

HB 2597 A -A10, -A11, -A12, -A13, -A14, -A20, -A21 STAFF

MEASURE SUMMARY

Senate Committee On Judiciary

Prepared By: Whitney Perez, Counsel

Meeting Dates: 5/24, 6/1

WHAT THE MEASURE DOES:

Renames offense of operating a motor vehicle while using mobile communication device and expands it to cover operating a motor vehicle while using mobile electronic device. Defines key terms. Increases penalty for first offense. Increases penalty for subsequent offense or if first offense contributes to accident. Allows court to suspend fine upon first offense if person completes distracted driving avoidance course. Directs Department of Transportation to create standards for distracted driving avoidance courses. Specifies distracted driving avoidance course and fine suspension operative on January 1, 2018. Declares emergency, effective October 1, 2017.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-A10 Restores exemption for amateur radio operators. Restores exemption for two-way radio operators without medical or emergency help limitation.

-A11 Removes prohibition on use of mobile electronic device on premise open to the public. Makes exemptions an affirmative defense. Removes exemption for vehicle owned or contracted by utility. Adds affirmative defense for amateur radio operator's while summoning medical or other emergency help. Elevates first offense to Class A violation, unless incident contributes to an accident. Increases second offense or first if offense if it contributes to an accident to Class B misdemeanor. Increases third offense to Class A misdemeanor. Imposes mandatory minimum fine of \$2,000 for third offense.

-A12 Removes exemption for vehicle owned or contracted with a utility. Adds exemption for amateur radio operators.

-A13 Makes offense applicable to driving on a highway or premises open to the public. Removes exemption for vehicle owned or contracted with utility. Adds exemption for amateur radio operators.

-A14 Defines driving. Makes exception to this offense an affirmative defense. Removes exemption for vehicle owned or contracted by utility. Adds affirmative defense for amateur radio operator while summoning medical or other emergency help. Makes third or subsequent conviction within ten years Class B misdemeanor subject to a mandatory minimum fine of \$2,000.

-A20 Defines driving. Makes exception to this offense an affirmative defense. Removes exemption for vehicle owned or contracted by utility. Adds affirmative defense for amateur radio operator while summoning medical or other emergency help. Makes third or subsequent conviction within ten years Class B misdemeanor subject to a mandatory minimum fine of \$2,000.

-A21 Adds exception for dialing a telephone number or touching device to answer a telephone call.

BACKGROUND:

In 2007, House Bill 2872 was enacted, making it a traffic violation for a minor to operate a motor vehicle while using a mobile communication device. In 2009, House Bill 2377 expanded this law to prohibit any person from operating a motor vehicle while using a mobile communication device. This offense was originally a Class D traffic violation. In 2013, Senate Bill 9 elevated this offense to a Class C traffic violation. In 2015, the Oregon Court of Appeals, in *State v. Rabanales-Ramos*, reviewed this legislative history and determined that the law "prohibits talking and texting on a mobile communication device, but not *all* activities that can be performed using such a device." (Emphasis original). For example, the statute would not prohibit a person from holding a cell phone to listen to music while driving.

In 2016, a Distracted Driving Task Force (task force) began work on the issue of distracted driving. The task force issued a report in February 2017, which included a recommendation to amend the law to broaden the definition of device usage and eliminate certain exceptions.

House Bill 2597-A encompasses the task force's recommendations. It renames the offense and expands it to cover operating a motor vehicle while using a mobile electronic device. It also defines mobile electronic device and other key terms. HB 2597-A eliminates several exceptions contained in existing law, such as use of a mobile electronic device for the purpose of farming or agricultural operations. It also provides several exceptions, such as using a device while operating a utility vehicle within the scope of employment. HB 2597-A also increases the penalty for a first offense from a Class C traffic violation to a Class B traffic violation. It further increases the penalty to a Class A traffic violation for a subsequent offense within 10 years or if the first offense contributes to an accident. Finally, HB 2597-A allows the court to suspend a fine imposed on a first offense if a person completes a distracted driving avoidance course and directs the Department of Transportation to establish standards for these courses.