

SECOND REGULAR SESSION

# HOUSE BILL NO. 2095

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE RAZER.

5821H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 304.820, RSMo, and to enact in lieu thereof one new section relating to the use of electronic wireless communication devices, 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Section A. Section 304.820, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.822, to read as follows:

**304.822. 1. As used in this section, the following terms mean:**

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

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

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

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

(3) "Hands-free electronic wireless communication device", a wireless communication device that has an internal feature or function, or that is equipped with an attachment or addition, regardless of whether permanently part of such mobile electronic device, by which a user engages with the device without the use of either hand; provided,

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 however, this definition shall not preclude the use of either hand merely to activate,  
18 deactivate, or initiate a function of the device;

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

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

26 2. Except as otherwise provided in this section, no person shall operate a  
27 noncommercial motor vehicle, as such term is defined in section 302.700, upon the  
28 highways of this state while using any hand-held electronic wireless communication device.  
29 Prohibited uses shall include, but not be limited to: reading, composing, viewing, or  
30 posting any electronic message; initiating, receiving, or conducting a conversation; or  
31 manually typing data into any electronic wireless communication device.

32 3. Except as otherwise provided in this section, no person shall operate a  
33 commercial motor vehicle, as that term is defined in section 302.700, while using a  
34 hand-held mobile telephone.

35 4. Except as otherwise provided in this section, no person shall operate a  
36 commercial motor vehicle, as that term is defined in section 302.700, while using an  
37 electronic wireless communication device to send, read, or write a text message or  
38 electronic message.

39 5. The provisions of subsections 2 to 4 of this section shall not apply to a person  
40 operating:

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

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

45 (3) A motor vehicle while using a hand-held electronic wireless communication  
46 device to:

47 (a) Contact emergency services; or

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

50 6. Nothing contained in subsection 2 of this section shall be construed or  
51 interpreted to prohibit a person operating a noncommercial motor vehicle, as such term  
52 is defined in section 302.700, on the highways of this state from using a hands-free

53 **electronic wireless communication device when the operator is not holding the hands-free**  
 54 **electronic wireless communication device in the operator's hand or hands, except the**  
 55 **operator shall not have his or her attention diverted from the lawful operation of the**  
 56 **noncommercial motor vehicle. The provisions of subsection 2 shall not prohibit the use of**  
 57 **either hand merely to activate, deactivate, or initiate a function of a hands-free electronic**  
 58 **wireless communication device while operating a noncommercial motor vehicle.**

59 **7. A violation of this section shall be deemed an infraction punishable by a fifty-**  
 60 **dollar fine. A violation of this section while operating a motor vehicle in a work zone, as**  
 61 **defined in section 304.580; when highway workers, as defined in section 304.580, are**  
 62 **present; or in areas designated as a school zone that are visibly marked by traffic control**  
 63 **devices shall be deemed an infraction punishable by a one hundred-dollar fine. A violation**  
 64 **of subsection 2 of this section shall not be deemed a moving violation for purposes of point**  
 65 **assessment under section 302.302; however, a violation of subsection 3 or 4 of this section**  
 66 **shall be deemed a serious traffic violation, as defined in 302.700, for purposes of**  
 67 **commercial driver's license disqualification under section 302.755.**

68 **8. The provisions of this section shall not preclude the adoption of any law,**  
 69 **ordinance, order, rule, or regulation not in conflict with this section, or at least as strict as**  
 70 **this section by any county, municipality, or other political subdivision.**

71 **9. Notwithstanding any provision in this section to the contrary, no person less than**  
 72 **eighteen years of age, or with an instruction permit or intermediate license regardless of**  
 73 **age, shall use an electronic wireless communication device, regardless of whether such**  
 74 **device is hands-free, while operating a motor vehicle on the highways of this state, except**  
 75 **to contact emergency services.**

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

~~7 2. Except as otherwise provided in this section, no person shall operate~~  
~~8 a commercial motor vehicle while using a hand-held mobile telephone.~~

~~9 3. Except as otherwise provided in this section, no person shall operate~~  
~~10 a commercial motor vehicle while using a wireless communications device to~~  
~~11 send, read, or write a text message or electronic message.~~

~~12 4. The provisions of subsection 1 through subsection 3 of this section~~  
~~13 shall not apply to a person operating:~~

~~14 (1) An authorized emergency vehicle; or~~

~~15 (2) A moving motor vehicle while using a hand-held electronic wireless~~  
~~16 communications device to:~~

~~(a) Report illegal activity;~~

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

- 59 ~~\_\_\_\_\_ (3) The use of factory-installed or aftermarket global positioning systems~~
- 60  ~~(GPS) or wireless communications devices used to transmit or receive data as~~
- 61  ~~part of a digital dispatch system;~~
- 62 ~~\_\_\_\_\_ (4) The use of voice-operated technology;~~
- 63 ~~\_\_\_\_\_ (5) The use of two-way radio transmitters or receivers by a licensee of the~~
- 64  ~~Federal Communications Commission in the Amateur Radio Service.]~~

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