

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2742

103RD GENERAL ASSEMBLY

6086H.03P

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 304.070 and 304.822, RSMo, and to enact in lieu thereof three new sections relating to the careless operation of a motor vehicle, with penalty provisions.

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

Section A. Sections 304.070 and 304.822, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 160.3300, 304.070, and 304.822, to read as
3 follows:

**160.3300. 1. School districts may install and operate school bus safety cameras
2 on school buses to be used for the detection of violations of section 304.050, provided
3 that such use is approved by a vote of the school district board of directors. Any image
4 or video recorded by a school bus safety camera that is not used for the purpose of
5 enforcing violations of section 304.050 shall be permanently deleted no later than one-
6 hundred-eighty days from the date of capture. For purposes of this section, "school bus
7 safety camera" means a device that is affixed to a school bus that records photographs,
8 microphotographs, or electronic images of the front or rear of a vehicle at the time the
9 vehicle is detected for an infraction identified in section 304.050.**

**10 2. No image or video captured by a school bus safety camera authorized under
11 this section shall be used by a political subdivision for violation detection or enforcement
12 as part of any automated camera system designed to detect traffic violations and issue
13 citations. Nothing in this section shall prohibit a prosecutor from introducing any image
14 or video captured by a school bus safety camera as evidence in a judicial proceeding.**

304.070. 1. Any person who violates any of the provisions of subsections 1, 3, and 7
2 of section 304.050 is guilty of a class A misdemeanor. In addition, the court may suspend the

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.

3 driver's license of any person who violates the provision of subsection 1 of section 304.050.
4 If ordered by the court, the director shall suspend the driver's license for ninety days for a first
5 offense of subsection 1 of section 304.050, and one hundred twenty days for a second or
6 subsequent offense of subsection 1 of section 304.050. Any person who violates subsection 1
7 of section 304.050 where such violation results in the **physical** injury of any child shall be
8 guilty of a class E felony. Any person who violates subsection 1 of section 304.050 where
9 such violation causes the **serious physical injury** or death of any child shall be guilty of a
10 class D felony. **For the purposes of this subsection, "physical injury" means physical**
11 **pain, illness, or any impairment of physical condition including, but not limited to,**
12 **bruising, lacerations, hematomas, welts, or permanent or temporary disfigurement and**
13 **impairment of any bodily function or organ. The term "serious physical injury" means**
14 **a physical injury that creates a substantial risk of death or that causes serious**
15 **disfigurement or protracted loss or impairment of the function of any part of the body.**

16 2. Any appeal of a suspension imposed under subsection 1 of this section shall be a
17 direct appeal of the court order and subject to review by the presiding judge of the circuit
18 court or another judge within the circuit other than the judge who issued the original order to
19 suspend the driver's license. The director of revenue's entry of the court-ordered suspension
20 on the driving record is not a decision subject to review pursuant to section 302.311. Any
21 suspension of the driver's license ordered by the court under this section shall be in addition to
22 any other suspension that may occur as a result of the conviction pursuant to other provisions
23 of law.

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

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

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

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

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

14 (b) Such term shall not include: radios; citizens band radios; commercial two-way
15 radio communication devices or their functional equivalent; subscription-based emergency
16 communication devices; prescribed medical devices; amateur or ham radio devices; or global

17 positioning system receivers, security, navigation, communication, or remote diagnostics
18 systems permanently affixed to the vehicle;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

59 5. This section shall not apply to:

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

63 (2) Operators using an electronic communication device for the sole purpose of
64 reporting an emergency situation and continuing communication with emergency personnel
65 during the emergency situation;

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

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

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

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

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

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

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

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

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

89 6. (1) Except as otherwise provided in this subsection, violation of this section shall
90 be an infraction. Penalties for violations of this section shall be as provided in this

91 subsection. Prior convictions shall be pleaded and proven in the same manner as required
92 under section 558.021.

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

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

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

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

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

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

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

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

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

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

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

125 10. ~~The state preempts the field of regulating the use of electronic communication~~
126 ~~devices by the operators of commercial and noncommercial motor vehicles. The provisions~~
127 ~~of this section shall supercede any local laws, ordinances, orders, rules, or regulations enacted~~

128 ~~by a county, municipality, or other political subdivision to regulate the use of electronic~~
129 ~~communication devices by the operator of a commercial or noncommercial motor vehicle]~~

130 **The provisions of this section preempt any local law, ordinance, or regulation that**
131 **conflicts with this section. Notwithstanding any other provision of law, political**
132 **subdivisions of this state shall not enact or enforce any ordinance or other local law or**
133 **regulation that conflicts with or is preempted by this section.**

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

137 12. No person shall be stopped, inspected, or detained solely for a violation of this
138 section.

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