

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1455

By: McAffrey

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5
6 AS INTRODUCED

7 An Act relating to motor vehicles; amending Section
8 3, Chapter 108, O.S.L. 2003 (47 O.S. Supp. 2008,
9 Section 11-901b), which relates to full time and
10 attention while driving; prohibiting use of certain
11 devices by operators of motor vehicles; providing
presumption under certain circumstances; providing
12 exceptions; prescribing penalties; authorizing
13 municipalities to enact certain ordinances; providing
14 definitions; and providing an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY Section 3, Chapter 108, O.S.L.
17 2003 (47 O.S. Supp. 2008, Section 11-901b), is amended to read as
18 follows:

19 Section 11-901b. A. The operator of every vehicle, while
20 driving, shall devote their full time and attention to such driving.

21 No law enforcement officer shall issue a citation under this
22 ~~section~~ subsection unless the operator of the vehicle is involved in
23 an accident.
24

1 B. A person shall not operate a motor vehicle on a street or
2 highway while using a cellular telephone or electronic communication
3 device to converse with another person, write, send, or read a text-
4 based communication while the motor vehicle is in motion unless the
5 person is engaging in a call on a cellular telephone that is
6 equipped with a hands-free device.

7 C. An operator of a motor vehicle who holds a cellular
8 telephone to, or in the immediate proximity of, the ear of the
9 operator while the motor vehicle is in motion is presumed to be
10 engaging in a call.

11 D. Subsection B of this section shall not apply to any of the
12 following:

13 1. Law enforcement and safety personnel;
14 2. Drivers of authorized emergency vehicles;
15 3. Holders of commercial driver licenses while driving within
16 the scope of their employment;

17 4. Public transit personnel;

18 5. A person who is reporting criminal, reckless, or negligent
19 behavior;

20 6. A person who believes himself or herself to be in physical
21 danger if that person is the only adult in the motor vehicle;

22 7. The use of a cellular telephone for the sole purpose of
23 communicating with any of the following regarding an emergency
24 situation:

- 1 a. an emergency response operator,
- 2 b. a hospital, physician's office or health clinic,
- 3 c. a provider of ambulance services,
- 4 d. a provider of firefighting services, or
- 5 e. a law enforcement agency; or

6 8. A person who is operating an amateur radio and who holds a
7 current, valid amateur radio station license issued by the Federal
8 Communications Commission.

9 E. Any person who violates the provisions of subsection B of
10 this section shall, upon conviction, be guilty of a misdemeanor
11 punishable by a fine of not less than Two Hundred Dollars (\$200.00)
12 nor more than Five Hundred Dollars (\$500.00).

13 F. Municipalities may enact and municipal police officers may
14 enforce ordinances prohibiting and penalizing conduct under the
15 provisions of this section, but the provisions of those ordinances
16 shall be the same as provided for in this section, and the
17 enforcement provisions of those ordinances shall not be more
18 stringent than those of this section.

19 G. As used in this section:

20 1. "Cellular telephone" means an analog or digital wireless
21 telephone authorized by the Federal Communications Commission to
22 operate in the frequency bandwidth reserved for cellular telephones;

23 2. "Electronic communication device" means an electronic device
24 that permits the user to manually transmit a communication of

1 written text by means other than through an oral transfer or wire
2 communication. This term does not include a voice-activated global
3 positioning or navigation system that is permanently affixed to a
4 motor vehicle;

5 3. "Engaging in a call" means talking into or listening on a
6 handheld cellular telephone, but does not include holding a cellular
7 telephone to activate, deactivate, or initiate a function of the
8 cellular telephone;

9 4. "Hands-free device" means an attachment, add-on or addition
10 to a cellular telephone, whether or not permanently installed in a
11 motor vehicle, that when used allows the motor vehicle operator to
12 maintain both hands on the steering wheel;

13 5. "Immediate proximity" means the distance that permits the
14 user of a cellular telephone to hear telecommunications transmitted
15 over the cellular telephone but that does not require physical
16 contact with the ear of the user; and

17 6. "Using a cellular telephone" means:

- 18 a. holding a cellular telephone to, or in the immediate
19 proximity of, the ear of the user, or
20 b. pressing the buttons on a cellular telephone to use
21 any of the functions of the cellular telephone.

22 SECTION 2. This act shall become effective November 1, 2009.

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24 52-1-5305 GRS 12/18/08