

SECOND REGULAR SESSION

# SENATE BILL NO. 749

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5032S.011

## AN ACT

To repeal section 304.820, RSMo, and to enact in lieu thereof one new section relating to the operation of motor vehicles while using electronic devices, with penalty provisions.

*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Section A. Section 304.820, RSMo, is repealed and one new section  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  
5 message.] **As used in this section, the following terms mean:**

6 **(1) "Electronic message", a self-contained piece of digital**  
7 **communication that is designed or intended to be transmitted via an**  
8 **electronic wireless communication device, which includes, but is not**  
9 **limited to, electronic mail, a text message, an instant message, or a**  
10 **command or request to access an internet site;**

11 **(2) "Electronic wireless communication device", includes, but is**  
12 **not limited to a cell phone, personal digital assistant, electronic device**  
13 **with mobile data access, laptop computer, pager, broadband personal**  
14 **communication device, electronic game or portable computing device.**  
15 **An electronic wireless communications device shall not include:**

16 **(a) Global navigation satellite system receivers used for**  
17 **positioning, emergency notification, or navigation purposes; or**

18 **(b) Two-way or citizen band radio services;**

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

19           **(3) "Hands-free electronic wireless communication device", a**  
20 **wireless communication device that has an internal feature or function,**  
21 **or that is equipped with an attachment or addition, whether or not**  
22 **permanently part of such mobile electronic device, by which a user**  
23 **engages with the device without the use of either hand; provided,**  
24 **however, this definition shall not preclude the use of either hand**  
25 **merely to activate, deactivate, or initiate a function of the device;**

26           **(4) "Highway", any public thoroughfare for vehicles, including**  
27 **state roads, county roads and public streets, avenues, boulevards,**  
28 **parkways or alleys in any municipality; and**

29           **(5) "Operating", physically driving or controlling a motor vehicle**  
30 **on a highway, including while temporarily stationary because of traffic,**  
31 **a traffic light or stop sign, or otherwise. A person is not operating a**  
32 **motor vehicle for purposes of this section when the vehicle has pulled**  
33 **over to the side of, or off, a highway and has stopped in a location**  
34 **where it can safely remain stationary.**

35           **2. Except as otherwise provided in this section, a person**  
36 **operating a noncommercial motor vehicle, as that term is defined in**  
37 **section 302.700, upon the highways of this state shall not use any hand-**  
38 **held electronic wireless communications device. Prohibited uses shall**  
39 **include, but not be limited to: reading, composing, viewing, or posting**  
40 **any electronic message; or initiating, receiving, or conducting a**  
41 **conversation; or manually typing data into any electronic wireless**  
42 **communication device.**

43           **3. Except as otherwise provided in this section, no person shall operate**  
44 **a commercial motor vehicle, as that term is defined in section 302.700, while**  
45 **using a hand-held mobile telephone.**

46           **[3.] 4. Except as otherwise provided in this section, no person shall**  
47 **operate a commercial motor vehicle, as that term is defined in section**  
48 **302.700, while using a wireless communications device to send, read, or write a**  
49 **text message or electronic message.**

50           **[4.] 5. The provisions of [subsection 1 through subsection 3] subsections**  
51 **2 to 4 of this section shall not apply to a person operating:**

52           **(1) An authorized emergency vehicle, as that term is defined in**  
53 **section 304.022; [or]**

54           **(2) A motor vehicle that is responding to another motor vehicle's**

55 **request for roadside assistance upon the highways of this state when**  
56 **such response is conducted in the course and scope of a commercial**  
57 **activity; or**

58 **(3)** A moving motor vehicle while using a hand-held electronic wireless  
59 communications device to:

60 (a) [Report illegal activity;

61 (b) Summon medical or other emergency help;

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

63 (d)] **Contact emergency services; or**

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

66 [5.] **6.** Nothing in **subsection 2 of** this section shall be construed or  
67 interpreted [as prohibiting a person from making or taking part in a telephone  
68 call, by means of a hand-held electronic wireless communications device, while  
69 operating a noncommercial motor vehicle upon the highways of this state.

70 6. As used in this section, "electronic message" means a self-contained  
71 piece of digital communication that is designed or intended to be transmitted  
72 between hand-held electronic wireless communication devices. "Electronic  
73 message" includes, but is not limited to, electronic mail, a text message, an  
74 instant message, or a command or request to access an internet site.

75 7. As used in this section, "hand-held electronic wireless communications  
76 device" includes any hand-held cellular phone, palm pilot, blackberry, or other  
77 mobile electronic device used to communicate verbally or by text or electronic  
78 messaging, but shall not apply to any device that is permanently embedded into  
79 the architecture and design of the motor vehicle.

80 8. As used in this section, "making or taking part in a telephone call"  
81 means listening to or engaging in verbal communication through a hand-held  
82 electronic wireless communication device.

83 9. As used in this section, "send, read, or write a text message or  
84 electronic message" means using a hand-held electronic wireless  
85 telecommunications device to manually communicate with any person by using  
86 an electronic message. Sending, reading, or writing a text message or electronic  
87 message does not include reading, selecting, or entering a phone number or name  
88 into a hand-held electronic wireless communications device for the purpose of  
89 making a telephone call.

90 **10.] to prohibit a person operating a noncommercial motor**

91 **vehicle, as that term is defined in 302.700, on the highways of this state**  
92 **from using a hands-free electronic wireless communication device when**  
93 **the operator is not holding the hands-free electronic wireless**  
94 **communication device in the operator's hand or hands, except the**  
95 **operator shall not have his or her attention diverted from the lawful**  
96 **operation of the noncommercial motor vehicle, as that term is defined**  
97 **in 302.700. The provisions of subsection 2 of this section shall not**  
98 **prohibit the use of either hand merely to activate, deactivate, or**  
99 **initiate a function of a hands-free electronic wireless communication**  
100 **device.**

101 **7. A violation of this section shall be deemed an infraction [and shall be]**  
102 **punishable by a fifty dollar fine. A violation of this section while**  
103 **operating a motor vehicle in a work zone, as defined in section 304.580,**  
104 **when highway workers, as defined in section 304.580, are present, or in**  
105 **areas designated as a school zone that are visibly marked by traffic**  
106 **control devices shall be deemed an infraction punishable by a one**  
107 **hundred dollar fine. A violation of subsection 2 of this section shall not**  
108 **be deemed a moving violation for purposes of point assessment under section**  
109 **302.302. A violation of subsections 3 or 4 of this section shall be deemed**  
110 **a serious traffic violation, as defined in 302.700, for purposes of**  
111 **commercial driver license disqualification under section 302.755.**

112 **[11.] 8. The state preempts the field of regulating the use of hand-held**  
113 **electronic wireless communications devices [in] by the operators of motor**  
114 **vehicles, and the provisions of this section shall supercede any local laws,**  
115 **ordinances, orders, rules, or regulations enacted by a county, municipality, or**  
116 **other political subdivision to regulate the use of hand-held electronic wireless**  
117 **communication devices by the operator of a motor vehicle.**

118 **[12. The provisions of this section shall not apply to:**

119 **(1) The operator of a vehicle that is lawfully parked or stopped;**

120 **(2) Any of the following while in the performance of their official duties:**  
121 **a law enforcement officer; a member of a fire department; or the operator of a**  
122 **public or private ambulance;**

123 **(3) The use of factory-installed or aftermarket global positioning systems**  
124 **(GPS) or wireless communications devices used to transmit or receive data as part**  
125 **of a digital dispatch system;**

126 **(4) The use of voice-operated technology;**

127 (5) The use of two-way radio transmitters or receivers by a licensee of the  
128 Federal Communications Commission in the Amateur Radio Service.]

129 **9. Notwithstanding any provision of this section to the contrary,**  
130 **no person less than eighteen years of age, or with an instruction permit**  
131 **or intermediate license regardless of age, shall use an electronic**  
132 **wireless communications device, whether hands-free or not, while**  
133 **operating a motor vehicle on the highways of this state, except to**  
134 **contact emergency services.**

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