

FIRST REGULAR SESSION

# HOUSE BILL NO. 312

## 99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WALKER (3).

0962H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal section 304.820, RSMo, and to enact in lieu thereof one new section relating to the safe operation of motor vehicles while using electronic communications devices, 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Section A. Section 304.820, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.820, to read as follows:

- 304.820. 1. ~~[Except as otherwise provided in this section, no person twenty-one years of age or younger operating a moving motor vehicle upon the highways of this state shall, by means of a hand-held electronic wireless communications device, send, read, or write a text message or electronic message.]~~
- ~~2. Except as otherwise provided in this section, no person shall operate a commercial motor vehicle while using a hand-held mobile telephone.~~
- ~~3. Except as otherwise provided in this section, no person shall operate a commercial motor vehicle while using a wireless communications device to send, read, or write a text message or electronic message.~~
- ~~4. The provisions of subsection 1 through subsection 3 of this section shall not apply to a person operating:~~
- ~~(1) An authorized emergency vehicle; or~~
  - ~~(2) A moving motor vehicle while using a hand-held electronic wireless communications device to:~~
    - ~~(a) Report illegal activity;~~
    - ~~(b) Summon medical or other emergency help;~~

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.

- 17 ~~—— (c) Prevent injury to a person or property; or~~  
18 ~~—— (d) Relay information between a transit or for-hire operator and that operator's~~  
19 ~~dispatcher, in which the device is permanently affixed to the vehicle.—~~
- 20 ~~—— 5. Nothing in this section shall be construed or interpreted as prohibiting a person from~~  
21 ~~making or taking part in a telephone call, by means of a hand-held electronic wireless~~  
22 ~~communications device, while operating a noncommercial motor vehicle upon the highways of~~  
23 ~~this state.—~~
- 24 ~~—— 6. As used in this section, "electronic message" means a self-contained piece of digital~~  
25 ~~communication that is designed or intended to be transmitted between hand-held electronic~~  
26 ~~wireless communication devices. "Electronic message" includes, but is not limited to, electronic~~  
27 ~~mail, a text message, an instant message, or a command or request to access an internet site.—~~
- 28 ~~—— 7. As used in this section, "hand-held electronic wireless communications device"~~  
29 ~~includes any hand-held cellular phone, palm pilot, blackberry, or other mobile electronic device~~  
30 ~~used to communicate verbally or by text or electronic messaging, but shall not apply to any~~  
31 ~~device that is permanently embedded into the architecture and design of the motor vehicle.—~~
- 32 ~~—— 8. As used in this section, "making or taking part in a telephone call" means listening to~~  
33 ~~or engaging in verbal communication through a hand-held electronic wireless communication~~  
34 ~~device.—~~
- 35 ~~—— 9. As used in this section, "send, read, or write a text message or electronic message"~~  
36 ~~means using a hand-held electronic wireless telecommunications device to manually~~  
37 ~~communicate with any person by using an electronic message. Sending, reading, or writing a~~  
38 ~~text message or electronic message does not include reading, selecting, or entering a phone~~  
39 ~~number or name into a hand-held electronic wireless communications device for the purpose of~~  
40 ~~making a telephone call.—~~
- 41 ~~—— 10. A violation of this section shall be deemed an infraction and shall be deemed a~~  
42 ~~moving violation for purposes of point assessment under section 302.302.—~~
- 43 ~~—— 11. The state preempts the field of regulating the use of hand-held electronic wireless~~  
44 ~~communications devices in motor vehicles, and the provisions of this section shall supercede any~~  
45 ~~local laws, ordinances, orders, rules, or regulations enacted by a county, municipality, or other~~  
46 ~~political subdivision to regulate the use of hand-held electronic wireless communication devices~~  
47 ~~by the operator of a motor vehicle.—~~
- 48 ~~—— 12. The provisions of this section shall not apply to:~~
- 49 ~~—— (1) The operator of a vehicle that is lawfully parked or stopped;~~  
50 ~~—— (2) Any of the following while in the performance of their official duties: a law~~  
51 ~~enforcement officer; a member of a fire department; or the operator of a public or private~~  
52 ~~ambulance;—~~

53 ~~—— (3) The use of factory-installed or aftermarket global positioning systems (GPS) or~~  
54 ~~wireless communications devices used to transmit or receive data as part of a digital dispatch~~  
55 ~~system;~~

56 ~~—— (4) The use of voice-operated technology;~~

57 ~~—— (5) The use of two-way radio transmitters or receivers by a licensee of the Federal~~  
58 ~~Communications Commission in the Amateur Radio Service.] As used in this section, the~~  
59 **following terms mean:**

60 **(1) "Electronic message", a self-contained piece of digital communication that is**  
61 **designed or intended to be transmitted via an electronic wireless communication device,**  
62 **which includes, but is not limited to, electronic mail, a text message, an instant message,**  
63 **or a command or request to access an internet site;**

64 **(2) "Electronic wireless communication device", includes, but is not limited to, a**  
65 **cell phone, personal digital assistant, electronic device with mobile data access, laptop**  
66 **computer, pager, broadband personal communication device, electronic game, or portable**  
67 **computing device. An electronic wireless communications device shall not include:**

68 **(a) A global navigation satellite system receiver used for positioning, emergency**  
69 **notification, or navigation purposes; and**

70 **(b) Two-way or citizen band radio services;**

71 **(3) "Hands-free electronic wireless communication device", a wireless**  
72 **communication device that has an internal feature or function, or that is equipped with an**  
73 **attachment or addition, whether or not permanently part of such mobile electronic device,**  
74 **by which a user engages with the device without the use of either hand; provided that this**  
75 **definition shall not preclude the use of either hand merely to activate, deactivate, or initiate**  
76 **a function of the device;**

77 **(4) "Highway", any public thoroughfare for vehicles, including state roads, county**  
78 **roads and public streets, avenues, boulevards, parkways, or alleys in any municipality;**

79 **(5) "Operating", physically driving or operating a motor vehicle on a highway,**  
80 **including operation while temporarily stationary because of traffic, a traffic light or stop**  
81 **sign, or otherwise. A person is not operating a motor vehicle for purposes of this section**  
82 **when the vehicle has pulled over to the side of, or off, a highway and has stopped in a**  
83 **location where it can safely remain stationary.**

84 **2. Except as otherwise provided in this section, no person operating a motor vehicle**  
85 **upon the highways of this state shall use any hand-held electronic wireless communications**  
86 **device. Prohibited use shall include, but not be limited to: reading, composing, viewing,**  
87 **or posting any electronic message; initiating, receiving, or conducting a conversation; or**  
88 **manually typing data into any electronic wireless communication device.**

89           **3. The provisions of subsection 2 of this section shall not apply to a person**  
90 **operating:**

91           **(1) An authorized emergency vehicle as defined in section 304.022;**

92           **(2) A motor vehicle that is responding to another motor vehicle's request for**  
93 **roadside assistance upon the highways of this state when such response is conducted in the**  
94 **course and scope of a commercial activity; or**

95           **(3) A motor vehicle while using a hand-held electronic wireless communications**  
96 **device to:**

97           **(a) Contact emergency services; or**

98           **(b) Relay information between a transit or for-hire motor vehicle operator and that**  
99 **operator's dispatcher when the device is affixed to the motor vehicle.**

100           **4. Nothing in the provisions of subsection 2 of this section shall be construed or**  
101 **interpreted to prohibit a person operating a motor vehicle on the highways of this state**  
102 **from using a hands-free electronic wireless communication device when the operator is not**  
103 **holding the hands-free electronic wireless communication device in the operator's hand or**  
104 **hands, except the operator shall not have his or her attention diverted from the lawful**  
105 **operation of the motor vehicle. The provisions of subsection 2 shall not prohibit the use**  
106 **of either hand merely to activate, deactivate, or initiate a function of a hands-free electronic**  
107 **wireless communication device.**

108           **5. A violation of this section shall be deemed an infraction punishable by a twenty-**  
109 **five dollar fine for a first offense, a fifty dollar fine for a second offense, a seventy-five**  
110 **dollar fine for a third offense, and a one hundred dollar fine and the assessment of points**  
111 **under section 302.302 for any subsequent offense. A violation of this section while**  
112 **operating a motor vehicle in a work zone, as defined in section 304.580, when highway**  
113 **workers, as defined in section 304.580, are present or in areas designated as a school zone**  
114 **that are visibly marked by traffic control devices shall be deemed an infraction punishable**  
115 **by a fifty dollar fine for a first offense, a one hundred dollar fine for a second offense, a one**  
116 **hundred and fifty dollar fine for a third offense, and a two hundred dollar fine and the**  
117 **assessment of points under section 302.302 for any subsequent offense. In no case shall**  
118 **points be assessed against any person, under section 302.302, for a first, second or third**  
119 **violation of this section.**

120           **6. The state preempts the field of regulating the use of hand-held electronic wireless**  
121 **communications devices by the operators of motor vehicles and the provisions of this**  
122 **section shall supercede any local laws, ordinances, orders, rules, or regulations enacted by**  
123 **a county, municipality, or other political subdivision to regulate the use of hand-held**  
124 **electronic wireless communication devices by the operator of a motor vehicle.**

125           **7. Notwithstanding any provision in this section to the contrary, no person less than**  
126 **eighteen years of age, or with an instruction permit or intermediate license regardless of**  
127 **age, shall use an electronic wireless communications device, whether hands-free or not,**  
128 **while operating a motor vehicle on the highways of this state, except to contact emergency**  
129 **services.**

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