommunications device to manually~~  
86 ~~communicate with any person by using an electronic message. Sending, reading, or writing a~~  
87 ~~text message or electronic message does not include reading, selecting, or entering a phone~~  
88 ~~number or name into a hand-held electronic wireless communications device for the purpose~~  
89 ~~of making a telephone call.~~

90 ~~10.]~~ **6.** A violation of this section shall be deemed an infraction ~~[and shall be]~~  
91 **punishable by a fifty-dollar fine. A violation of this section while operating a motor**  
92 **vehicle in a work zone, as such term is defined in section 304.580, when highway**  
93 **workers, as such term is defined in section 304.580, are present, or in an area designated**  
94 **as a school zone and marked in any way that would alert a reasonably prudent driver to**  
95 **the presence of such school zone, shall be deemed an infraction punishable by a one-**  
96 **hundred-dollar fine. A violation of subsection 2 of this section shall not be deemed a**  
97 **moving violation for purposes of point assessment under section 302.302. A violation of**  
98 **subsection 3 or 4 of this section shall be deemed a serious traffic violation, as such term**  
99 **is defined in section 302.700, for purposes of commercial driver's license disqualification**  
100 **under section 302.755.**

101 ~~[11.]~~ **7.** The state preempts the field of regulating the use of ~~[hand-held]~~ electronic  
102 wireless ~~[communications]~~ **communication devices [in] by the operators of** motor vehicles,  
103 and the provisions of this section shall supercede any local laws, ordinances, orders, rules, or  
104 regulations enacted by a county, municipality, or other political subdivision to regulate the use  
105 of ~~[hand-held]~~ electronic wireless communication devices by the operator of a motor vehicle.

106 ~~[12. The provisions of this section shall not apply to:~~

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

108 ~~(2) Any of the following while in the performance of their official duties: a law~~  
109 ~~enforcement officer; a member of a fire department; or the operator of a public or private~~  
110 ~~ambulance;~~

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

114 ~~(4) The use of voice-operated technology;~~

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

117 **8.** Notwithstanding any provision of law to the contrary, no person under  
118 **eighteen years of age, and no person with an instruction permit or intermediate license**  
119 **regardless of age, shall use an electronic wireless communication device, whether hands-**  
120 **free or not, while operating a motor vehicle on the highways of this state, except to**  
121 **contact emergency services.**

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