

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

**Offered By**

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1 AMEND House Committee Substitute for House Bill No. 2742, Page 6, Section 304.070, Line  
2 43, by inserting after said section and line the following:  
3

4 "304.822. 1. This section shall be known as the "Siddens Bening Hands Free Law".

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

6 (1) "Commercial motor vehicle", the same meaning as is ascribed to such term in section  
7 302.700;

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

10 (a) Such term shall include but not be limited to: cellular telephones; portable  
11 telephones; text-messaging devices; personal digital assistants; pagers; broadband personal  
12 communication devices; electronic devices with mobile data access; computers, including but  
13 not limited to tablets, laptops, notebook computers, and electronic or video game systems;  
14 devices capable of transmitting, retrieving, or displaying a video, movie, broadcast television  
15 image, or visual image; and any substantially similar device that is used to initiate or receive  
16 communication or store and review information, videos, images, or data.

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

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

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

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

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

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

28 (8) "Voice-operated or hands-free feature or function", a feature or function, whether  
29 internally installed or externally attached or connected to an electronic communication device,  
30 that allows a person to use an electronic communication device without the use of either hand,

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 except to activate, deactivate, or initiate the feature or function with a single touch or single  
2 swipe.

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

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

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

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

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

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

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

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

27 4. The operator of a school bus shall not use or operate an electronic communication  
28 device while the school bus is in motion unless the device is being used in a similar manner as a  
29 two-way radio to allow live communication between the operator and school officials or public  
30 safety officials. The operator of a school bus shall not use or operate an electronic  
31 communication device or a two-way radio while loading or unloading passengers.

32 5. This section shall not apply to:

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

36 (2) Operators using an electronic communication device for the sole purpose of reporting  
37 an emergency situation and continuing communication with emergency personnel during the  
38 emergency situation;

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

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

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

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

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

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

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

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

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

24 6. (1) Except as otherwise provided in this subsection, violation of this section shall be  
25 an infraction. Penalties for violations of this section shall be as provided in this subsection.  
26 Prior convictions shall be pleaded and proven in the same manner as required under section  
27 558.021.

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

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

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

37 (5) For a conviction under this section where the violation occurred in a work zone when  
38 workers are present, as such terms are defined in section 304.580, or for a conviction under this

1 section where the violation occurred in an area designated as a school zone and marked in any  
2 way that would alert a reasonably prudent operator to the presence of the school zone, the court  
3 shall impose a fine of up to five hundred dollars.

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

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

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

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

13 7. A law enforcement officer who stops a noncommercial motor vehicle for a violation  
14 of this section shall inform the operator of the operator's right to decline a search of their  
15 electronic communication device. No warrant shall be issued to confiscate or access an  
16 electronic communication device based on a violation of this section unless the violation results  
17 in serious bodily injury or death.

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

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

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

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

34 12. No person shall be stopped, inspected, or detained solely for a violation of this  
35 section."; and

36  
37 Further amend said bill by amending the title, enacting clause, and intersectional references  
38 accordingly.