

**HB 2597 A STAFF MEASURE SUMMARY**

**Carrier:** Rep. Olson

**House Committee On Judiciary**

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**Action Date:** 04/14/17

**Action:** Do pass with amendments. (Printed A-Eng.)

**Vote:** 10-0-1-0

**Yeas:** 10 - Barker, Gorsek, Greenlick, Lininger, Olson, Post, Sanchez, Stark, Vial, Williamson

**Exc:** 1 - Sprenger

**Fiscal:** Has minimal fiscal impact

**Revenue:** No revenue impact

**Prepared By:** Whitney Perez, Counsel

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**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. Declares emergency, effective October 1, 2017.

**ISSUES DISCUSSED:**

- What is distracted driving
- What actions would constitute this offense
- Need for possible additional exceptions to this offense

**EFFECT OF AMENDMENT:**

Replaces the measure.

**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

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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.