

SENATE BILL NO. 713

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR RAZER.

3343S.01I

ADRIANE D. CROUSE, Secretary

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Section A. Section 304.820, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.820, to read as follows: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 twenty-one years of age or younger operating a moving motor vehicle upon the highways of this state shall, by means of a hand-held electronic wireless communications device, send, read, or write a text message or electronic message.

2.] As used in this section, the following terms mean:

(1) "Commercial motor vehicle", the same meaning as is ascribed to such term under section 302.700;

(2) "Electronic message", a self-contained piece of digital communication that is designed or intended to be transmitted via an electronic wireless communication device, including but not limited to electronic mail, text messages, instant messages, or commands or requests to access an internet site;

(3) "Electronic wireless communication device", includes but is not limited to cell phones, personal digital assistants, electronic devices with mobile data access,

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

19 laptop computers, pagers, broadband personal communication
20 devices, electronic games, or portable computing devices.
21 "Electronic wireless communication device" shall not include
22 global navigation satellite system receivers used for
23 positioning, emergency notification, or navigation purposes,
24 or two-way or citizens band radio services;

25 (4) "Hands-free electronic wireless communication
26 device", an electronic wireless communication device that
27 has an internal feature or function, or that is equipped
28 with an attachment or addition, whether or not permanently
29 part of such device, by which a user engages with the device
30 without the use of either hand; provided, however, this
31 definition shall not preclude the use of either hand merely
32 to activate, deactivate, or initiate a function of the
33 device;

34 (5) "Highway", any public thoroughfare for vehicles,
35 including state roads; county roads; and public streets,
36 avenues, boulevards, parkways, or alleys in any municipality;

37 (6) "Noncommercial motor vehicle", the same meaning as
38 is ascribed to such term under section 302.700;

39 (7) "Operate", to physically drive or control the
40 movement of a motor vehicle, including while temporarily
41 stationary because of traffic, a traffic light, stop sign,
42 or otherwise. A person is not operating a motor vehicle for
43 purposes of this section when the vehicle has pulled over to
44 the side of or off a highway and has stopped in a location
45 where it can safely remain stationary.

46 2. Except as otherwise provided in this subsection or
47 subsection 5 of this section, no person shall operate a
48 noncommercial motor vehicle upon the highways of this state
49 while using an electronic wireless communication device.
50 Prohibited uses include but are not limited to: reading,

51 composing, viewing, or posting any electronic message;
52 initiating, receiving, or conducting a conversation; or
53 manually entering data into any electronic wireless
54 communication device. A person may operate a noncommercial
55 motor vehicle upon the highways of this state while using a
56 hands-free electronic wireless communication device,
57 provided that the operator is not holding the hands-free
58 electronic wireless communication device in his or her hand
59 or hands, and provided that the operator does not divert his
60 or her attention from the lawful operation of the motor
61 vehicle. The provisions of this subsection shall not
62 prohibit the use of either hand merely to activate,
63 deactivate, or initiate a function of a hands-free
64 electronic wireless communication device while operating a
65 noncommercial motor vehicle.

66 3. Except as otherwise provided in subsection 5 of
67 this section, no person shall operate a commercial motor
68 vehicle upon the highways of this state while using a hand-
69 held mobile telephone.

70 [3.] 4. Except as otherwise provided in subsection 5
71 of this section, no person shall operate a commercial motor
72 vehicle upon the highways of this state while using [a] an
73 electronic wireless [communications] communication device to
74 send, read, or write a text message or electronic message,
75 unless such message is accomplished by touching a single
76 button and the driver remains seated and is restrained by a
77 seat belt as required by law.

78 [4.] 5. The provisions of [subsection 1 through
79 subsection 3] subsections 2 to 4 of this section shall not
80 apply to a person operating:

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

83 (2) **A motor vehicle that is responding to another**
84 **motor vehicle's request for roadside assistance upon the**
85 **highways of this state when such response is conducted in**
86 **the course and scope of a commercial activity; or**

87 (3) A [moving] motor vehicle while using [a hand-held]
88 **an electronic wireless [communications] communication device**
89 **to:**

90 (a) [Report illegal activity;

91 (b) Summon medical or other emergency help;

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

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

94 (b) Relay information between a transit or for-hire
95 **motor vehicle** operator and that operator's dispatcher, [in
96 **which] when** the device is [permanently] affixed to the
97 vehicle.

98 [5. Nothing in this section shall be construed or
99 interpreted as prohibiting a person from making or taking
100 part in a telephone call, by means of a hand-held electronic
101 wireless communications device, while operating a
102 noncommercial motor vehicle upon the highways of this state.

103 6. As used in this section, "electronic message" means
104 a self-contained piece of digital communication that is
105 designed or intended to be transmitted between hand-held
106 electronic wireless communication devices. "Electronic
107 message" includes, but is not limited to, electronic mail, a
108 text message, an instant message, or a command or request to
109 access an internet site.

110 7. As used in this section, "hand-held electronic
111 wireless communications device" includes any hand-held
112 cellular phone, palm pilot, blackberry, or other mobile
113 electronic device used to communicate verbally or by text or
114 electronic messaging, but shall not apply to any device that

115 is permanently embedded into the architecture and design of
116 the motor vehicle.

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

121 9. As used in this section, "send, read, or write a
122 text message or electronic message" means using a hand-held
123 electronic wireless telecommunications device to manually
124 communicate with any person by using an electronic message.
125 Sending, reading, or writing a text message or electronic
126 message does not include reading, selecting, or entering a
127 phone number or name into a hand-held electronic wireless
128 communications device for the purpose of making a telephone
129 call.

130 10.] 6. A violation of this section shall be deemed an
131 infraction [and shall be] **punishable by a fifty-dollar**
132 **fine. A violation of this section while operating a motor**
133 **vehicle in a work zone, as such term is defined in section**
134 **304.580, when highway workers, as such term is defined in**
135 **section 304.580, are present, or in an area designated as a**
136 **school zone and marked in any way that would alert a**
137 **reasonably prudent driver to the presence of such school**
138 **zone, shall be deemed an infraction punishable by a one-**
139 **hundred-dollar fine. A violation of subsection 2 of this**
140 **section shall not be** deemed a moving violation for purposes
141 of point assessment under section 302.302. **A violation of**
142 **subsection 3 or 4 of this section shall be deemed a serious**
143 **traffic violation, as such term is defined in section**
144 **302.700, for purposes of commercial driver's license**
145 **disqualification under section 302.755.**

146 [11.] 7. The state preempts the field of regulating
147 the use of [hand-held] electronic wireless [communications]
148 **communication** devices [in] **by the the operators of** motor
149 vehicles, and the provisions of this section shall supercede
150 any local laws, ordinances, orders, rules, or regulations
151 enacted by a county, municipality, or other political
152 subdivision to regulate the use of [hand-held] electronic
153 wireless communication devices by the operator of a motor
154 vehicle.

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

156 (1) The operator of a vehicle that is lawfully parked
157 or stopped;

158 (2) Any of the following while in the performance of
159 their official duties: a law enforcement officer; a member
160 of a fire department; or the operator of a public or private
161 ambulance;

162 (3) The use of factory-installed or aftermarket global
163 positioning systems (GPS) or wireless communications devices
164 used to transmit or receive data as part of a digital
165 dispatch system;

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

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

170 **8. Notwithstanding any provision of law to the**
171 **contrary, no person under eighteen years of age, and no**
172 **person with an instruction permit or intermediate license**
173 **regardless of age, shall use an electronic wireless**
174 **communication device, whether hands-free or not, while**
175 **operating a motor vehicle on the highways of this state,**
176 **except to contact emergency services.**

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