

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 56 & 61

102ND GENERAL ASSEMBLY

1205S.02C

KRISTINA MARTIN, Secretary

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Section A. Section 304.820, RSMo, is repealed and one new
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**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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 parked, provided that the vehicle is disabled or

113 inoperable if it is located on a highway or the shoulder of
114 a highway;

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

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

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

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

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

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

143 (4) For a conviction under this section where the
144 violation occurred in a work zone when workers are present,

145 as such terms are defined in section 304.580, or for a
146 conviction under this section where the violation occurred
147 in an area designated as a school zone and marked in any way
148 that would alert a reasonably prudent operator to the
149 presence of the school zone, the court shall impose a fine
150 of up to two hundred fifty dollars, and two additional
151 points shall be assessed under section 302.302.

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

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

158 (7) A violation of this section that is the proximate
159 cause of the death of another person shall be a class D
160 felony.

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

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

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

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

176 10. The state preempts the field of regulating the use
177 of electronic communication devices by the operators of
178 commercial and noncommercial motor vehicles. The provisions
179 of this section shall supercede any local laws, ordinances,
180 orders, rules, or regulations enacted by a county,
181 municipality, or other political subdivision to regulate the
182 use of electronic communication devices by the operator of a
183 commercial or noncommercial motor vehicle.

184 11. Prior to January 1, 2025, a law enforcement
185 officer who stops a noncommercial motor vehicle for a
186 violation of this section shall not issue a citation for a
187 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,
by means of a hand-held electronic wireless

36 communications device, while operating a
37 noncommercial motor vehicle upon the highways of
38 this state.

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

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