STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

HOUSE BILL 2540 By: O'Donnell

AS INTRODUCED

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

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

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

Section 11-901c. A. It shall be unlawful for any person to operate a motor vehicle or a commercial motor vehicle or for a public transit driver to operate a motor vehicle on any street or highway within this state while ~~using~~ manually typing or entering multiple letters, numbers, symbols or other characters into a cellular telephone or electronic communication device ~~to write, send, or read a text-based~~ or while sending or reading data on such

a device for the purpose of nonvoice interpersonal communication including, but not limited to, communication methods known as texting, e-mailing and instant messaging, while the motor vehicle is in motion. For purposes of this subsection, a motor vehicle that is stationary is not being operated and is therefore not subject to the prohibition as provided in this subsection.

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

C. As used in this section:

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

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

3. "Electronic communication device" means ~~an~~ any handheld electronic device, used or capable of being used in a handheld manner, that ~~permits the user~~ is designed or intended to ~~manually~~ receive or transmit ~~a communication of written~~ text ~~by means other than through an oral transfer or wire communication~~ or character-based messages, access or store data, or connect to the Internet or any communications service and that allows text communications. This term does not include a voice-activated global positioning or navigation system that is affixed to a motor vehicle;

~~3.~~ 4. "Public transit driver" means:

a. any operator of a public transit vehicle owned and operated by the State of Oklahoma, any public trust authority, county, municipality, town or city within this state,

b. any operator of a school bus or multi-passenger motor vehicle owned and approved to operate by the State Department of Education or any school district within this state, or

c. any operator, conductor or driver of a locomotive engine, railway car or train of cars; and

~~4.~~ 5. "Write, send, or read a text-based communication", also known as texting, means manually entering alphanumeric text into, sending text, or reading text from, an electronic device, and includes, but is not limited to, short message service (SMS), e-

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

~~a. using~~

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

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

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

3. Receiving messages that are:

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

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

c. data used primarily by the motor vehicle, or

d. radio broadcasts;

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

~~b. inputting~~;

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

~~c. using~~;

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

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

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

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

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

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

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

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

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