

FIRST REGULAR SESSION

HOUSE BILL NO. 161

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GOSEN.

0663H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 302.302 and 304.820, RSMo, and to enact in lieu thereof two new sections relating to texting while driving, with penalty provisions.

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

Section A. Sections 302.302 and 304.820, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 302.302 and 304.820, to read as follows:

302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 2 points (except any violation of municipal stop sign ordinance where no accident is involved 1 point)

(2) Speeding In violation of a state law 3 points
In violation of a county or municipal ordinance 2 points

(3) Leaving the scene of an accident in violation of section 577.060 12 points
In violation of any county or municipal ordinance 6 points

(4) Careless and imprudent driving in violation of subsection 4 of section 304.016 4 points
In violation of a county or municipal ordinance 2 points

(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:

(a) For the first conviction 2 points

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.

- 18 (b) For the second conviction 4 points
- 19 (c) For the third conviction 6 points
- 20 (6) Operating with a suspended or revoked license prior to restoration of operating
- 21 privileges 12 points
- 22 (7) Obtaining a license by misrepresentation 12 points
- 23 (8) For the first conviction of driving while in an intoxicated condition or under the
- 24 influence of controlled substances or drugs 8 points
- 25 (9) For the second or subsequent conviction of any of the following offenses however
- 26 combined: driving while in an intoxicated condition, driving under the influence of controlled
- 27 substances or drugs or driving with a blood alcohol content of eight-hundredths of one percent
- 28 or more by weight 12 points
- 29 (10) For the first conviction for driving with blood alcohol content eight-hundredths of
- 30 one percent or more by weight
- 31 In violation of state law 8 points
- 32 In violation of a county or municipal ordinance or federal law or regulation 8 points
- 33 (11) Any felony involving the use of a motor vehicle 12 points
- 34 (12) Knowingly permitting unlicensed operator to operate a motor vehicle 4 points
- 35 (13) For a conviction for failure to maintain financial responsibility pursuant to county
- 36 or municipal ordinance or pursuant to section 303.025 4 points
- 37 (14) Endangerment of a highway worker in violation of section 304.585 4 points
- 38 (15) Aggravated endangerment of a highway worker in violation of section 304.585 12
- 39 points
- 40 (16) For a conviction of violating a municipal ordinance that prohibits tow truck
- 41 operators from stopping at or proceeding to the scene of an accident unless they have been
- 42 requested to stop or proceed to such scene by a party involved in such accident or by an officer
- 43 of a public safety agency 4 points
- 44 (17) Endangerment of an emergency responder in violation of section 304.894 4 points
- 45 (18) Aggravated endangerment of an emergency responder in violation of section
- 46 304.894 12 points
- 47 **(19) Texting while driving in violation of section 304.820:**
- 48 **(a) For first offense 8 points**
- 49 **(b) For second and each subsequent offense 12 points**
- 50 2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess
- 51 an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section
- 52 302.020, when the director issues such operator a license or permit pursuant to the provisions
- 53 of sections 302.010 to 302.340.

54 3. An additional two points shall be assessed when personal injury or property damage
55 results from any violation listed in subdivisions (1) to (13) of subsection 1 of this section and if
56 found to be warranted and certified by the reporting court.

57 4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this
58 section constitutes both a violation of a state law and a violation of a county or municipal
59 ordinance, points may be assessed for either violation but not for both. Notwithstanding that an
60 offense arising out of the same occurrence could be construed to be a violation of subdivisions
61 (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more
62 than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for
63 offenses arising out of the same occurrence.

64 5. The director of revenue shall put into effect a system for staying the assessment of
65 points against an operator. The system shall provide that the satisfactory completion of a
66 driver-improvement program or, in the case of violations committed while operating a
67 motorcycle, a motorcycle-rider training course approved by the state highways and transportation
68 commission, by an operator, when so ordered and verified by any court having jurisdiction over
69 any law of this state or county or municipal ordinance, regulating motor vehicles, other than a
70 violation committed in a commercial motor vehicle as defined in section 302.700 or a violation
71 committed by an individual who has been issued a commercial driver's license or is required to
72 obtain a commercial driver's license in this state or any other state, shall be accepted by the
73 director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4)
74 of subsection 1 of this section or pursuant to subsection 3 of this section. The operator shall be
75 given the option to complete the driver-improvement program through an online or in-person
76 course. A court using a centralized violation bureau established under section 476.385 may elect
77 to have the bureau order and verify completion of a driver-improvement program or
78 motorcycle-rider training course as prescribed by order of the court. For the purposes of this
79 subsection, the driver-improvement program shall meet or exceed the standards of the National
80 Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which
81 occurred during the operation of a motorcycle, the program shall meet the standards established
82 by the state highways and transportation commission pursuant to sections 302.133 to 302.137.
83 The completion of a driver-improvement program or a motorcycle-rider training course shall not
84 be accepted in lieu of points more than one time in any thirty-six-month period and shall be
85 completed within sixty days of the date of conviction in order to be accepted in lieu of the
86 assessment of points. Every court having jurisdiction pursuant to the provisions of this
87 subsection shall, within fifteen days after completion of the driver-improvement program or
88 motorcycle-rider training course by an operator, forward a record of the completion to the

89 director, all other provisions of the law to the contrary notwithstanding. The director shall
90 establish procedures for record keeping and the administration of this subsection.

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

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

7 3. Except as otherwise provided in this section, no person shall operate a commercial
8 motor vehicle while using a wireless communications device to send, read, or write a text
9 message or electronic message.

10 4. The provisions of subsection 1 through subsection 3 of this section shall not apply to
11 a person operating:

12 (1) An authorized emergency vehicle; or

13 (2) A moving motor vehicle while using a hand-held electronic wireless communications
14 device to:

15 (a) Report illegal activity;

16 (b) Summon medical or other emergency help;

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.

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