

FIRST REGULAR SESSION

HOUSE BILL NO. 853

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WALLINGFORD.

1883H.011

DANA RADEMAN MILLER, Chief Clerk

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.

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Section A. Section 304.820, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.820, to read as follows: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.]~~ As used in this section, the following terms mean:

(1) "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;

(2) "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;

(3) "Hands-free electronic wireless communication device", an electronic wireless communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such device, by which a user

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 engages with the device without the use of either hand; provided, however, this definition
 19 shall not preclude the use of either hand merely to activate, deactivate, or initiate a
 20 function of the device;

21 (4) "Highway", any public thoroughfare for vehicles, including state roads; county
 22 roads; and public streets, avenues, boulevards, parkways, or alleys in any municipality;

23 (5) "Operating", physically driving or controlling a motor vehicle on a highway,
 24 including while temporarily stationary because of traffic, a traffic light, stop sign, or
 25 otherwise. A person is not operating a motor vehicle for purposes of this section when the
 26 vehicle has pulled over to the side of or off a highway and has stopped in a location where
 27 it can safely remain stationary.

28 2. Except as otherwise provided in subsection 5 or 6 of this section, no person shall
 29 operate a noncommercial motor vehicle, as such term is defined in section 302.700, upon
 30 the highways of this state while using any hand-held electronic wireless communication
 31 device. Prohibited uses include but are not limited to: reading, composing, viewing, or
 32 posting any electronic message; initiating, receiving, or conducting a conversation; or
 33 manually entering data into any electronic wireless communication device.

34 3. Except as otherwise provided in subsection 5 of this section, no person shall operate
 35 a commercial motor vehicle, as such term is defined in section 302.700, while using a
 36 hand-held mobile telephone.

37 ~~[3-]~~ 4. Except as otherwise provided in subsection 5 of this section, no person shall
 38 operate a commercial motor vehicle, as such term is defined in section 302.700, while using
 39 a hand-held electronic wireless ~~[communications]~~ communication device to send, read, or
 40 write a text message or electronic message.

41 ~~[4-]~~ 5. The provisions of ~~[subsection 1 through subsection 3]~~ subsections 2 to 4 of this
 42 section shall not apply to a person operating:

43 (1) An authorized emergency vehicle, as such term is defined in section 304.022; ~~[or]~~

44 (2) A motor vehicle that is responding to another motor vehicle's request for
 45 roadside assistance upon the highways of this state when such response is conducted in the
 46 course and scope of a commercial activity; or

47 (3) A moving motor vehicle while using a hand-held electronic wireless
 48 ~~[communications]~~ communication device to:

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

50 ~~— (b) Summon medical or other emergency help;~~

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

52 ~~— (d) Contact emergency services; or~~

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

55 ~~[5.]~~ **6.** Nothing in **subsection 2** of this section shall be construed or interpreted ~~[as~~
56 ~~prohibiting a person from making or taking part in a telephone call, by means of a hand-held~~
57 ~~electronic wireless communications device, while operating a noncommercial motor vehicle~~
58 ~~upon the highways of this state.~~

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

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

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

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

76 ~~10.]~~ **to prohibit a person operating a noncommercial motor vehicle, as such term is**
77 **defined in section 302.700, on the highways of this state from using a hands-free electronic**
78 **wireless communication device when the operator is not holding the hands-free electronic**
79 **wireless communication device in the operator's hand or hands, except the operator shall**
80 **not have his or her attention diverted from the lawful operation of the noncommercial**
81 **motor vehicle. The provisions of subsection 2 of this section shall not prohibit the use of**
82 **either hand merely to activate, deactivate, or initiate a function of a hands-free electronic**
83 **wireless communication device.**

84 **7.** A violation of this section shall be deemed an infraction ~~[and shall be]~~ **punishable**
85 **by a fifty-dollar fine. A violation of this section while operating a motor vehicle in a work**
86 **zone, as such term is defined in section 304.580, when highway workers, as such term is**
87 **defined in section 340.580, are present or in areas designated as a school zone that are**
88 **visibly marked by traffic control devices shall be deemed an infraction punishable by a**

89 **one-hundred-dollar fine. A violation of subsection 2 of this section shall not be deemed a**
90 **moving violation for purposes of point assessment under section 302.302. A violation of**
91 **subsection 3 or 4 of this section shall be deemed a serious traffic violation, as defined in**
92 **section 302.700, for purposes of commercial driver license disqualification under section**
93 **302.755.**

94 ~~[11.]~~ **8.** The state preempts the field of regulating the use of ~~[hand-held]~~ electronic
95 wireless ~~[communications]~~ **communication** devices ~~[in]~~ **by the operators of** motor vehicles,
96 and the provisions of this section shall supercede any local laws, ordinances, orders, rules, or
97 regulations enacted by a county, municipality, or other political subdivision to regulate the use
98 of ~~[hand-held]~~ electronic wireless communication devices by the operator of a motor vehicle.

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

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

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

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

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

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

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

✓