

FIRST REGULAR SESSION

# HOUSE BILL NO. 502

92ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE CAMPBELL.

Read 1<sup>st</sup> time February 18, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0056L.011

---

## AN ACT

To amend chapter 304, RSMo, by adding thereto one new section relating to regulation of mobile telephone use by operators of motor vehicles, with an effective date and penalty provisions.

---

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

Section A. Chapter 304, RSMo, is amended by adding thereto one new section, to be known as section 304.145, to read as follows:

**304.145. 1. As used in this section, the following terms shall mean:**

- 2           **(1) "Engage in a call", talking into or listening on a handheld mobile telephone, but**  
3 **shall not include holding a mobile telephone to activate, deactivate, or initiate a function**  
4 **of such telephone;**
- 5           **(2) "Handheld mobile telephone", a mobile telephone with which a user engages**  
6 **in a call using at least one hand;**
- 7           **(3) "Hands-free mobile telephone", a mobile telephone that has an internal feature**  
8 **or function, or that is equipped with an attachment or addition, whether or not**  
9 **permanently part of such mobile telephone, by which a user engages in a call without the**  
10 **use of either hand, whether or not the use of either hand is necessary to activate, deactivate,**  
11 **or initiate a function of such telephone;**
- 12           **(4) "Immediate proximity", that distance as permits the operator of a mobile**  
13 **telephone to hear telecommunications transmitted over such mobile telephone, but shall**  
14 **not require physical contact with such operator's ear;**
- 15           **(5) "Mobile telephone", the device used by subscribers and other users of wireless**  
16 **telephone service to access such service;**
- 17           **(6) "Using", holding a mobile telephone to, or in the immediate proximity of, the**

18 user's ear;

19 (7) "Wireless telephone service", two-way realtime voice telecommunications  
20 service that is interconnected to a public-switched telephone network and is provided by  
21 a commercial mobile radio service, as such term is defined by 47 C.F.R. Section 20.3.

22 2. Except as provided in subsection 3 of this section, no person shall operate a  
23 motor vehicle upon a public roadway while using a mobile telephone to engage in a call  
24 while such vehicle is in motion. An operator of a motor vehicle who holds a mobile  
25 telephone to, or in the immediate proximity of his or her ear while such vehicle is in motion  
26 is presumed to be engaging in a call within the meaning of this section. The presumption  
27 established by this subsection is rebuttable by evidence tending to show that the operator  
28 was not engaged in a call. The provisions of this section shall not be construed as  
29 authorizing the seizure or forfeiture of a mobile telephone, unless otherwise provided by  
30 law.

31 3. The provisions of this section shall not apply to:

32 (1) The use of a mobile telephone for the sole purpose of communicating with the  
33 following regarding an emergency situation:

34 (a) An emergency response operator;

35 (b) A hospital, physician's office, or health clinic;

36 (c) An ambulance operator;

37 (d) A fire department; or

38 (e) A police department.

39 (2) Any law enforcement officer, employee of a fire department, or operator of an  
40 emergency vehicle as that term is defined in section 304.022, while those individuals are  
41 performing their official duties;

42 (3) Use of a hands-free mobile telephone.

43 4. Any person who violates the provisions of this section shall be guilty of a class  
44 C misdemeanor, unless an accident is involved, in which case the person shall be guilty of  
45 a class B misdemeanor.

Section B. The provisions of section A of this act shall become effective July 1, 2004