

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 HOUSE BILL 2540

 By: O'Donnell and Henke

7 AS INTRODUCED

8 An Act relating to motor vehicles; amending 47 O.S.
9 2011, Section 11-901c, as amended by Section 6,
10 Chapter 207, O.S.L. 2012 (47 O.S. Supp. 2013, Section
11 11-901c), which relates to unlawful use of a cellular
12 telephone or electronic communication device;
13 modifying scope of certain prohibited act; clarifying
14 language; defining terms; providing exceptions;
15 specifying information that is admissible as evidence
16 of a violation; providing method of enforcement; and
17 providing an effective date.

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

19 SECTION 1. AMENDATORY 47 O.S. 2011, Section 11-901c, as
20 amended by Section 6, Chapter 207, O.S.L. 2012 (47 O.S. Supp. 2013,
21 Section 11-901c), is amended to read as follows:

22 Section 11-901c. A. It shall be unlawful for any person to
23 operate a motor vehicle or a commercial motor vehicle or for a
24 public transit driver to operate a motor vehicle on any street or
25 highway within this state while ~~using~~ manually typing or entering
26 multiple letters, numbers, symbols or other characters into a
27 cellular telephone or electronic communication device ~~to write,~~

1 ~~send, or read a text-based~~ or while sending or reading data on such
2 a device for the purpose of nonvoice interpersonal communication
3 including, but not limited to, communication methods known as
4 texting, e-mailing and instant messaging, while the motor vehicle is
5 in motion. For purposes of this subsection, a motor vehicle that is
6 stationary is not being operated and is therefore not subject to the
7 prohibition as provided in this subsection.

8 B. Any person who violates the provisions of subsection A of
9 this section shall, upon conviction, be guilty of a misdemeanor
10 punishable by a fine of Five Hundred Dollars (\$500.00).

11 C. As used in this section:

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

15 2. "Communications service" means any service lawfully provided
16 for a charge or compensation by any cable system or by any radio,
17 fiber optic, photooptical, electromagnetic, photoelectronic,
18 satellite, microwave, data transmission, Internet-based or wireless
19 distribution network, system or facility including, but not limited
20 to, any electronic data, video, audio, Internet access, microwave
21 and radio communications, transmissions, signals and services and
22 any such communications, transmissions, signals and services
23 directly or indirectly by or through any of those networks, systems
24 or facilities;

1 mailing, instant messaging (IM), a command or request to access a
2 World Wide Web page, or engaging in any other form of electronic
3 text retrieval or entry, for present or future communication. ~~As~~
4 ~~used in this paragraph, texting does not include:~~

5 a. ~~using~~

6 D. The provisions of this section shall not apply to a motor
7 vehicle operator who is:

8 1. Performing official duties as an operator of an authorized
9 emergency vehicle as defined in Section 1-103 of this title;

10 2. Reporting an emergency or criminal or criminal or suspicious
11 activity to law enforcement authorities;

12 3. Receiving messages that are:

13 a. related to the operator or navigation of the motor
14 vehicle,

15 b. safety-related information including emergency,
16 traffic or weather alerts,

17 c. data used primarily by the motor vehicle, or

18 d. radio broadcasts;

19 4. Using voice commands to select or enter a telephone number,
20 an extension number, or voicemail retrieval codes and commands into
21 an electronic device for the purpose of initiating or receiving a
22 phone call,

23 ~~b. inputting;~~

24

1 5. Inputting, selecting, or reading information on a global
2 positioning system or navigation system, ~~or~~

3 ~~e.~~ using;

4 6. Conducting wireless interpersonal communication that does
5 not require manual entry of multiple letters, numbers or symbols,
6 except to activate, deactivate or initiate a feature or function;

7 7. Conducting wireless interpersonal communication that does
8 not require reading text messages, except to activate, deactivate or
9 initiate a feature or function; or

10 8. Using a device capable of performing multiple functions for
11 a purpose that is not otherwise prohibited in this ~~part~~ section,
12 including, but not limited to, fleet management systems, dispatching
13 devices, smart phones, citizens band radios, and music players.

14 ~~D.~~ E. This act shall not apply to railroads and railroad
15 operating employees regulated by the Federal Railroad
16 Administration.

17 F. The billing records for a cellular device or electronic
18 communication device, or the testimony of or written statements from
19 appropriate authorities, receiving such messages may be admissible
20 as evidence in any proceeding to determine whether a violation of
21 this section has been committed.

22 G. Except when the person is the holder of a commercial driver
23 license and is operating a commercial motor vehicle or the person is
24 serving in the capacity of a public transit driver and is operating

1 a motor vehicle, the enforcement of this section by state or local
2 law enforcement agencies must be accomplished only as a secondary
3 action when an operator of a motor vehicle has been detained for a
4 suspected violation of another traffic violation provided for in
5 this title.

6 SECTION 2. This act shall become effective November 1, 2014.

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8 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/26/2014 -
9 DO PASS, As Coauthored.

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