

FIRST REGULAR SESSION

# SENATE BILL NO. 11

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR McKENNA.

Pre-filed December 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

0338S.011

## AN ACT

To repeal section 304.820, RSMo, and to enact in lieu thereof one new section relating to the banning of text messaging while operating a motor vehicle.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 304.820, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 304.820, to read as follows:

304.820. 1. Except as otherwise provided in this section, no person  
2 [twenty-one years of age or younger] operating a moving motor vehicle upon the  
3 highways of this state shall, by means of a hand-held electronic wireless  
4 communications device, send, read, or write a text message or electronic message.

5 2. The provisions of subsection 1 of this section shall not apply to a person  
6 operating:

7 (1) An authorized emergency vehicle; or

8 (2) A moving motor vehicle while using a hand-held electronic wireless  
9 communications device to:

10 (a) Report illegal activity;

11 (b) Summon medical or other emergency help;

12 (c) Prevent injury to a person or property; or

13 (d) Relay information between a transit or for-hire operator and that  
14 operator's dispatcher, in which the device is permanently affixed to the vehicle.

15 3. Nothing in this section shall be construed or interpreted as prohibiting  
16 a person from making or taking part in a telephone call, by means of a hand-held  
17 electronic wireless communications device, while operating a motor vehicle upon  
18 the highways of this state.

19 4. As used in this section, "electronic message" means a self-contained

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20 piece of digital communication that is designed or intended to be transmitted  
21 between hand-held electronic wireless communication devices. "Electronic  
22 message" includes, but is not limited to, electronic mail, a text message, an  
23 instant message, or a command or request to access an Internet site.

24 5. As used in this section, "hand-held electronic wireless communications  
25 device" includes any hand-held cellular phone, palm pilot, blackberry, or other  
26 mobile electronic device used to communicate verbally or by text or electronic  
27 messaging, but shall not apply to any device that is permanently embedded into  
28 the architecture and design of the motor vehicle.

29 6. As used in this section, "making or taking part in a telephone call"  
30 means listening to or engaging in verbal communication through a hand-held  
31 electronic wireless communication device.

32 7. As used in this section, "send, read, or write a text message or  
33 electronic message" means using a hand-held electronic wireless  
34 telecommunications device to manually communicate with any person by using  
35 an electronic message. Sending, reading, or writing a text message or electronic  
36 message does not include reading, selecting, or entering a phone number or name  
37 into a hand-held electronic wireless communications device for the purpose of  
38 making a telephone call.

39 8. A violation of this section shall be deemed an infraction and shall be  
40 deemed a moving violation for purposes of point assessment under section  
41 302.302.

42 9. [The state preempts the field of regulating the use of hand-held  
43 electronic wireless communications devices in motor vehicles, and the provisions  
44 of this section shall supercede any local laws, ordinances, orders, rules, or  
45 regulations enacted by a county, municipality, or other political subdivision to  
46 regulate the use of hand-held electronic wireless communication devices by the  
47 operator of a motor vehicle] **Any city or county shall have the authority to**  
48 **adopt ordinances or regulations which are equivalent to, but not more**  
49 **restrictive than, the provisions of this section.**

50 10. The provisions of this section shall not apply to:

- 51 (1) The operator of a vehicle that is lawfully parked or stopped;  
52 (2) Any of the following while in the performance of their official duties:  
53 a law enforcement officer; a member of a fire department; or the operator of a  
54 public or private ambulance;  
55 (3) The use of factory-installed or aftermarket global positioning systems

56 (GPS) or wireless communications devices used to transmit or receive data as part  
57 of a digital dispatch system;

58 (4) The use of voice-operated technology;

59 (5) The use of two-way radio transmitters or receivers by a licensee of the  
60 Federal Communications Commission in the Amateur Radio Service;

61 **(6) A person using a handheld mobile telephone in conjunction**  
62 **with a voice-operated or hands-free device. The term "voice-operated**  
63 **or hands-free device" shall mean a device that allows the user to write,**  
64 **send, or read a text message without the use of either hand except to**  
65 **activate or deactivate a feature or function.**

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Bill

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