

SECOND REGULAR SESSION

SENATE BILL NO. 1416

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

5865S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 304.822, RSMo, and to enact in lieu thereof one new section relating to the use of electronic communication devices while driving, with penalty provisions.

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

Section A. Section 304.822, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 304.822,
3 to read as follows:

304.822. 1. This section shall be known as the
2 "Siddens Bening Hands Free Law".

3 2. As used in this section, the following terms shall
4 mean:

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

7 (2) "Electronic communication device", a portable
8 device that is used to initiate, receive, store, or view
9 communication, information, images, or data electronically.

10 (a) Such term shall include but not be limited to:
11 cellular telephones; portable telephones; text-messaging
12 devices; personal digital assistants; pagers; broadband
13 personal communication devices; electronic devices with
14 mobile data access; computers, including but not limited to
15 tablets, laptops, notebook computers, and electronic or
16 video game systems; devices capable of transmitting,
17 retrieving, or displaying a video, movie, broadcast

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

18 television image, or visual image; and any substantially
19 similar device that is used to initiate or receive
20 communication or store and review information, videos,
21 images, or data.

22 (b) Such term shall not include: radios; citizens
23 band radios; commercial two-way radio communication devices
24 or their functional equivalent; subscription-based emergency
25 communication devices; prescribed medical devices; amateur
26 or ham radio devices; or global positioning system
27 receivers, security, navigation, communication, or remote
28 diagnostics systems permanently affixed to the vehicle;

29 (3) "Highway", the same meaning as is ascribed to such
30 term in section 302.010;

31 (4) "Noncommercial motor vehicle", the same meaning as
32 is ascribed to such term in section 302.700;

33 (5) "Operating", the actual physical control of a
34 vehicle;

35 (6) "Operator", a person who is in actual physical
36 control;

37 (7) "School bus", the same meaning as is ascribed to
38 such term in section 302.700;

39 (8) "Voice-operated or hands-free feature or
40 function", a feature or function, whether internally
41 installed or externally attached or connected to an
42 electronic communication device, that allows a person to use
43 an electronic communication device without the use of either
44 hand, except to activate, deactivate, or initiate the
45 feature or function with a single touch or single swipe.

46 3. Except as otherwise provided in this section, while
47 operating a noncommercial motor vehicle or commercial motor
48 vehicle on any highway or property open to the public for
49 vehicular traffic in this state, no operator shall:

50 (1) Physically hold or support, with any part of his
51 or her body, an electronic communication device;

52 (2) Write, send, or read any text-based communication,
53 including but not limited to a text message, instant
54 message, email, or social media interaction on an electronic
55 communication device. This subdivision shall not apply to
56 operators of a noncommercial motor vehicle using a voice-
57 operated or hands-free feature or function that converts the
58 message to be sent as a message in a written form, provided
59 that the operator does not divert his or her attention from
60 lawful operation of the vehicle;

61 (3) Make any communication on an electronic
62 communication device, including a phone call, voice message,
63 or one-way voice communication; provided however, that this
64 prohibition shall not apply to use of a voice-operated or
65 hands-free feature or function;

66 (4) Engage in any form of electronic data retrieval or
67 electronic data communication on an electronic communication
68 device;

69 (5) Manually enter letters, numbers, or symbols into
70 any website, search engine, or application on an electronic
71 communication device;

72 (6) Watch a video or movie on an electronic
73 communication device, other than watching data related to
74 the navigation of the vehicle; or

75 (7) Record, post, send, or broadcast video, including
76 a video conference, on an electronic communication device,
77 provided that this prohibition shall not apply to electronic
78 devices used for the sole purpose of continually monitoring
79 operator behavior by recording or broadcasting video within
80 or outside the vehicle.

81 4. The operator of a school bus shall not use or
82 operate an electronic communication device while the school
83 bus is in motion unless the device is being used in a
84 similar manner as a two-way radio to allow live
85 communication between the operator and school officials or
86 public safety officials. The operator of a school bus shall
87 not use or operate an electronic communication device or a
88 two-way radio while loading or unloading passengers.

89 5. This section shall not apply to:

90 (1) Law enforcement officers or operators of emergency
91 vehicles, as such term is defined in section 304.022, who
92 are both using the electronic communication device and
93 operating the emergency vehicle in the performance of their
94 official duties;

95 (2) Operators using an electronic communication device
96 for the sole purpose of reporting an emergency situation and
97 continuing communication with emergency personnel during the
98 emergency situation;

99 (3) Operators of noncommercial motor vehicles using an
100 electronic communication device solely through a voice-
101 operated or hands-free feature or function;

102 (4) Operators of commercial motor vehicles using a
103 voice-operated or hands-free feature or function, as long as
104 the operator remains seated and is restrained by a seat belt
105 as required by law;

106 (5) Operators of commercial motor vehicles reading a
107 message displayed on a permanently installed communication
108 device designed for a commercial motor vehicle with a screen
109 that does not exceed ten inches tall by ten inches wide in
110 size;

111 (6) Operators using electronic communication devices
112 while the vehicle is lawfully stopped or parked;

(7) Commercial motor vehicles that are responding to a request for roadside assistance, when such response is conducted by a motor club as defined in section 385.450 or a towing company as defined in section 304.001;

(8) The use of an electronic communication device to relay information between a transit or for-hire vehicle operator and that operator's dispatcher, provided the device is mounted or affixed to the vehicle;

(9) The use of an electronic communication device to access or view a map for navigational purposes;

(10) The use of an electronic communication device to access or listen to an audio broadcast or digital audio recording; or

(11) The use of an electronic communication device to relay information through a transportation network company's digital network to a transportation network company driver, provided the device is mounted or affixed to the vehicle.

6. (1) Except as otherwise provided in this subsection, violation of this section shall be an infraction. Penalties for violations of this section shall be as provided in this subsection. Prior convictions shall be pleaded and proven in the same manner as required under section 558.021.

(2) For a conviction under this section where there is no prior conviction under this section within the preceding twenty-four months, the court shall impose a fine of up to one hundred fifty dollars.

(3) For a conviction under this section where there is one prior conviction under this section within the preceding twenty-four months, the court shall impose a fine of up to two hundred fifty dollars.

144 (4) For a conviction under this section where there
145 are two or more prior convictions under this section in the
146 preceding twenty-four months, the court shall impose a fine
147 of up to five hundred dollars.

148 (5) For a conviction under this section where the
149 violation occurred in a work zone when workers are present,
150 as such terms are defined in section 304.580, or for a
151 conviction under this section where the violation occurred
152 in an area designated as a school zone and marked in any way
153 that would alert a reasonably prudent operator to the
154 presence of the school zone, the court shall impose a fine
155 of up to five hundred dollars.

156 (6) A violation of this section that is the proximate
157 cause of damage to property in excess of five thousand
158 dollars shall be a class D misdemeanor.

159 (7) A violation of this section that is the proximate
160 cause of serious physical injury to another person shall be
161 a class B misdemeanor.

162 (8) A violation of this section that is the proximate
163 cause of the death of another person shall be a class D
164 felony.

165 (9) A violation of this section while operating a
166 commercial motor vehicle shall be deemed a serious traffic
167 violation, as such term is defined in section 302.700, for
168 purposes of commercial driver's license disqualification
169 under section 302.755.

170 7. A law enforcement officer who stops a noncommercial
171 motor vehicle for a violation of this section shall inform
172 the operator of the operator's right to decline a search of
173 their electronic communication device. No warrant shall be
174 issued to confiscate or access an electronic communication

device based on a violation of this section unless the violation results in serious bodily injury or death.

8. A violation of this section shall not be used to establish probable cause for any other violation.

9. The provisions of this section shall be subject to the reporting requirements set forth in section 590.650.

10. [The state preempts the field of regulating the use of electronic communication devices by the operators of commercial and noncommercial motor vehicles. The provisions of this section shall supercede any local laws, ordinances, orders, rules, or regulations enacted by a county, municipality, or other political subdivision to regulate the use of electronic communication devices by the operator of a commercial or noncommercial motor vehicle] **The provisions of this section preempt any local law, ordinance, or regulation that conflicts with this section. Notwithstanding any other provision of law to the contrary, political subdivisions of this state shall not enact or enforce any ordinance or other local law or regulation that conflicts with or is preempted by this section.**

11. Prior to January 1, 2025, a law enforcement officer who stops a noncommercial motor vehicle for a violation of this section shall not issue a citation for a violation of this section and shall only issue a warning.

12. No person shall be stopped, inspected, or detained solely for a violation of this section.

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