

SECOND REGULAR SESSION

HOUSE BILL NO. 1123

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GOSEN.

4085H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 302.302 and 304.820, RSMo, and to enact in lieu thereof two new sections relating to texting while driving, with penalty provisions.

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

Section A. Sections 302.302 and 304.820, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 302.302 and 304.820, to read as follows:

302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 2 points

(except any violation of municipal stop sign ordinance where no accident is involved 1 point)

(2) Speeding

In violation of a state law 3 points

In violation of a county or municipal ordinance 2 points

(3) Leaving the scene of an accident in violation of section 577.060 12 points

In violation of any county or municipal ordinance 6 points

(4) Careless and imprudent driving in violation of subsection 4 of section 304.016 4 points

In violation of a county or municipal ordinance 2 points

(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 18 (a) For the first conviction 2 points
19 (b) For the second conviction 4 points
20 (c) For the third conviction 6 points
21 (6) Operating with a suspended or revoked license prior to restoration of operating
22 privileges 12 points
23 (7) Obtaining a license by misrepresentation 12 points
24 (8) For the first conviction of driving while in an intoxicated condition or under the
25 influence of controlled substances or drugs 8 points
26 (9) For the second or subsequent conviction of any of the following offenses however
27 combined: driving while in an intoxicated condition, driving under the influence of controlled
28 substances or drugs or driving with a blood alcohol content of eight-hundredths of one percent
29 or more by weight 12 points
30 (10) For the first conviction for driving with blood alcohol content eight-hundredths of
31 one percent or more by weight
32 In violation of state law 8 points
33 In violation of a county or municipal ordinance or federal law or regulation
34 8 points
35 (11) Any felony involving the use of a motor vehicle 12 points
36 (12) Knowingly permitting unlicensed operator to operate a motor vehicle
37 4 points
38 (13) For a conviction for failure to maintain financial responsibility pursuant to county
39 or municipal ordinance or pursuant to section 303.025 4 points
40 (14) Endangerment of a highway worker in violation of section 304.585 4 points
41 (15) Aggravated endangerment of a highway worker in violation of section 304.585
42 12 points
43 (16) For a conviction of violating a municipal ordinance that prohibits tow truck
44 operators from stopping at or proceeding to the scene of an accident unless they have been
45 requested to stop or proceed to such scene by a party involved in such accident or by an officer
46 of a public safety agency 4 points
47 (17) Endangerment of an emergency responder in violation of section 304.894 4 points
48 (18) Aggravated endangerment of an emergency responder in violation of section
49 304.894 12 points
50 **(19) Texting while driving in violation of section 304.820:**
51 **(a) For first offense 8 points**
52 **(b) For second and each subsequent offense 12 points**

53 2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess
54 an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section
55 302.020, when the director issues such operator a license or permit pursuant to the provisions
56 of sections 302.010 to 302.340.

57 3. An additional two points shall be assessed when personal injury or property damage
58 results from any violation listed in subdivisions (1) to (13) of subsection 1 of this section and if
59 found to be warranted and certified by the reporting court.

60 4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this
61 section constitutes both a violation of a state law and a violation of a county or municipal
62 ordinance, points may be assessed for either violation but not for both. Notwithstanding that an
63 offense arising out of the same occurrence could be construed to be a violation of subdivisions
64 (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more
65 than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for
66 offenses arising out of the same occurrence.

67 5. The director of revenue shall put into effect a system for staying the assessment of
68 points against an operator. The system shall provide that the satisfactory completion of a
69 driver-improvement program or, in the case of violations committed while operating a
70 motorcycle, a motorcycle-rider training course approved by the state highways and transportation
71 commission, by an operator, when so ordered and verified by any court having jurisdiction over
72 any law of this state or county or municipal ordinance, regulating motor vehicles, other than a
73 violation committed in a commercial motor vehicle as defined in section 302.700 or a violation
74 committed by an individual who has been issued a commercial driver's license or is required to
75 obtain a commercial driver's license in this state or any other state, shall be accepted by the
76 director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4)
77 of subsection 1 of this section or pursuant to subsection 3 of this section. The operator shall be
78 given the option to complete the driver-improvement program through an online or in-person
79 course. A court using a centralized violation bureau established under section 476.385 may elect
80 to have the bureau order and verify completion of a driver-improvement program or
81 motorcycle-rider training course as prescribed by order of the court. For the purposes of this
82 subsection, the driver-improvement program shall meet or exceed the standards of the National
83 Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which
84 occurred during the operation of a motorcycle, the program shall meet the standards established
85 by the state highways and transportation commission pursuant to sections 302.133 to 302.137.
86 The completion of a driver-improvement program or a motorcycle-rider training course shall not
87 be accepted in lieu of points more than one time in any thirty-six-month period and shall be
88 completed within sixty days of the date of conviction in order to be accepted in lieu of the

89 assessment of points. Every court having jurisdiction pursuant to the provisions of this
90 subsection shall, within fifteen days after completion of the driver-improvement program or
91 motorcycle-rider training course by an operator, forward a record of the completion to the
92 director, all other provisions of the law to the contrary notwithstanding. The director shall
93 establish procedures for record keeping and the administration of this subsection.

304.820. 1. Except as otherwise provided in this section, no person twenty-one years
2 of age or younger operating a moving motor vehicle upon the highways of this state shall, by
3 means of a hand-held electronic wireless communications device, send, read, or write a text
4 message or electronic message.

5 2. Except as otherwise provided in this section, no person shall operate a commercial
6 motor vehicle while using a hand-held mobile telephone.

7 3. Except as otherwise provided in this section, no person shall operate a commercial
8 motor vehicle while using a wireless communications device to send, read, or write a text
9 message or electronic message.

10 4. **No person shall operate or wear a head-mounted display while operating a**
11 **moving motor vehicle upon the highways of this state. For the purposes of this section,**
12 **“head-mounted display” means a display device worn on the head or as part of a helmet**
13 **that has a small display optic in front of one or each eye.**

14 5. The provisions of subsection 1 through subsection 3 of this section shall not apply to
15 a person operating:

16 (1) An authorized emergency vehicle; or

17 (2) A moving motor vehicle while using a hand-held electronic wireless communications
18 device to:

19 (a) Report illegal activity;

20 (b) Summon medical or other emergency help;

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

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

24 [5.] 6. Nothing in this section shall be construed or interpreted as prohibiting a person
25 from making or taking part in a telephone call, by means of a hand-held electronic wireless
26 communications device, while operating a noncommercial motor vehicle upon the highways of
27 this state.

28 [6.] 7. As used in this section, "electronic message" means a self-contained piece of
29 digital communication that is designed or intended to be transmitted between hand-held
30 electronic wireless communication devices. "Electronic message" includes, but is not limited

31 to, electronic mail, a text message, an instant message, or a command or request to access an
32 internet site.

33 [7.] 8. As used in this section, "hand-held electronic wireless communications device"
34 includes any hand-held cellular phone, palm pilot, blackberry, or other mobile electronic device
35 used to communicate verbally or by text or electronic messaging, but shall not apply to any
36 device that is permanently embedded into the architecture and design of the motor vehicle.

37 [8.] 9. As used in this section, "making or taking part in a telephone call" means listening
38 to or engaging in verbal communication through a hand-held electronic wireless communication
39 device.

40 [9.] 10. As used in this section, "send, read, or write a text message or electronic
41 message" means using a hand-held electronic wireless telecommunications device to manually
42 communicate with any person by using an electronic message. Sending, reading, or writing a
43 text message or electronic message does not include reading, selecting, or entering a phone
44 number or name into a hand-held electronic wireless communications device for the purpose of
45 making a telephone call.

46 [10.] 11. (1) **A person who has pleaded guilty to or has been found guilty of a**
47 **violation of this section shall be [deemed an infraction and shall be deemed a moving violation**
48 **for purposes of point assessment under section 302.302] guilty of a class B misdemeanor. In**
49 **addition, a court of competent jurisdiction shall, upon a plea of guilty, or conviction or**
50 **finding of guilty, enter an order suspending the driving privileges for a period of thirty**
51 **days followed by a sixty-day period of restricted driving privileges.**

52 (2) **A person who has pleaded guilty to or has been found guilty of a second violation**
53 **of this section shall be guilty of a class A misdemeanor and shall not be eligible for parole**
54 **or probation until he or she has served a minimum of five days imprisonment. As a**
55 **condition of parole or probation, such person must perform at least thirty days, involving**
56 **two hundred forty hours, of community service under the supervision of the court in those**
57 **jurisdictions which have a recognized program for community service. In addition, a court**
58 **of competent jurisdiction shall, upon a plea of guilty, or conviction or finding of guilty,**
59 **enter an order revoking the driving privileges for a period of one year unless the second**
60 **violation of this section is within five years of a first violation of this section in which case**
61 **the period of revocation shall be five years. In order to have his or her driving privileges**
62 **reinstated, he or she shall be required to take and pass both the written test and test of**
63 **driving skills portions of the drivers' examination.**

64 (3) **A person who has pleaded guilty to or has been found guilty of a third or**
65 **subsequent violation of this section shall be guilty of a class D felony and shall not be**
66 **eligible for parole or probation until he or she has served a minimum of ten days**

67 **imprisonment. As a condition of parole or probation, such person must perform at least**
68 **sixty days, involving four hundred eighty hours, of community service under the**
69 **supervision of the court in those jurisdictions which have a recognized program for**
70 **community service. In addition, a court of competent jurisdiction shall, upon a plea of**
71 **guilty, or conviction or finding of guilty, enter an order revoking the driving privileges for**
72 **a period of ten years. In order to have his or her driving privileges reinstated, he or she**
73 **shall be required to take and pass both the written test and test of driving skills portions**
74 **of the drivers' examination.**

75 [11.] **12.** The state preempts the field of regulating the use of hand-held electronic
76 wireless communications devices in motor vehicles, and the provisions of this section shall
77 supercede any local laws, ordinances, orders, rules, or regulations enacted by a county,
78 municipality, or other political subdivision to regulate the use of hand-held electronic wireless
79 communication devices by the operator of a motor vehicle.

80 [12.] **13.** The provisions of this section shall not apply to:

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

82 (2) Any of the following while in the performance of their official duties: a law
83 enforcement officer; a member of a fire department; or the operator of a public or private
84 ambulance;

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

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

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

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