

Dear Senate Judiciary Committee:

I understand HB 2597 is currently in the Senate Judiciary Committee. I have reservations about the language of this bill. I fear that because the language is overbroad, the bill will have significant negative consequences for Oregonians.

I understand that the intent of the bill is to ban activities while driving which are currently permitted under Oregon case law. The bill attempts to do so by, among other things, prohibiting a driver from using a mobile electronic device for any purpose. This modification to existing statute would appear to ban people from, for example, playing with iPads while driving.

Unfortunately, it also bans drivers from using non-communication electronic devices which aid or assist the driver, or devices which the driver uses passively while driving, which do not distract the driver.

Examples include:

- a) wristwatches;
- b) MP3 players;
- c) personal sound amplification products (PSAPs);
- d) Bluetooth headsets;
- e) court-ordered electronic monitoring; and
- f) OBD-II monitors.

I'll elaborate a little on each.

The wristwatch is familiar to many people as an item of status-signaling adornment which also tells the time. I wouldn't want to make an argument for why electronic wristwatches are a hazard to driving, while wind-up spring-driven watches are not; but under HB2597, only electronic wristwatches are banned while driving.

An MP3 player is an electronic device, such as an iPod Shuffle, which connects to an available audio speaker and emits audio to the speaker. Such devices are frequently used by drivers for listening to something other than commercial radio. Devices vary in configuration and capability, but many are arguably no more distracting than the electronic controls built into modern car audio systems. All are banned by HB 2597.

A personal sound amplification product is a type of electronic device which, while not a hearing aid and therefore not a medical device, helps the wearer hear ambient sounds. The AARP has more information on PSAPs here:

<http://www.aarp.org/health/conditions-treatments/info-2015/hearing-amplifiers-psaps.html>

Under HB2597, hearing aids are allowed under the medical device exception, but PSAPs are not.

Banning PSAPs while allowing hearing aids appears to be an arbitrary distinction that does not benefit the public.

A bluetooth headset can be used as a hands-free accessory to a cellular phone, allowing the driver to use the cellular phone while keeping both hands on the wheel. However, the bluetooth headset is itself a mobile electronic device, and thus its use while driving is prohibited under the plain language of HB 2597.

A court may, at its discretion, offer a person the option of wearing an electronic monitoring device, commonly called an ankle bracelet, which tracks the person's location while worn. Such a device may

be used to monitor the terms of a travel restriction that permits driving between home and work, but does not permit driving or traveling to any other location. Since such a device is necessarily a mobile electronic device, and no applicable accessory exists related to hands-free use, the use of an electronic ankle bracelet while driving is prohibited under HB 2597.

Finally, an OBD-II monitor is an electronic device which plugs into the On-Board Diagnostic port of a car. The OBD-II port is standard in nearly all cars built since 1996. Some automobile insurance gives discounted rates based on miles driven, or on driving behaviour, and such insurance policies use OBD-II monitors to verify that the driver is compliant with policy limits. The OBD-II monitor is a mobile electronic device by definition, and in the automobile insurance application, it is used by the driver when driving to verify compliance. The device does not interfere with or distract from driving, and the driver can keep both hands on the wheel when an OBD-II monitor is in use. However, because no applicable accessory exists, HB 2597 would ban all such monitors. This would effectively ban pay-per-mile automotive insurance in the state of Oregon. I don't see how the state insurance commissioner could continue to authorize the sale of car insurance which relies on a device banned under HB 2597 if HB 2597 becomes law with its current language.

In sum, there are a great many mobile electronic devices which assist Oregonians in driving, aid Oregonians in obtaining fair insurance rates while driving, verify Oregonians' compliance with court-ordered restrictions on travel, act as hands-free accessories for other devices, or otherwise harmlessly enhance the lives of Oregonian drivers, the use of which while driving would be prohibited by HB 2597. In recognition of the variety and utility of devices which HB 2597 would ban, I strongly encourage the Committee to consider suitable amendment to limit the range of devices prohibited by the bill.

Thank you,
Steve Gerken
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