

HOUSE BILL 854

By Mitchell

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 39; Title 40 and Title 55, relative to use of  
portable electronic devices while driving.

WHEREAS, the One Hundred and Ninth General Assembly enacted and the Governor subsequently signed into law Chapter 1077 of the Public Acts of 2016, which reclassified texting while driving as a moving traffic violation that may adversely affect a person's driving privilege;  
and

WHEREAS, the One Hundred and Ninth General Assembly also enacted and the Governor subsequently signed into law Chapter 1036 of the Public Acts of 2016, which increased the penalties for school bus drivers violating the law prohibiting the use of portable electronic devices while operating a bus with a child on board; and

WHEREAS, law enforcement officers frequently request that individuals suspected of driving under the influence submit to testing to determine the individual's blood alcohol content;  
and

WHEREAS, the following law will apply only to situations in which individuals are suspected of illegal behavior involving driving a motor vehicle, including car crashes that result in serious injury or death; and

WHEREAS, texting while driving is an emerging problem in the State and law enforcement agencies should have access to tools that treat texting while driving offenses with the gravity with which driving under the influence of drugs or alcohol is treated; now, therefore,  
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 10, Part 1, is amended by adding the following as a new section:

(a) For any motor vehicle crash involving serious bodily injury or death, a responding law enforcement officer who has probable cause to believe a driver was using a portable electronic device to receive or transmit written messages in violation of § 55-8-199 may, upon meeting the requirements of § 40-6-110, examine the portable electronic device with a scanning device approved by the department of safety. Unless otherwise authorized by court order or search warrant, the portable electronic device may be examined only to determine whether the device was in use at the time of, or immediately prior to, the crash, and substantive content on the device may not be accessed or examined.

(b) For purposes of this section:

(1) "Portable electronic device" has the same meaning as defined in § 55-8-199; and

(2) "Serious bodily injury" means bodily injury that involves:

- (A) A substantial risk of death;
- (B) Protracted unconsciousness;
- (C) Extreme physical pain;
- (D) Protracted or obvious disfigurement; or
- (E) Protracted loss or substantial impairment of a function of a bodily member, organ, or mental faculty.

SECTION 2. Tennessee Code Annotated, Section 55-8-199(a), is amended by deleting the subsection and substituting instead the following:

(a) For the purpose of this section:

(1) "Mobile telephone" means a cellular, analog, wireless, or digital device that provides for voice communication and for data communication other than by voice;

(2) "Personal digital assistant" means a wireless electronic communication device that provides for data communication other than by voice; and

(3) "Portable electronic device" means a mobile telephone or personal digital assistant.

SECTION 3. Tennessee Code Annotated, Section 55-8-199(b), is amended by deleting the language "hand-held mobile telephone or a hand-held personal digital assistant" and substituting instead the language "hand-held portable electronic device"; and is further amended by deleting the language "hand-held mobile telephone or a personal digital assistant" and substituting instead the language "hand-held portable electronic device".

SECTION 4. Tennessee Code Annotated, Section 55-8-199(c), is amended by deleting the language "mobile telephone or hand-held personal digital assistant" and substituting instead the language "hand-held portable electronic device".

SECTION 5. This act shall take effect July 1, 2017, the public welfare requiring it.