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HOUSE BILL 2706

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Irwin, Griffey, and Fey

1 AN ACT Relating to exempting tow truck operators using the  
2 telephone call functionality of a wireless communications device from  
3 traffic infractions; and amending RCW 46.61.672.

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

5 **Sec. 1.** RCW 46.61.672 and 2017 c 334 s 1 are each amended to  
6 read as follows:

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

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

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

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

16 (c) An individual employed as a commercial motor vehicle driver  
17 who uses a personal electronic device within the scope of such  
18 individual's employment if such use is permitted under 49 U.S.C. Sec.  
19 31136 as it existed on July 23, 2017; ~~((and))~~

20 (d) A person operating an authorized emergency vehicle; and

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       (3) The state preempts the field of regulating the use of  
5 personal electronic devices in motor vehicles while driving, and this  
6 section supersedes any local laws, ordinances, orders, rules, or  
7 regulations enacted by any political subdivision or municipality to  
8 regulate the use of a personal electronic device by the operator of a  
9 motor vehicle.

10       (4) A second or subsequent offense under this section is subject  
11 to two times the penalty amount under RCW 46.63.110.

12       (5) For purposes of this section:

13       (a) "Driving" means to operate a motor vehicle on a public  
14 highway, including while temporarily stationary because of traffic, a  
15 traffic control device, or other momentary delays. "Driving" does not  
16 include when the vehicle has pulled over to the side of, or off of,  
17 an active roadway and has stopped in a location where it can safely  
18 remain stationary.

19       (b) "Personal electronic device" means any portable electronic  
20 device that is capable of wireless communication or electronic data  
21 retrieval and is not manufactured primarily for hands-free use in a  
22 motor vehicle. "Personal electronic device" includes, but is not  
23 limited to, a cell phone, tablet, laptop, two-way messaging device,  
24 or electronic game. "Personal electronic device" does not include  
25 two-way radio, citizens band radio, or amateur radio equipment.

26       (c) "Use" or "uses" means:

27       (i) Holding a personal electronic device in either hand or both  
28 hands;

29       (ii) Using your hand or finger to compose, send, read, view,  
30 access, browse, transmit, save, or retrieve email, text messages,  
31 instant messages, photographs, or other electronic data; however,  
32 this does not preclude the minimal use of a finger to activate,  
33 deactivate, or initiate a function of the device;

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

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