1	AMENDMENTS TO PROHIBITION ON USING A HANDHELD
2	WIRELESS COMMUNICATION DEVICE WHILE OPERATING
3	A VEHICLE
4	2012 GENERAL SESSION
5	STATE OF UTAH
6	Chief Sponsor: Lyle W. Hillyard
7 8	House Sponsor: Richard A. Greenwood
9	LONG TITLE
10	General Description:
11	This bill modifies the Traffic Code and the Utah Criminal Code by amending
12	provisions to relating the prohibition of using a wireless communication device while
13	operating a moving motor vehicle.
14	Highlighted Provisions:
15	This bill:
16	<ul> <li>amends definitions;</li> </ul>
17	<ul> <li>provides that a person may not use a handheld wireless communication device while</li> </ul>
18	operating a moving motor vehicle on a highway in this state to:
19	• text message;
20	• $\hat{S} \rightarrow \underline{\text{manually}} \leftarrow \hat{S}$ communicate through an electronic mail system;
21	• manually enter data into a handheld wireless communication device;
22	• send data, read text, or view images on a handheld wireless communication
23	device; or
24	• manipulate an application from a handheld wireless communication device
24a	$\hat{S} \rightarrow \underline{\hat{S}} - \underline{\hat{S}} - \underline{\hat{S}} + \underline{\hat{S}} + \underline{\hat{S}} + \underline{\hat{S}} = \underline{\hat{S}} + \underline{\hat{S} $
25	<ul> <li>provides that a person is not prohibited from using a handheld wireless</li> </ul>
26	communication device while operating a moving motor vehicle:
27	• when making or receiving a telephone call; $\hat{S} \rightarrow [\sigma r] \leftarrow \hat{S}$

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•	when using a handheld wireless communication device for global positioning or
navigation set	rvices; Ŝ→ <u>or</u>
•	to operate a hands-free or voice operated technology or to operate a system t
	•

#### 29a technology or to operate a system that is 29b physically or electronically integrated into the motor vehicle; $\leftarrow \hat{S}$

- ▶ provides that a person is guilty of automobile homicide involving a handheld 30
- wireless communication device if the person uses a handheld wireless 31
- 32 communication device for certain purposes while operating a moving motor vehicle
- 33 in a negligent or criminally negligent manner and causes the death of another
- 34 person; and
- 35 makes technical changes.

#### 36 Money Appropriated in this Bill:

- 37 None
- 38 **Other Special Clauses:**
- 39 None
- 40 **Utah Code Sections Affected:**
- 41 AMENDS:

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- 41-6a-1716, as enacted by Laws of Utah 2009, Chapter 291 42
- 76-5-207.5, as enacted by Laws of Utah 2009, Chapter 291 43
- 45 *Be it enacted by the Legislature of the state of Utah:*
- Section 11. Section **41-6a-1716** is amended to read: 46
- 41-6a-1716. Prohibition on using a handheld wireless communication device for 47

#### 48 text messaging communication while operating a moving motor vehicle -- Penalties.

- 49 (1) As used in this section:
- 50 (a) (i) "Handheld wireless communication device" means a handheld device used for
- 51 the transfer of information without the use of electrical conductors or wires.
- 52 (ii) "Handheld wireless communication device" includes a:
- 53 (A) wireless telephone;
- 54 (B) personal digital assistant;
- 55 (C) pager; or
- 56 (D) text messaging device.
- 57 (b) (i) "Text [messaging" has the same meaning as defined in Section 76-4-401.]

message" means to  $\hat{S} \rightarrow$  manually  $\leftarrow \hat{S}$  communicate in the form of electronic text or one or more 58

58a electronic

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59	images sent by the actor from a handheld wireless communication device to another person's
60	handheld wireless communication device or computer by addressing the communication to the
61	person's telephone number.
62	(ii) "Text message" includes $\$ \rightarrow $ manually $\leftarrow \$$ composing a communication in the form of
62a	electronic text
63	or an electronic image by the actor even if the electronic text or image has not been sent to
64	another person.
64a	$\hat{S} \rightarrow [\hat{S} \rightarrow \underline{(iii)}$ "Text message" does not include communicating, composing a communication,
64b	or receiving a communication in the form of electronic text or one or more electronic images
64c	sent by the actor from a handheld wireless communication device to another person's
64d	handheld wireless communication device or computer by addressing the communication to the
64e	person's telephone number if the electronic text or image is communicated, composed, or
64f	<u>received using a hands free application.</u> ←Ŝ] ←Ŝ
65	(2) Except as provided in Subsection (3), a person may not use a handheld wireless
66	communication device [for text messaging or electronic mail communication] while operating
67	a moving motor vehicle on a highway in this state[-] to:
68	(a) text message;
69	(b) $\hat{S} \rightarrow \underline{\text{manually}} \leftarrow \hat{S}$ communicate through an electronic mail system;
70	(c) manually enter data into a handheld wireless communication device;
71	(d) send data, read text, or view images on a handheld wireless communication device;
72	or
73	(e) manipulate an application from a handheld wireless communication device
73a	$\hat{S} \rightarrow [\hat{S} \rightarrow , unless the application is being manipulated with a hands free application \leftarrow \hat{S}] \leftarrow \hat{S}$
74	(3) Subsection (2) does not prohibit a person from using a handheld wireless
75	communication device while operating a moving motor vehicle:
76	(a) when making or receiving a telephone call;
77	(b) when using a handheld wireless communication device for global positioning or
78	navigation services;
79	[(a)] (c) during a medical emergency;
80	[(b)] (d) when reporting a safety hazard or requesting assistance relating to a safety
81	hazard;
82	[(c)] (e) when reporting criminal activity or requesting assistance relating to a criminal
83	activity;
84	$[(d)]$ (f) when providing roadside or medical assistance; $\hat{S} \rightarrow [\sigma r] \leftarrow \hat{S}$
85	[(c)] (g) when used by a law enforcement officer or emergency service personnel acting Senate 3rd Reading Amendments 2-28-2012 cm/sch

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- 86 within the course and scope of the law enforcement officer's or emergency service personnel's
- 87 employment  $\hat{\mathbf{S}} \rightarrow ; or$
- 87a (h) to operate:
- 87b (i) hands-free or voice operated technology; or
- 87c (ii) a system that is physically or electronically integrated into the motor vehicle **+\$**.
- 88 (4) A person convicted of a violation of this section is guilty of a:
- 89 (a) class C misdemeanor; or

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91(i) has also inflicted serious bodily injury upon another as a proximate result of using a92handheld wireless communication device for text messaging or electronic mail communication93while operating a moving motor vehicle on a highway in this state; or94(ii) has a prior conviction under this section; or95(A) the current conviction under this section; or96(B) the commission of the offense upon which the current conviction is based.97Section 2. Section 76-5-207.5 is amended to read:9876-5-207.5. Automobile homicide involving using a handheld wireless99communication device while driving.100(1) As used in this section:101(a) "Criminally negligent" means criminal negligence as defined by Subsection176-2-103(4).76-2-103(4).103 $f(ii)$ (b) "Handheld wireless communication device" has the same meaning as defined104in Section 41-6a-1716.105 $f(i)$ (c) "Motor vehicle" means any self-propelled vehicle and includes any106automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.107 $[(c) "Text messaging" has the same meaning as defined in Section 76-4-401.]108[(2) (a) As used in this Subsection (2), "negligent"]109(d) "Negligent" means simple negligence, the failure to exercise that degree of care that108reasonable and prudent persons exercise under like or similar circumstances.119[(d) 'C) Criminal homicide is automobile homicide, a third degree felony, if the person120operates a moving motor vehicle in a negligent manne$	90	(b) class B misdemeanor if the person:
<ul> <li>while operating a moving motor vehicle on a highway in this state; or</li> <li>(ii) has a prior conviction under this section, that is within three years of:</li> <li>(A) the current conviction under this section; or</li> <li>(B) the commission of the offense upon which the current conviction is based.</li> <li>Section 2. Section 76-5-207.5 is amended to read:</li> <li>76-5-207.5. Automobile homicide involving using a handheld wireless</li> <li>communication device while driving.</li> <li>(1) As used in this section:</li> <li>(a) "Criminally negligent" means criminal negligence as defined by Subsection</li> <li>76-2-103(4).</li> <li>[(<del>a</del>)] (b) "Handheld wireless communication device" has the same meaning as defined</li> <li>in Section 41-6a-1716.</li> <li>[(<del>b</del>)] (c) "Motor vehicle" means any self-propelled vehicle and includes any</li> <li>automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.</li> <li>[(<del>c</del>)] "Text messaging" has the same meaning as defined in Section 76-4-401:]</li> <li>[(<del>c</del>)] (2) Criminal homicide is automobile homicide, a third degree of care that</li> <li>reasonable and prudent persons exercise under like or similar circumstances.</li> <li>[(<del>b</del>)] (2) Criminal homicide is automobile homicide, a third degree felony, if the person</li> <li>operates a moving motor vehicle in a negligent manner:</li> <li>[(<del>b</del>)] (<u>a</u>) while using a handheld wireless communication device [for text messaging or</li> <li>electronic mail communication] in violation of Section 41-6a-1716; and</li> <li>[<del>(b)</del>] (<u>a</u>) criminal homicide is automobile homicide, a second degree felony, if the</li> <li>person operates a moving motor vehicle in a criminally negligent" means criminal</li> <li>negligence as defined by Subsection 76-2-103(4).]</li> <li>[<del>(b)</del>] (<u>3</u>) Criminal homicide is automobile homicide, a second degree felony, if the</li> <li>person operates a moving motor vehicle in a criminally negligent manner:</li> </ul>	91	(i) has also inflicted serious bodily injury upon another as a proximate result of using a
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- 121 electronic mail communication] in violation of Section 41-6a-1716; and
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