

FIRST REGULAR SESSION

SENATE BILL NO. 15

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Pre-filed December 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0491S.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Section A. Section 304.820, RSMo, is repealed and one new section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, including but not limited to**
9 **electronic mail, text messages, instant messages, or commands or**
10 **requests to access an internet site;**

11 **(2) "Electronic wireless communication device", includes but is**
12 **not limited to cell phones, personal digital assistants, electronic devices**
13 **with mobile data access, laptop computers, pagers, broadband personal**
14 **communication devices, electronic games, or portable computing**
15 **devices. Such term shall not include global navigation satellite system**
16 **receivers used for positioning, emergency notification, or navigation**
17 **purposes, or two-way or citizen band radio services;**

18 **(3) "Hands-free electronic wireless communication device", an**

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

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

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

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

34 **2. Except as otherwise provided in subsections 5 or 6 of this**
35 **section, no person shall operate a noncommercial motor vehicle, as**
36 **such term is defined in section 302.700, upon the highways of this state**
37 **while using any hand-held electronic wireless communications**
38 **device. Prohibited uses include but are not limited to: reading,**
39 **composing, viewing, or posting any electronic message; initiating,**
40 **receiving, or conducting a conversation; or manually entering data into**
41 **any electronic wireless communication device.**

42 **3. Except as otherwise provided in subsection 5 of this section, no**
43 **person shall operate a commercial motor vehicle, as such term is defined in**
44 **section 302.700, while using a hand-held mobile telephone.**

45 **[3.] 4. Except as otherwise provided in subsection 5 of this section, no**
46 **person shall operate a commercial motor vehicle, as such term is defined in**
47 **section 302.700, while using a wireless communications device to send, read, or**
48 **write a text message or electronic message.**

49 **[4.] 5. The provisions of [subsection 1 through subsection 3] subsections**
50 **2 to 4 of this section shall not apply to a person operating:**

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

53 **(2) A motor vehicle that is responding to another motor vehicle's**
54 **request for roadside assistance upon the highways of this state when**

55 **such response is conducted in the course and scope of a commercial**
56 **activity; or**

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

59 (a) [Report illegal activity;

60 (b) Summon medical or other emergency help;

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

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

63 **(b)** Relay information between a transit or for-hire operator and that
64 operator's dispatcher[, in which] **when** the device is [permanently] affixed to the
65 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 such term is defined in section 302.700, on the highways of**
92 **this state from using a hands-free electronic wireless communication**
93 **device when the operator is not holding the hands-free electronic**
94 **wireless communication device in the operator's hand or hands, except**
95 **the operator shall not have his or her attention diverted from the**
96 **lawful operation of the noncommercial motor vehicle. The provisions**
97 **of subsection 2 of this section shall not prohibit the use of either hand**
98 **merely to activate, deactivate, or initiate a function of a hands-free**
99 **electronic wireless communication device.**

100 **7. A violation of this section shall be deemed an infraction [and shall be]**
101 **punishable by a fifty dollar fine. A violation of this section while**
102 **operating a motor vehicle in a work zone, as such term is defined in**
103 **section 304.580, when highway workers, as such term is defined in**
104 **section 304.580, are present, or in areas designated as a school zone**
105 **that are visibly marked by traffic control devices shall be deemed an**
106 **infraction punishable by a one hundred dollar fine. A violation of**
107 **subsection 2 of this section shall not be deemed a moving violation for**
108 **purposes of point assessment under section 302.302. A violation of subsection**
109 **3 or 4 of this section shall be deemed a serious traffic violation, as**
110 **defined in section 302.700, for purposes of commercial driver license**
111 **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 law to the contrary, no**
130 **person less than eighteen years of age, and no person with an**
131 **instruction permit or intermediate license regardless of age, shall use**
132 **an electronic wireless communications device, whether hands-free or**
133 **not, while operating a motor vehicle on the highways of this state,**
134 **except to contact emergency services.**

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