

# DRAFT

## SECOND REGULAR SESSION

\_\_\_\_\_ BILL NO. \_\_\_\_\_

## 99TH GENERAL ASSEMBLY

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### AN ACT

To repeal section 304.820, RSMo and to enact in lieu thereof one new section relating to the safe operation of highway motor vehicles while using electronic communication devices, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

1           Section A.     Section 304.820, RSMo is repealed and one new section enacted in  
2     lieu thereof, to be known as section 304.820, to read as follows:

1           **304.820.     1.     As used in this section, the following terms mean:**

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

6           **(2)     "Electronic wireless communication device", includes, but is not**  
7     **limited to a cell phone, personal digital assistant, electronic device with mobile data**  
8     **access, laptop computer, pager, broadband personal communication device,**  
9     **electronic game or portable computing device. An electronic wireless**  
10    **communications device shall not include: (a) global navigation satellite system**  
11    **receiver used for positioning, emergency notification, or navigation purposes; and**  
12    **(b) two-way or citizen band radio services;**

13           (3)    **“Hands-free electronic wireless communication device”, a wireless**  
14 **communication device that has an internal feature or function, or that is equipped**  
15 **with an attachment or addition, whether or not permanently part of such mobile**  
16 **electronic device, by which a user engages with the device without the use of either**  
17 **hand; provided, however, this definition shall not preclude the use of either hand**  
18 **merely to activate, deactivate, or initiate a function of the device;**

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

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

27           2.     **Except as otherwise provided in this section, a person operating a**  
28 **noncommercial motor vehicle, as that term is defined in section 302.700, upon the**  
29 **highways of this state shall not use any hand-held electronic wireless**  
30 **communications device. Prohibited uses shall include, but not be limited to:**  
31 **reading, composing, viewing, or posting any electronic message; or initiating,**  
32 **receiving, or conducting a conversation; or manually typing data into any electronic**  
33 **wireless communication device.**

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

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

41           **5. The provisions of subsections 2 through 4 of this section shall not**  
42 **apply to a person operating:**

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

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

47           **(3) A motor vehicle while using a hand-held electronic wireless**  
48 **communications device to:**

49           **(a) Contact emergency services; or**

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

53           **6. Nothing in the provisions of subsection 2 of this section shall be**  
54 **construed or interpreted to prohibit a person operating a noncommercial motor**  
55 **vehicle, as that term is defined in 302.700, on the highways of this state from using a**  
56 **hands-free electronic wireless communication device when the operator is not**

57 holding the hands-free electronic wireless communication device in the operator's  
58 hand or hands, except the operator shall not have his or her attention diverted from  
59 the lawful operation of the noncommercial motor vehicle, as that term is defined in  
60 302.700. The provisions of subsection 2 shall not prohibit the use of either hand  
61 merely to activate, deactivate, or initiate a function of a hands-free electronic  
62 wireless communication device.

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

73 8. The state preempts the field of regulating the use of hand-held  
74 electronic wireless communications devices by the operators of motor vehicles and  
75 the provisions of this section shall supersede any local laws, ordinances, orders,  
76 rules, or regulations enacted by a county, municipality, or other political subdivision  
77 to regulate the use of hand-held electronic wireless communication devices by the  
78 operator of a motor vehicle.

79           **9. Notwithstanding any provision in this section to the contrary, no**  
80 **person less than 18 years of age, or with an instruction permit or intermediate**  
81 **license regardless of age, shall use an electronic wireless communications device,**  
82 **whether hands-free or not, while operating a motor vehicle on the highways of this**  
83 **state, except to contact emergency services.**

84           ~~[304.820.——1.—— Except as otherwise provided in this section, no person~~  
85 ~~twenty one years of age or younger operating a moving motor vehicle upon the highways~~  
86 ~~of this state shall, by means of a hand held electronic wireless communications device,~~  
87 ~~send, read, or write a text message or electronic message.~~

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

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

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

95           ~~(1)—— An authorized emergency vehicle; or~~

96           ~~(2)—— A moving motor vehicle while using a hand held electronic wireless~~  
97 ~~communications device to:~~

98           ~~(a)—— Report illegal activity;~~

99           ~~(b)—— Summon medical or other emergency help;~~

100           ~~(c)—— Prevent injury to a person or property; or~~

101           (d) — ~~Relay information between a transit or for-hire operator and that operator's~~  
102 ~~dispatcher, in which the device is permanently affixed to the vehicle.~~

103           5. — ~~Nothing in this section shall be construed or interpreted as prohibiting a~~  
104 ~~person from making or taking part in a telephone call, by means of a hand-held electronic~~  
105 ~~wireless communications device, while operating a noncommercial motor vehicle upon~~  
106 ~~the highways of this state.~~

107           6. — ~~As used in this section, "electronic message" means a self-contained piece~~  
108 ~~of digital communication that is designed or intended to be transmitted between hand-~~  
109 ~~held electronic wireless communication devices. "Electronic message" includes, but is~~  
110 ~~not limited to, electronic mail, a text message, an instant message, or a command or~~  
111 ~~request to access an internet site.~~

112           7. — ~~As used in this section, "hand-held electronic wireless communications~~  
113 ~~device" includes any hand-held cellular phone, palm pilot, blackberry, or other mobile~~  
114 ~~electronic device used to communicate verbally or by text or electronic messaging, but~~  
115 ~~shall not apply to any device that is permanently embedded into the architecture and~~  
116 ~~design of the motor vehicle.~~

117           8. — ~~As used in this section, "making or taking part in a telephone call" means~~  
118 ~~listening to or engaging in verbal communication through a hand-held electronic wireless~~  
119 ~~communication device.~~

120           9. — ~~As used in this section, "send, read, or write a text message or electronic~~  
121 ~~message" means using a hand-held electronic wireless telecommunications device to~~  
122 ~~manually communicate with any person by using an electronic message. Sending,~~  
123 ~~reading, or writing a text message or electronic message does not include reading,~~

124 ~~selecting, or entering a phone number or name into a hand-held electronic wireless~~  
125 ~~communications device for the purpose of making a telephone call.~~

126 ~~10.—A violation of this section shall be deemed an infraction and shall be~~  
127 ~~deemed a moving violation for purposes of point assessment under section 302.302.~~

128 ~~11.—The state preempts the field of regulating the use of hand-held electronic~~  
129 ~~wireless communications devices in motor vehicles, and the provisions of this section~~  
130 ~~shall supercede any local laws, ordinances, orders, rules, or regulations enacted by a~~  
131 ~~county, municipality, or other political subdivision to regulate the use of hand-held~~  
132 ~~electronic wireless communication devices by the operator of a motor vehicle.~~

133 ~~12.—The provisions of this section shall not apply to:~~

134 ~~(1)—The operator of a vehicle that is lawfully parked or stopped;~~

135 ~~(2)—Any of the following while in the performance of their official duties: a~~  
136 ~~law enforcement officer; a member of a fire department; or the operator of a public or~~  
137 ~~private ambulance;~~

138 ~~(3)—The use of factory installed or aftermarket global positioning systems~~  
139 ~~(GPS) or wireless communications devices used to transmit or receive data as part of a~~  
140 ~~digital dispatch system;~~

141 ~~(4)—The use of voice-operated technology;~~

142 ~~(5)—The use of two-way radio transmitters or receivers by a licensee of the~~  
143 ~~Federal Communications Commission in the Amateur Radio Service.]~~