# AMENDMENTS TO PROHIBITION ON USING A HANDHELD WIRELESS COMMUNICATION DEVICE WHILE OPERATING A VEHICLE

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lyle W. Hillyard**

House Sponsor: Richard A. Greenwood

**LONG TITLE**

**General Description:**

This bill modifies the Traffic Code and the Utah Criminal Code by amending provisions relating to the prohibition of using a wireless communication device while operating a moving motor vehicle.

**Highlighted Provisions:**

This bill:

- amends definitions;
- provides that a person may not use a handheld wireless communication device while operating a moving motor vehicle on a highway in this state to:
  - text message;
  - manually communicate through an electronic mail system;
  - manually enter data into a handheld wireless communication device;
  - send data, read text, or view images on a handheld wireless communication device; or
  - manipulate an application from a handheld wireless communication device;
- provides that a person is not prohibited from using a handheld wireless communication device while operating a moving motor vehicle:
  - when making or receiving a telephone call;
  - when using a handheld wireless communication device for global positioning or navigation services; or

- to operate a hands-free or voice operated technology or to operate a system that is physically or electronically integrated into the motor vehicle;

▸ provides that a person is guilty of automobile homicide involving a handheld wireless communication device if the person uses a handheld wireless communication device for certain purposes while operating a moving motor vehicle in a negligent or criminally negligent manner and causes the death of another person; and

▸ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**41-6a-1716**, as enacted by Laws of Utah 2009, Chapter 291

**76-5-207.5**, as enacted by Laws of Utah 2009, Chapter 291

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **41-6a-1716** is amended to read:

**41-6a-1716. Prohibition on using a handheld wireless communication device while operating a moving motor vehicle -- Exceptions -- Penalties.**

(1) As used in this section:

(a) (i) "Handheld wireless communication device" means a handheld device used for the transfer of information without the use of electrical conductors or wires.

(ii) "Handheld wireless communication device" includes a:

(A) wireless telephone;

(B) personal digital assistant;

(C) pager; or

(D) text messaging device.

(b) (i) "Text [~~messaging" has the same meaning as defined in Section 76-4-401.~~] message" means to manually communicate in the form of electronic text or one or more electronic images sent by the actor from a handheld wireless communication device to another person's handheld wireless communication device or computer by addressing the communication to the person's telephone number.

(ii) "Text message" includes manually composing a communication in the form of electronic text or an electronic image by the actor even if the electronic text or image has not been sent to another person.

(2) Except as provided in Subsection (3), a person may not use a handheld wireless communication device [~~for text messaging or electronic mail communication~~] while operating a moving motor vehicle on a highway in this state[~~.~~] to:

(a) text message;

(b) manually communicate through an electronic mail system;

(c) manually enter data into a handheld wireless communication device;

(d) send data, read text, or view images on a handheld wireless communication device; or

(e) manipulate an application from a handheld wireless communication device.

(3) Subsection (2) does not prohibit a person from using a handheld wireless communication device while operating a moving motor vehicle:

(a) when making or receiving a telephone call;

(b) when using a handheld wireless communication device for global positioning or navigation services;

[~~(a)~~] (c) during a medical emergency;

[~~(b)~~] (d) when reporting a safety hazard or requesting assistance relating to a safety hazard;

[~~(c)~~] (e) when reporting criminal activity or requesting assistance relating to a criminal activity;

[~~(d)~~] (f) when providing roadside or medical assistance; [~~or~~]

[~~(e)~~] (g) when used by a law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment[~~.~~]; or

(h) to operate:

(i) hands-free or voice operated technology; or

(ii) a system that is physically or electronically integrated into the motor vehicle.

(4) A person convicted of a violation of this section is guilty of a:

(a) class C misdemeanor; or

(b) class B misdemeanor if the person:

(i) has also inflicted serious bodily injury upon another as a proximate result of using a handheld wireless communication device for text messaging or electronic mail communication while operating a moving motor vehicle on a highway in this state; or

(ii) has a prior conviction under this section, that is within three years of:

(A) the current conviction under this section; or

(B) the commission of the offense upon which the current conviction is based.

Section 2. Section **76-5-207.5** is amended to read:

**76-5-207.5. Automobile homicide involving using a handheld wireless communication device while driving.**

(1) As used in this section:

(a) "Criminally negligent" means criminal negligence as defined by Subsection 76-2-103(4).

[~~(a)~~] (b) "Handheld wireless communication device" has the same meaning as defined in Section 41-6a-1716.

[~~(b)~~] (c) "Motor vehicle" means any self-propelled vehicle and includes any automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.

[~~(c) "Text messaging" has the same meaning as defined in Section 76-4-401.~~]

[~~(2) (a) As used in this Subsection (2), "negligent"~~]

(d) "Negligent" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.

[~~(b)~~] (2) Criminal homicide is automobile homicide, a third degree felony, if the person operates a moving motor vehicle in a negligent manner:

[~~(i)~~] (a) while using a handheld wireless communication device [~~for text messaging or electronic mail communication~~] in violation of Section 41-6a-1716; and

[~~(ii)~~] (b) causing the death of another person.

[~~(3) (a) As used in this Subsection (3), "criminally negligent" means criminal negligence as defined by Subsection 76-2-103(4).~~]

[~~(b)~~] (3) Criminal homicide is automobile homicide, a second degree felony, if the person operates a moving motor vehicle in a criminally negligent manner:

[~~(i)~~] (a) while using a handheld wireless communication device [~~for text messaging or electronic mail communication~~] in violation of Section 41-6a-1716; and

[~~(ii)~~] (b) causing the death of another person.