

SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
SENATE BILLS NOS. 56 & 61  
AN ACT

To repeal section 304.820, RSMo, and to enact in lieu thereof one new section relating to prohibitions against using electronic communication devices while operating motor vehicles, with penalty provisions.

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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Section A. Section 304.820, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 304.822,  
3 to read as follows:

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

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

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

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

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

19 similar device that is used to initiate or receive  
20 communication or store and review information, videos,  
21 images, or data;

22 (b) Such term shall not include: radios; citizens band  
23 radios; commercial two-way radio communication devices or  
24 their functional equivalent; subscription-based emergency  
25 communication devices; prescribed medical devices; amateur  
26 or ham radio devices; or global positioning system  
27 receivers, security, navigation, communication, or remote  
28 diagnostics systems permanently affixed to the vehicle;

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

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

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

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

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

39 (8) "Voice-operated or hands-free feature or  
40 function", a feature or function, whether internally  
41 installed or externally attached or connected to an  
42 electronic communication device, that allows a person to use  
43 an electronic communication device without the use of either  
44 hand, except to activate, deactivate, or initiate the  
45 feature or function with a single touch or single swipe.

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

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

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

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

66           (4) Engage in any form of electronic data retrieval or  
67 electronic data communication on an electronic communication  
68 device;

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

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

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

81           4. The operator of a school bus shall not use or  
82 operate an electronic communication device while the school  
83 bus is in motion unless the device is being used in a  
84 similar manner as a two-way radio to allow live

85 communication between the operator and school officials or  
86 public safety officials. The operator of a school bus shall  
87 not use or operate an electronic communication device or a  
88 two-way radio while loading or unloading passengers.

89 5. This section shall not apply to:

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

95 (2) Operators using an electronic communication device  
96 for the sole purpose of reporting an emergency situation and  
97 continuing communication with emergency personnel during the  
98 emergency situation;

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

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

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

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

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

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

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

123           (10) The use of an electronic communication device to  
124 access or listen to an audio broadcast or digital audio  
125 recording.

126           6. Except as otherwise provided in this subsection,  
127 violation of this section shall be an infraction. Penalties  
128 for violations of this section shall be as provided in this  
129 subsection. Prior convictions shall be pleaded and proven  
130 in the same manner as required under section 558.021.

131           (1) For a conviction under this section where there is  
132 no prior conviction under this section within the preceding  
133 twenty-four months, the court shall impose a fine of up to  
134 fifty dollars, and two points shall be assessed under  
135 section 302.302.

136           (2) For a conviction under this section where there is  
137 one prior conviction under this section within the preceding  
138 twenty-four months, the court shall impose a fine of up to  
139 one hundred dollars, and three points shall be assessed  
140 under section 302.302.

141           (3) For a conviction under this section where there  
142 are two or more prior convictions under this section in the  
143 preceding twenty-four months, the court shall impose a fine  
144 of up to two hundred fifty dollars, and four points shall be  
145 assessed under section 302.302.

146           (4) For a conviction under this section where the  
147 violation occurred in a work zone when workers are present,  
148 as such terms are defined in section 304.580, or for a  
149 conviction under this section where the violation occurred

150 in an area designated as a school zone and marked in any way  
151 that would alert a reasonably prudent operator to the  
152 presence of the school zone, the court shall impose a fine  
153 of up to two hundred fifty dollars, and two additional  
154 points shall be assessed under section 302.302.

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

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

161 (7) A violation of this section that is the proximate  
162 cause of the death of another person shall be a class D  
163 felony.

164 (8) A violation of this section while operating a  
165 commercial motor vehicle shall be deemed a serious traffic  
166 violation, as such term is defined in section 302.700, for  
167 purposes of commercial driver's license disqualification  
168 under section 302.755.

169 7. A law enforcement officer who stops a noncommercial  
170 motor vehicle for a violation of this section shall inform  
171 the operator of the operator's right to decline a search of  
172 their electronic communication device and shall not access  
173 the electronic communication device without a warrant, nor  
174 confiscate the device while awaiting issuance of a warrant.

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

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

179 10. The state preempts the field of regulating the use  
180 of electronic communication devices by the operators of  
181 commercial and noncommercial motor vehicles. The provisions  
182 of this section shall supercede any local laws, ordinances,

183 orders, rules, or regulations enacted by a county,  
184 municipality, or other political subdivision to regulate the  
185 use of electronic communication devices by the operator of a  
186 commercial or noncommercial motor vehicle.

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

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

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

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

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

21 (1) An authorized emergency vehicle; or  
22 (2) A moving motor vehicle while using a  
23 hand-held electronic wireless communications  
24 device to:

25 (a) Report illegal activity;  
26 (b) Summon medical or other emergency help;  
27 (c) Prevent injury to a person or  
28 property; or

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

33 5. Nothing in this section shall be  
34 construed or interpreted as prohibiting a person  
35 from making or taking part in a telephone call,  
36 by means of a hand-held electronic wireless  
37 communications device, while operating a  
38 noncommercial motor vehicle upon the highways of  
39 this state.

40 6. As used in this section, "electronic  
41 message" means a self-contained piece of digital  
42 communication that is designed or intended to be  
43 transmitted between hand-held electronic  
44 wireless communication devices. "Electronic  
45 message" includes, but is not limited to,  
electronic mail, a text message, an instant

46 message, or a command or request to access an  
47 internet site.

48 7. As used in this section, "hand-held  
49 electronic wireless communications device"  
50 includes any hand-held cellular phone, palm  
51 pilot, blackberry, or other mobile electronic  
52 device used to communicate verbally or by text  
53 or electronic messaging, but shall not apply to  
54 any device that is permanently embedded into the  
55 architecture and design of the motor vehicle.

56 8. As used in this section, "making or  
57 taking part in a telephone call" means listening  
58 to or engaging in verbal communication through a  
59 hand-held electronic wireless communication  
60 device.

61 9. As used in this section, "send, read,  
62 or write a text message or electronic message"  
63 means using a hand-held electronic wireless  
64 telecommunications device to manually  
65 communicate with any person by using an  
66 electronic message. Sending, reading, or  
67 writing a text message or electronic message  
68 does not include reading, selecting, or entering  
69 a phone number or name into a hand-held  
70 electronic wireless communications device for  
71 the purpose of making a telephone call.

72 10. A violation of this section shall be  
73 deemed an infraction and shall be deemed a  
74 moving violation for purposes of point  
75 assessment under section 302.302.

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

86 12. The provisions of this section shall  
87 not apply to:

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

90 (2) Any of the following while in the  
91 performance of their official duties: a law  
92 enforcement officer; a member of a fire  
93 department; or the operator of a public or  
94 private ambulance;

95 (3) The use of factory-installed or  
96 aftermarket global positioning systems (GPS) or  
97 wireless communications devices used to transmit  
98 or receive data as part of a digital dispatch  
99 system;

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

101 (5) The use of two-way radio transmitters  
102 or receivers by a licensee of the Federal  
103 Communications Commission in the Amateur Radio  
104 Service.]