

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1965

By: O'Donnell

COMMITTEE SUBSTITUTE

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. 2014, Section 11-901c), which relates to the 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; 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. 2014, 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 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

1 nonvoice interpersonal communication including, but not limited to,
2 communication methods known as texting, emailing and instant
3 messaging, while the motor vehicle is in motion. For purposes of
4 this subsection, a motor vehicle that is stationary and is not being
5 operated is not subject to the prohibition as provided for in this
6 subsection.

7 B. Any person who violates the provisions of subsection A of
8 this section shall, upon conviction, be guilty of a misdemeanor
9 punishable by a fine of Two Hundred Fifty Dollars (\$250.00) for a
10 first offense. A second or subsequent conviction for a violation of
11 the provisions of subsection A of this section shall be punishable
12 by a fine of not more than Five Hundred Dollars (\$500.00).

13 C. As used in this section:

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

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

1 directly or indirectly by or through any of those networks, systems
2 or facilities;

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

12 ~~3.~~ 4. "Public transit driver" means:

- 13 a. any operator of a public transit vehicle owned and
14 operated by the State of Oklahoma, any public trust
15 authority, county, municipality, town or city within
16 this state,
- 17 b. any operator of a school bus or multi-passenger motor
18 vehicle owned and approved to operate by the State
19 Department of Education or any school district within
20 this state, or
- 21 c. any operator, conductor or driver of a locomotive
22 engine, railway car or train of cars; and

23 ~~4.~~ 5. "Write, send, or read a text-based communication", also
24 known as texting, means manually entering alphanumeric text into,

1 sending text, or reading text from, an electronic device, and
2 includes, but is not limited to, short message service (SMS), e-
3 mailing, instant messaging (IM), a command or request to access a
4 World Wide Web page, or engaging in any other form of electronic
5 text retrieval or entry, for present or future communication. ~~As~~
6 ~~used in this paragraph, texting does not include:~~

7 a. ~~using~~

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

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

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

14 3. Receiving messages that are:

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

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

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

20 d. radio broadcasts;

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

1 ~~b.~~ inputting;

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

4 ~~c.~~ using;

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

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

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

15 9. Using or operating a citizens band radio.

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

19 F. The billing records for a cellular device or electronic
20 communication device when properly obtained by law enforcement
21 authorities or the testimony of or written statements from
22 appropriate authorities receiving such messages may be admissible as
23 evidence in any proceeding to determine whether a violation of this
24 section has been committed.

1 G. Except when the person is the holder of a commercial driver
2 license and is operating a commercial motor vehicle or the person is
3 serving in the capacity of a public transit driver and is operating
4 a motor vehicle, the enforcement of this section by state or local
5 law enforcement agencies must be accomplished only as a secondary
6 action when an operator of a motor vehicle has been detained for a
7 suspected violation of another traffic law provided for in this
8 title.

9 H. Violation of this section shall not serve as the basis for
10 denying otherwise applicable motor vehicle insurance coverage.

11 SECTION 2. This act shall become effective November 1, 2015.

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