

FIRST REGULAR SESSION

SENATE BILL NO. 56

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BEAN.

1205S.01H

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Section A. Section 304.820, RSMo, is repealed and one new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. As used in this section, the following
2 terms shall mean:**

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

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

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

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

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

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

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

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

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

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

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

40 2. An operator shall exercise due care in operating a
41 noncommercial motor vehicle or commercial motor vehicle on
42 any highway of this state, and shall not engage in any
43 actions that distract the operator from safe operation of
44 the vehicle.

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

- 49 (1) Physically hold or support, with any part of his
50 or her body, an electronic communication device; or
- 51 (2) Write, send, or read any text-based communication,
52 including but not limited to a text message, instant
53 message, email, or social media interaction on an electronic
54 communication device. This subdivision shall not apply to
55 operators of a noncommercial motor vehicle using a voice-
56 operated or hands-free feature or function that converts the
57 message to be sent as a message in a written form.
- 58 (3) Make any communication on an electronic
59 communication device, including a phone call, voice message,
60 or one-way voice communication; provided however, that this
61 prohibition shall not apply to use of a voice-operated or
62 hands-free feature or function;
- 63 (4) Engage in any form of electronic data retrieval or
64 electronic data communication on an electronic communication
65 device;
- 66 (5) Manually enter letters, numbers, or symbols into
67 any website, search engine, or application on an electronic
68 communication device;
- 69 (6) Watch a video or movie on an electronic
70 communication device, other than watching data related to
71 the navigation of the vehicle; or
- 72 (7) Record, post, send, or broadcast video, including
73 a video conference, on an electronic communication device,
74 provided that this prohibition shall not apply to electronic
75 devices used for the sole purpose of continually monitoring
76 operator behavior by recording or broadcasting video within
77 or outside the vehicle.
- 78 4. The operator of a school bus shall not use or
79 operate an electronic communication device while the school
80 bus is in motion unless the device is being used in a

81 similar manner as a two-way radio to allow live
82 communication between the operator and school officials or
83 public safety officials. The operator of a school bus shall
84 not use or operate an electronic communication device or a
85 two-way radio while loading or unloading passengers.

86 5. This section shall not apply to:

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

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

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

99 (4) Operators of commercial motor vehicles reading a
100 message displayed on a permanently installed communication
101 device designed for a commercial motor vehicle with a screen
102 that does not exceed ten inches tall by ten inches wide in
103 size;

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

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

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

117 6. Except as otherwise provided in this subsection,
118 violation of this section shall be an infraction. Penalties
119 for violations of this section shall be as provided in this
120 subsection. Prior convictions shall be pleaded and proven
121 in the same manner as required under section 558.021.

122 (1) For a conviction under this section where there is
123 no prior conviction under this section within the preceding
124 twenty-four months, the court shall impose a fine of up to
125 fifty dollars, and two points shall be assessed under
126 section 302.302.

127 (2) For a conviction under this section where there is
128 one prior conviction under this section within the preceding
129 twenty-four months, the court shall impose a fine of up to
130 one hundred dollars, and three points shall be assessed
131 under section 302.302.

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

137 (4) For a conviction under this section where the
138 violation occurred in a work zone when workers are present,
139 as such terms are defined in section 304.580, or for a
140 conviction under this section where the violation occurred
141 in an area designated as a school zone and marked in any way
142 that would alert a reasonably prudent operator to the
143 presence of the school zone, the court shall impose a fine

144 of up to five hundred dollars, and two additional points
145 shall be assessed.

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

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

152 (7) A violation of this section that is the proximate
153 cause of the death of another person shall be a class D
154 felony.

155 7. A law enforcement officer who stops a noncommercial
156 motor vehicle for a violation of this section shall inform
157 the operator of the operator's right to decline a search of
158 their electronic communication device and shall not access
159 the electronic communication device without a warrant, nor
160 confiscate the device while awaiting issuance of a warrant.

161 8. The provisions of this section shall be subject to
162 the reporting requirements set forth in section 590.650.

163 9. The state preempts the field of regulating the use
164 of electronic communication devices by the operators of
165 vehicles. The provisions of this section shall supercede
166 any local laws, ordinances, orders, rules, or regulations
167 enacted by a county, municipality, or other political
168 subdivision to regulate the use of electronic communication
169 devices by the operator of a vehicle.

170 10. Prior to January 1, 2025, a law enforcement
171 officer who stops a noncommercial motor vehicle for a
172 violation of this section shall not issue a citation for a
173 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
age or younger operating a moving motor vehicle

4 upon the highways of this state shall, by means
5 of a hand-held electronic wireless
6 communications device, send, read, or write a
7 text message or electronic message.

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

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

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

20 (1) An authorized emergency vehicle; or

21 (2) A moving motor vehicle while using a
22 hand-held electronic wireless communications
23 device to:

24 (a) Report illegal activity;

25 (b) Summon medical or other emergency help;

26 (c) Prevent injury to a person or
27 property; or

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

32 5. Nothing in this section shall be
33 construed or interpreted as prohibiting a person
34 from making or taking part in a telephone call,
35 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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