
ENGROSSED SUBSTITUTE HOUSE BILL 1371

State of Washington

65th Legislature

2017 Regular Session

By House Transportation (originally sponsored by Representatives Farrell, Lovick, Haler, Harris, Clibborn, Orwall, Kagi, Robinson, Appleton, Ryu, Goodman, Tarleton, Gregerson, Sells, Ormsby, and Cody)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to updating the distracted driving infraction;
2 reenacting and amending RCW 43.84.092; adding new sections to chapter
3 46.61 RCW; repealing RCW 46.61.667 and 46.61.668; prescribing
4 penalties; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.61
7 RCW to read as follows:

8 (1) A person who uses a personal electronic device while driving
9 a motor vehicle on a public roadway is guilty of a traffic infraction
10 and must pay a fine as provided in RCW 46.63.110(3).

11 (2) Subsection (1) of this section does not apply to:

12 (a) A driver who is using a personal electronic device to contact
13 emergency services;

14 (b) The use of a system by a transit system employee for time-
15 sensitive relay communication between the transit system employee and
16 the transit system's dispatch services;

17 (c) An individual employed as a commercial motor vehicle driver
18 who uses a personal electronic device within the scope of such
19 individual's employment if such use is permitted under 49 U.S.C. Sec.
20 31136 as it existed on the effective date of this section;

21 (d) A person operating an authorized emergency vehicle;

1 (e) A person operating a tow truck, to the extent that person is
2 using the telephone call functionality of a wireless communications
3 device;

4 (f) A person operating a motor vehicle other than a commercial
5 motor vehicle during an emergency situation or extraordinary
6 circumstances that have temporarily caused a significant traffic
7 delay; and

8 (g) Beginning January 1, 2021, a person operating an autonomous
9 vehicle while it is being operated in a mode that does not require
10 the person to be in active physical control of or continuously
11 monitoring the vehicle.

12 (3) Subsection (1) of this section does not restrict the
13 operation of:

14 (a) An amateur radio station by a person who holds a valid
15 amateur radio operator license issued by the federal communications
16 commission; or

17 (b) Two-way or citizens band radio services by a person driving a
18 commercial motor vehicle.

19 (4) The state preempts the field of regulating the use of
20 personal electronic devices in motor vehicles while driving, and this
21 section supersedes any local laws, ordinances, orders, rules, or
22 regulations enacted by any political subdivision or municipality to
23 regulate the use of a personal electronic device by the operator of a
24 motor vehicle.

25 (5) A second or subsequent offense under this section within five
26 years is subject to two times the penalty amount under RCW 46.63.110.

27 (6) The first and second offense under this section within five
28 years must not become part of the driver's record under RCW 46.52.101
29 and 46.52.120, and a finding that a person has committed a first and
30 second offense under this section within five years must not be made
31 available to insurance companies.

32 (7) For purposes of this section:

33 (a) "Autonomous vehicle" means any vehicle equipped with
34 technology that has the capability of operating or driving the
35 vehicle without the active physical control or monitoring of a human
36 operator, whether or not the technology is engaged, excluding
37 vehicles equipped with one or more systems that enhance safety or
38 provide driver assistance but are not capable of driving or operating
39 the vehicle without the active physical control or monitoring of a
40 human operator. An "autonomous vehicle" meets the definition of level

1 3, 4, or 5 of the society of automotive engineers' taxonomy and
2 definitions for terms related to on-road motor vehicle automated
3 driving systems.

4 (b) "Driving" means to operate a motor vehicle on a public
5 roadway, including while temporarily stationary because of traffic, a
6 traffic control device, or other momentary delays. "Driving" does not
7 include when the vehicle has pulled over to the side of, or off of,
8 an active roadway and has stopped in a location where it can safely
9 remain stationary.

10 (c) "Personal electronic device" means any portable electronic
11 device that is capable of wireless communication or electronic data
12 retrieval and is not manufactured primarily for hands-free use in a
13 motor vehicle. "Personal electronic device" includes, but is not
14 limited to, a cell phone, tablet, laptop, two-way messaging device,
15 or electronic game.

16 (d) "Use" or "uses" means:

17 (i) Holding a personal electronic device in either hand or both
18 hands;

19 (ii) Using your hand or finger to compose, send, read, view,
20 access, browse, transmit, save, or retrieve email, text messages,
21 instant messages, photographs, or other electronic data; however,
22 this neither precludes the minimal use of a finger to activate,
23 deactivate, or initiate a function of the device, nor precludes the
24 use of a hand or finger to control the built-in features of a motor
25 vehicle through the use of a touch screen control panel;

26 (iii) Watching video on a personal electronic device.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.61
28 RCW to read as follows:

29 (1)(a) It is a traffic infraction to drive dangerously
30 distracted. Any driver who commits this infraction must be assessed
31 the unscheduled infraction base penalty amount prescribed by rule by
32 the supreme court in its schedule of monetary penalties for
33 infractions, as directed under RCW 46.63.110(3).

34 (b) Enforcement of the infraction of driving dangerously
35 distracted may be accomplished only as a secondary action when a
36 driver of a motor vehicle has been detained for a suspected violation
37 of a separate traffic infraction or an equivalent local ordinance.

38 (c) For the purposes of this section, "dangerously distracted"
39 means a person who engages in any activity not related to the actual

1 operation of a motor vehicle in a manner that interferes with the
2 safe operation of such motor vehicle on any highway.

3 (2) The additional monetary penalty imposed under this section
4 must be deposited into the distracted driving prevention account
5 created in subsection (3) of this section.

6 (3) The distracted driving prevention account is created in the
7 state treasury. All receipts from the base penalty in subsection (2)
8 of this section must be deposited into the account. Moneys in the
9 account may be spent only after appropriation. Expenditures from the
10 account may be used only by the Washington traffic safety commission
11 solely to support programs dedicated to reducing distracted driving
12 and improving driver education on distracted driving.

13 **Sec. 3.** RCW 43.84.092 and 2016 c 194 s 5, 2016 c 161 s 20, and
14 2016 c 112 s 4 are each reenacted and amended to read as follows:

15 (1) All earnings of investments of surplus balances in the state
16 treasury shall be deposited to the treasury income account, which
17 account is hereby established in the state treasury.

18 (2) The treasury income account shall be utilized to pay or
19 receive funds associated with federal programs as required by the
20 federal cash management improvement act of 1990. The treasury income
21 account is subject in all respects to chapter 43.88 RCW, but no
22 appropriation is required for refunds or allocations of interest
23 earnings required by the cash management improvement act. Refunds of
24 interest to the federal treasury required under the cash management
25 improvement act fall under RCW 43.88.180 and shall not require
26 appropriation. The office of financial management shall determine the
27 amounts due to or from the federal government pursuant to the cash
28 management improvement act. The office of financial management may
29 direct transfers of funds between accounts as deemed necessary to
30 implement the provisions of the cash management improvement act, and
31 this subsection. Refunds or allocations shall occur prior to the
32 distributions of earnings set forth in subsection (4) of this
33 section.

34 (3) Except for the provisions of RCW 43.84.160, the treasury
35 income account may be utilized for the payment of purchased banking
36 services on behalf of treasury funds including, but not limited to,
37 depository, safekeeping, and disbursement functions for the state
38 treasury and affected state agencies. The treasury income account is
39 subject in all respects to chapter 43.88 RCW, but no appropriation is

1 required for payments to financial institutions. Payments shall occur
2 prior to distribution of earnings set forth in subsection (4) of this
3 section.

4 (4) Monthly, the state treasurer shall distribute the earnings
5 credited to the treasury income account. The state treasurer shall
6 credit the general fund with all the earnings credited to the
7 treasury income account except:

8 (a) The following accounts and funds shall receive their
9 proportionate share of earnings based upon each account's and fund's
10 average daily balance for the period: The aeronautics account, the
11 aircraft search and rescue account, the Alaskan Way viaduct
12 replacement project account, the brownfield redevelopment trust fund
13 account, the budget stabilization account, the capital vessel
14 replacement account, the capitol building construction account, the
15 Cedar River channel construction and operation account, the Central
16 Washington University capital projects account, the charitable,
17 educational, penal and reformatory institutions account, the Chehalis
18 basin account, the cleanup settlement account, the Columbia river
19 basin water supply development account, the Columbia river basin
20 taxable bond water supply development account, the Columbia river
21 basin water supply revenue recovery account, the common school
22 construction fund, the community forest trust account, the connecting
23 Washington account, the county arterial preservation account, the
24 county criminal justice assistance account, the deferred compensation
25 administrative account, the deferred compensation principal account,
26 the department of licensing services account, the department of
27 retirement systems expense account, the developmental disabilities
28 community trust account, the diesel idle reduction account, the
29 distracted driving prevention account, the drinking water assistance
30 account, the drinking water assistance administrative account, the
31 drinking water assistance repayment account, the Eastern Washington
32 University capital projects account, the Interstate 405 express toll
33 lanes operations account, the education construction fund, the
34 education legacy trust account, the election account, the electric
35 vehicle charging infrastructure account, the energy freedom account,
36 the energy recovery act account, the essential rail assistance
37 account, The Evergreen State College capital projects account, the
38 federal forest revolving account, the ferry bond retirement fund, the
39 freight mobility investment account, the freight mobility multimodal
40 account, the grade crossing protective fund, the public health

1 services account, the high capacity transportation account, the state
2 higher education construction account, the higher education
3 construction account, the highway bond retirement fund, the highway
4 infrastructure account, the highway safety fund, the high occupancy
5 toll lanes operations account, the hospital safety net assessment
6 fund, the industrial insurance premium refund account, the judges'
7 retirement account, the judicial retirement administrative account,
8 the judicial retirement principal account, the local leasehold excise
9 tax account, the local real estate excise tax account, the local
10 sales and use tax account, the marine resources stewardship trust
11 account, the medical aid account, the mobile home park relocation
12 fund, the money-purchase retirement savings administrative account,
13 the money-purchase retirement savings principal account, the motor
14 vehicle fund, the motorcycle safety education account, the multimodal
15 transportation account, the multiuse roadway safety account, the
16 municipal criminal justice assistance account, the natural resources
17 deposit account, the oyster reserve land account, the pension funding
18 stabilization account, the perpetual surveillance and maintenance
19 account, the pollution liability insurance agency underground storage
20 tank revolving account, the public employees' retirement system plan
21 1 account, the public employees' retirement system combined plan 2
22 and plan 3 account, the public facilities construction loan revolving
23 account beginning July 1, 2004, the public health supplemental
24 account, the public works assistance account, the Puget Sound capital
25 construction account, the Puget Sound ferry operations account, the
26 Puget Sound taxpayer accountability account, the real estate
27 appraiser commission account, the recreational vehicle account, the
28 regional mobility grant program account, the resource management cost
29 account, the rural arterial trust account, the rural mobility grant
30 program account, the rural Washington loan fund, the site closure
31 account, the skilled nursing facility safety net trust fund, the
32 small city pavement and sidewalk account, the special category C
33 account, the special wildlife account, the state employees' insurance
34 account, the state employees' insurance reserve account, the state
35 investment board expense account, the state investment board
36 commingled trust fund accounts, the state patrol highway account, the
37 state route number 520 civil penalties account, the state route
38 number 520 corridor account, the state wildlife account, the
39 supplemental pension account, the Tacoma Narrows toll bridge account,
40 the teachers' retirement system plan 1 account, the teachers'

1 retirement system combined plan 2 and plan 3 account, the tobacco
2 prevention and control account, the tobacco settlement account, the
3 toll facility bond retirement account, the transportation 2003
4 account (nickel account), the transportation equipment fund, the
5 transportation fund, the transportation future funding program
6 account, the transportation improvement account, the transportation
7 improvement board bond retirement account, the transportation
8 infrastructure account, the transportation partnership account, the
9 traumatic brain injury account, the tuition recovery trust fund, the
10 University of Washington bond retirement fund, the University of
11 Washington building account, the volunteer firefighters' and reserve
12 officers' relief and pension principal fund, the volunteer
13 firefighters' and reserve officers' administrative fund, the
14 Washington judicial retirement system account, the Washington law
15 enforcement officers' and firefighters' system plan 1 retirement
16 account, the Washington law enforcement officers' and firefighters'
17 system plan 2 retirement account, the Washington public safety
18 employees' plan 2 retirement account, the Washington school
19 employees' retirement system combined plan 2 and 3 account, the
20 Washington state health insurance pool account, the Washington state
21 patrol retirement account, the Washington State University building
22 account, the Washington State University bond retirement fund, the
23 water pollution control revolving administration account, the water
24 pollution control revolving fund, the Western Washington University
25 capital projects account, the Yakima integrated plan implementation
26 account, the Yakima integrated plan implementation revenue recovery
27 account, and the Yakima integrated plan implementation taxable bond
28 account. Earnings derived from investing balances of the agricultural
29 permanent fund, the normal school permanent fund, the permanent
30 common school fund, the scientific permanent fund, the state
31 university permanent fund, and the state reclamation revolving
32 account shall be allocated to their respective beneficiary accounts.

33 (b) Any state agency that has independent authority over accounts
34 or funds not statutorily required to be held in the state treasury
35 that deposits funds into a fund or account in the state treasury
36 pursuant to an agreement with the office of the state treasurer shall
37 receive its proportionate share of earnings based upon each account's
38 or fund's average daily balance for the period.

1 (5) In conformance with Article II, section 37 of the state
2 Constitution, no treasury accounts or funds shall be allocated
3 earnings without the specific affirmative directive of this section.

4 NEW SECTION. **Sec. 4.** The following acts or parts of acts are
5 each repealed:

6 (1) RCW 46.61.667 (Using a wireless communications device or
7 handheld mobile telephone while driving) and 2013 c 224 s 15, 2010 c
8 223 s 3, & 2007 c 417 s 2; and

9 (2) RCW 46.61.668 (Sending, reading, or writing a text message
10 while driving) and 2013 c 224 s 16, 2010 c 223 s 4, & 2007 c 416 s 1.

11 NEW SECTION. **Sec. 5.** This act takes effect January 1, 2018.

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