

FIRST REGULAR SESSION

HOUSE BILL NO. 441

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOVIS.

1381H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 304.820, RSMo, and to enact in lieu thereof one new section relating to the operation of motor vehicles, 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Section A. Section 304.820, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.822, to read as follows:

304.822. 1. As used in this section, the following terms mean:

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

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

(a) Such term shall include, but not be limited to: cellular telephones; portable telephones; text-messaging devices; personal digital assistants; computers, including, but not limited to, tablets, laptops, notebook computers, video game systems, and global positioning system receivers; devices capable of transmitting, retrieving, or displaying a video, movie, broadcast television image, or visual image; and any substantially similar device that is used to initiate or receive communication or store and review information, videos, images, or data;

(b) Such term shall not include: radios; citizens band radios; commercial two-way radio communication devices or their functional equivalent; subscription-based emergency communication devices; prescribed medical devices; amateur or ham radio devices; or security, navigation, communication, or remote diagnostics systems permanently affixed to the vehicle;

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

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

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

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

23 (7) "School bus", the same meaning as is ascribed to such term in section
24 302.700;

25 (8) "Voice-operated or hands-free feature or function", a feature or function
26 that allows a person to use an electronic communication device without the use of either
27 hand, except to activate, deactivate, or initiate the feature or function with a single touch
28 or single swipe.

29 2. An operator shall exercise due care in operating a noncommercial motor
30 vehicle or commercial motor vehicle on any highway of this state and shall not engage in
31 any actions that distract the operator from safe operation of the vehicle.

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

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

37 (2) Write, send, or read any text-based communication, including, but not
38 limited to, a text message, instant message, email, or social media interaction on an
39 electronic communication device. This subdivision shall not apply to operators of a
40 noncommercial motor vehicle using a voice-operated or hands-free feature or function
41 that converts the message to be sent as a message in a written form;

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

46 (4) Engage in any form of electronic data retrieval or electronic data
47 communication on an electronic communication device;

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

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

52 (7) Record, post, send, or broadcast video, including a video conference, on an
53 electronic communication device, provided that this prohibition shall not apply to

54 **electronic devices used for the sole purpose of continually monitoring operator behavior**
55 **by recording or broadcasting video within or outside the vehicle.**

56 **4. The operator of a school bus shall not use or operate an electronic**
57 **communication device while the school bus is in motion unless the device is being used in**
58 **a similar manner as a two-way radio to allow live communication between the operator**
59 **and school officials or public safety officials. The operator of a school bus shall not use**
60 **or operate an electronic communication device or a two-way radio while loading or**
61 **unloading passengers.**

62 **5. This section shall not apply to:**

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

66 **(2) Operators using an electronic communication device for the sole purpose of**
67 **reporting an emergency situation and continuing communication with emergency**
68 **personnel during the emergency situation;**

69 **(3) Operators of noncommercial motor vehicles using an electronic**
70 **communication device solely through a voice-operated or hands-free feature or**
71 **function;**

72 **(4) Operators of commercial motor vehicles reading a message displayed on a**
73 **permanently installed communication device designed for a commercial motor vehicle**
74 **with a screen that does not exceed ten inches tall by ten inches wide in size;**

75 **(5) Operators using electronic communication devices while parked, including**
76 **on the shoulder of a highway, or when the vehicle is stopped due to normal traffic being**
77 **obstructed and the operator has the motor vehicle transmission in neutral or park;**

78 **(6) Commercial motor vehicles that are responding to a request for roadside**
79 **assistance, when such response is conducted by a motor club as defined in section**
80 **385.450 or a towing company as defined in section 304.001; or**

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

84 **6. (1) Except as otherwise provided in this subsection, violation of this section**
85 **shall be an infraction. Penalties for violations of this section shall be as provided in this**
86 **subsection. Prior convictions shall be pleaded and proven in the same manner as**
87 **required under section 558.021.**

88 **(2) For a conviction under this section where there is no prior conviction under**
89 **this section within the preceding twenty-four months, the court shall impose a fine of up**
90 **to fifty dollars, and two points shall be assessed under section 302.302.**

91 **(3) For a conviction under this section where there is one prior conviction under**
92 **this section within the preceding twenty-four months, the court shall impose a fine of up**
93 **to one hundred dollars, and three points shall be assessed under section 302.302.**

94 **(4) For a conviction under this section where there are two or more prior**
95 **convictions under this section in the preceding twenty-four months, the court shall**
96 **impose a fine of up to two hundred fifty dollars, and four points shall be assessed under**
97 **section 302.302.**

98 **(5) For a conviction under this section where the violation occurred in a work**
99 **zone when workers are present, as such terms are defined in section 304.580, or for a**
100 **conviction under this section where the violation occurred in an area designated as a**
101 **school zone and marked in any way that would alert a reasonably prudent operator to**
102 **the presence of the school zone, the court shall impose a fine of up to five hundred**
103 **dollars, and two additional points shall be assessed.**

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

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

108 **(8) A violation of this section that is the proximate cause of the death of another**
109 **person shall be a class D felony.**

110 **7. A law enforcement officer who stops a noncommercial motor vehicle for a**
111 **violation of this section shall inform the operator of the operator's right to decline a**
112 **search of their electronic communication device and shall not access the electronic**
113 **communication device without a warrant, nor confiscate the device while awaiting**
114 **issuance of a warrant.**

115 **8. The provisions of this section shall be subject to the reporting requirements**
116 **set forth in section 590.650.**

117 **9. The state preempts the field of regulating the use of electronic communication**
118 **devices by the operators of vehicles. The provisions of this section shall supercede any**
119 **local laws, ordinances, orders, rules, or regulations enacted by a county, municipality, or**
120 **other political subdivision to regulate the use of electronic communication devices by the**
121 **operator of a vehicle.**

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

2 ~~[304.820. 1. Except as otherwise provided in this section, no person~~
3 ~~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~~

4 ~~communications device, send, read, or write a text message or electronic~~
5 ~~message.~~

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

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

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

13 ~~(1) An authorized emergency vehicle; or~~

14 ~~(2) A moving motor vehicle while using a hand-held electronic~~
15 ~~wireless communications device to:~~

16 ~~(a) Report illegal activity;~~

17 ~~(b) Summon medical or other emergency help;~~

18 ~~(c) Prevent injury to a person or property; or~~

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

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

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

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

35 ~~8. As used in this section, "making or taking part in a telephone call"~~
36 ~~means listening to or engaging in verbal communication through a hand-held~~
37 ~~electronic wireless communication device.~~

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

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

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

52 ~~subdivision to regulate the use of hand-held electronic wireless~~
53 ~~communication devices by the operator of a motor vehicle.~~

54 ~~12. The provisions of this section shall not apply to:~~

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

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

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

62 ~~(4) The use of voice-operated technology;~~

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

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