

FIRST REGULAR SESSION

# HOUSE BILL NO. 228

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BANGERT.

0216H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 304.820, RSMo, and to enact in lieu thereof one new section relating to the use of hand-held electronic wireless communications devices while driving, with a penalty provision.

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*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Section A. Section 304.820, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.820, to read as follows: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 **noncommercial** motor vehicle upon the highways of this state shall, by means of a hand-held electronic wireless communications device, **make or take part in a phone call, or** send, read, or write a text message or electronic message, **unless the device is equipped with technology allowing for hands-free operation or equipped for voice-recognition hands-free texting and is being used in such manner.**

2. Except as otherwise provided in this section, no person shall operate a commercial motor vehicle while using a hand-held [~~mobile telephone~~] **electronic wireless communications device.**

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

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

(1) An authorized emergency vehicle; or

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.

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

18 (a) Report illegal activity;

19 (b) Summon medical or other emergency help;

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

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

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

27 6.] As used in this section, "electronic message" means a self-contained piece of  
28 digital communication that is designed or intended to be transmitted between hand-held  
29 electronic wireless ~~[communication]~~ **communications** devices. "Electronic message"  
30 includes, but is not limited to, electronic mail, a text message, an instant message, or a  
31 command or request to access an internet site.

32 [7.] 6. As used in this section, "hand-held electronic wireless communications device"  
33 includes any hand-held cellular phone, palm pilot, blackberry, or other mobile electronic  
34 device used to communicate verbally or by text or electronic messaging, but shall not apply to  
35 any device that is permanently embedded into the architecture and design of the motor  
36 vehicle.

37 [8.] 7. As used in this section, "~~[making]~~ **make** or ~~[taking]~~ **take** part in a telephone  
38 call" means listening to or engaging in verbal communication through a hand-held electronic  
39 wireless ~~[communication]~~ **communications** device.

40 [9.] 8. As used in this section, "send, read, or write a text message or electronic  
41 message" means using a hand-held electronic wireless ~~[telecommunications]~~  
42 **communications** device to manually communicate with any person by using an electronic  
43 message. ~~[Sending, reading, or writing a text message or electronic message does not include~~  
44 ~~reading, selecting, or entering a phone number or name into a hand-held electronic wireless~~  
45 ~~communications device for the purpose of making a telephone call.~~

46 10.] 9. A violation of this section shall be deemed an infraction and shall be deemed a  
47 moving violation for purposes of point assessment under section 302.302.

48 [11.] 10. The state preempts the field of regulating the use of hand-held electronic  
49 wireless communications devices in motor vehicles, and the provisions of this section shall  
50 supercede any local laws, ordinances, orders, rules, or regulations enacted by a county,  
51 municipality, or other political subdivision to regulate the use of hand-held electronic wireless  
52 ~~[communication]~~ **communications** devices by the operator of a motor vehicle.

53           ~~[12:]~~ **11.** The provisions of this section shall not apply to:

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

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

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

61           (4) The use of voice-operated technology; **or**

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

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