

FIRST REGULAR SESSION

# HOUSE BILL NO. 904

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DINKINS.

1955H.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 use of hand-held wireless communication 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Section A. Section 304.820, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.820, to read as follows: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]~~ **communication** 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]~~ **communication** device to send, read, or write a text message or electronic message.

4. **Except as otherwise provided in this section, no person shall operate a motor vehicle within a school zone or within a construction zone or work zone while using a hand-held wireless communication device in any manner. Prohibited uses shall include, but not be limited to, reading, composing, viewing, or posting any electronic message; initiating, receiving, or conducting a conversation; or manually typing data into any electronic wireless communication device. 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**

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 **in which a school building is located and the sections of street or highway on or adjacent**  
19 **to the school property that are designated by signs indicating that it is a school zone and**  
20 **showing the posted speed limit. "Construction zone" or "work zone" means any area**  
21 **upon or around any highway as defined in section 302.010 that is visibly marked by the**  
22 **department of transportation or a contractor or subcontractor performing work for the**  
23 **department of transportation as an area where construction, maintenance, incident**  
24 **removal, or other work is temporarily occurring. The term "work zone" or**  
25 **"construction zone" also includes the lanes of highway leading up to the area upon**  
26 **which an activity described in this subsection is being performed, beginning at the point**  
27 **where appropriate signs or traffic control devices are posted or placed.**

28 **5.** The provisions of subsection 1 through subsection ~~3~~ **4** of this section shall not  
29 apply to a person operating:

30 (1) An authorized emergency vehicle; or

31 (2) A moving motor vehicle while using a hand-held electronic wireless  
32 ~~communications~~ **communication** device to:

33 (a) Report illegal activity;

34 (b) Summon medical or other emergency help;

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

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

38 ~~5-~~ **6.** Nothing in this section shall be construed or interpreted as prohibiting a person  
39 from making or taking part in a telephone call, by means of a hand-held electronic wireless  
40 ~~communications~~ **communication** device, while operating a noncommercial motor vehicle  
41 upon the highways of this state.

42 ~~6-~~ **7.** As used in this section, "electronic message" means a self-contained piece of  
43 digital communication that is designed or intended to be transmitted between hand-held  
44 electronic wireless communication devices. "Electronic message" includes, but is not limited  
45 to, electronic mail, a text message, an instant message, or a command or request to access an  
46 internet site.

47 ~~7-~~ **8.** As used in this section, "hand-held electronic wireless ~~communications~~  
48 **communication** device" includes any hand-held cellular phone~~, palm pilot, blackberry,~~ or  
49 other mobile electronic device used to communicate verbally or by text or electronic  
50 messaging, but shall not apply to any device that is permanently embedded into the  
51 architecture and design of the motor vehicle.

52 ~~8-~~ **9.** As used in this section, "making or taking part in a telephone call" means  
53 listening to or engaging in verbal communication through a hand-held electronic wireless  
54 communication device.

55           ~~[9-]~~ **10.** As used in this section, "send, read, or write a text message or electronic  
56 message" means using a hand-held electronic wireless ~~[telecommunications]~~  
57 **telecommunication** device to manually communicate with any person by using an  
58 electronic message. Sending, reading, or writing a text message or electronic message  
59 does not include reading, selecting, or entering a phone number or name into a hand-held  
60 electronic wireless ~~[communications]~~ **communication** device for the purpose of making a  
61 telephone call.

62           ~~[10-]~~ **11.** A violation of this section shall be deemed an infraction and shall be deemed  
63 a moving violation for purposes of point assessment under section 302.302.

64           ~~[11-]~~ **12.** The state preempts the field of regulating the use of hand-held electronic  
65 wireless ~~[communications]~~ **communication** devices in motor vehicles, and the provisions of  
66 this section shall supercede any local laws, ordinances, orders, rules, or regulations enacted  
67 by a county, municipality, or other political subdivision to regulate the use of hand-held  
68 electronic wireless communication devices by the operator of a motor vehicle.

69           ~~[12-]~~ **13.** The provisions of this section shall not apply to:

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

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

74           (3) The use of factory-installed or aftermarket global positioning systems (GPS) or  
75 wireless ~~[communications]~~ **communication** devices used to transmit or receive data as part of  
76 a digital dispatch system;

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

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

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