

A-Engrossed
House Bill 2597

Ordered by the House April 21
Including House Amendments dated April 21

Sponsored by Representatives OLSON, LININGER, Senator BURDICK; Representatives BARKER, ESQUIVEL, RAYFIELD (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Renames offense of operating motor vehicle while using mobile communication device as offense of operating motor vehicle while using mobile electronic device. Defines "mobile electronic device." **Beginning January 1, 2018**, provides for suspension of execution of fine for first offense if person completes distracted driving avoidance course.

Increases penalty for offense. Increases penalty further if offense contributes to accident or is second or subsequent offense. Punishes by maximum fine of \$2,000.

Declares emergency, effective October 1, 2017.

A BILL FOR AN ACT

1
2 Relating to the offense of operating a motor vehicle while using a mobile electronic device; creating
3 new provisions; amending ORS 811.507; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 811.507 is amended to read:

6 811.507. (1) As used in this section:

7 (a) "Hands-free accessory" means an attachment or built-in feature for or an addition to a mo-
8 bile [*communication*] **electronic** device[, *whether or not permanently installed in a motor vehicle,*] that
9 when used [*allows a person to maintain*] **gives a person the ability to keep** both hands on the
10 steering wheel.

11 [(b) "*Mobile communication device*" means a text messaging device or a wireless, two-way commu-
12 *nication device designed to receive and transmit voice or text communication.*]

13 **(b)(A) "Mobile electronic device" means an electronic device that is not permanently in-**
14 **stalled in a motor vehicle.**

15 **(B) "Mobile electronic device" includes but is not limited to a device capable of text**
16 **messaging, voice communication, entertainment, navigation, accessing the Internet or**
17 **producing electronic mail.**

18 **(c) "Using a mobile electronic device" includes but is not limited to using a mobile elec-**
19 **tronic device for text messaging, voice communication, entertainment, navigation, accessing**
20 **the Internet or producing electronic mail.**

21 (2) A person commits the offense of operating a motor vehicle while using a mobile [*communi-*
22 *cation*] **electronic** device if the person, while operating a motor vehicle on a highway **or on prem-**
23 **ises open to the public**[,]:

24 **(a) Holds a mobile electronic device in the person's hand; or**

25 **(b) Uses a mobile [*communication*] electronic device for any purpose.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) This section does not apply to a person who activates or deactivates a mobile
2 [communication] **electronic** device or a function of the device or who:

3 (a) Uses the **mobile electronic** device [for voice communication] **to communicate** if the person:

4 [(a)] (A) Is summoning medical or other emergency help if no other person in the vehicle is ca-
5 pable of summoning help;

6 [(b) *Is using a mobile communication device for the purpose of farming or agricultural*
7 *operations;*]

8 [(c)] (B) Is operating an ambulance, [or] emergency vehicle **or a vehicle owned or contracted**
9 **by a utility while acting in the scope of the person's employment;**

10 (C) **Is an individual employed as a commercial motor vehicle driver or a school bus driver**
11 **who uses a mobile electronic device within the scope of the person's employment if the use**
12 **is permitted under regulations promulgated pursuant to 49 U.S.C. 31136 as in effect on Jan-**
13 **uary 1, 2017; or**

14 (D) **Is a police officer, firefighter or emergency medical services provider while acting in**
15 **the scope of the person's employment;**

16 [(d)] (b) Is 18 years of age or older and is using a hands-free accessory;

17 [(e) *Is operating a motor vehicle while providing public safety services or emergency services;*]

18 [(f) *Is operating a motor vehicle while acting in the scope of the person's employment as a public*
19 *safety officer, as defined in ORS 348.270;*]

20 [(g) *Is operating a tow vehicle or roadside assistance vehicle while acting in the scope of the*
21 *person's employment;*]

22 [(h) *Holds a valid amateur radio operator license issued or any other license issued by the Federal*
23 *Communications Commission and is operating an amateur radio;*]

24 [(i)] (c) Is operating a two-way radio device that transmits radio communication transmitted by
25 a station operating on an authorized frequency within the citizens' or family radio service bands in
26 accordance with rules of the Federal Communications Commission[;] **to summon medical or other**
27 **emergency help; or**

28 (d) **Is using a medical device.**

29 [(j) *Is operating a vehicle owned or contracted by a utility for the purpose of installing, repairing,*
30 *maintaining, operating or upgrading utility service, including but not limited to natural gas, electricity,*
31 *water or telecommunications, while acting in the scope of the person's employment; or]*

32 [(k) *Is using a function of the mobile communication device that allows for only one-way voice*
33 *communication while the person is;*]

34 [(A) *Operating a motor vehicle in the scope of the person's employment;*]

35 [(B) *Providing transit services; or]*

36 [(C) *Participating in public safety or emergency service activities.*]

37 (4) The offense described in this section, operating a motor vehicle while using a mobile [com-
38 munication] **electronic** device, is:

39 (a) **For a person's first conviction, a Class [C] B traffic violation unless commission of the**
40 **offense contributes to an accident.**

41 (b) **For a person's second or subsequent conviction within a 10-year period, a Class A**
42 **traffic violation.**

43 (c) **If commission of the offense contributes to an accident, a Class A traffic violation.**

44 (5) The Department of Transportation shall place signs on state highways to notify drivers that
45 violation of this section is subject to a maximum fine of [~~\$500~~] **\$2,000.**

1 **SECTION 2.** ORS 811.507, as amended by section 1 of this 2017 Act, is amended to read:

2 811.507. (1) As used in this section:

3 (a) “Hands-free accessory” means an attachment or built-in feature for or an addition to a mo-
4 bile electronic device that when used gives a person the ability to keep both hands on the steering
5 wheel.

6 (b)(A) “Mobile electronic device” means an electronic device that is not permanently installed
7 in a motor vehicle.

8 (B) “Mobile electronic device” includes but is not limited to a device capable of text messaging,
9 voice communication, entertainment, navigation, accessing the Internet or producing electronic mail.

10 (c) “Using a mobile electronic device” includes but is not limited to using a mobile electronic
11 device for text messaging, voice communication, entertainment, navigation, accessing the Internet
12 or producing electronic mail.

13 (2) A person commits the offense of operating a motor vehicle while using a mobile electronic
14 device if the person, while operating a motor vehicle on a highway or on premises open to the
15 public:

16 (a) Holds a mobile electronic device in the person’s hand; or

17 (b) Uses a mobile electronic device for any purpose.

18 (3) This section does not apply to a person who activates or deactivates a mobile electronic
19 device or a function of the device or who:

20 (a) Uses the mobile electronic device to communicate if the person:

21 (A) Is summoning medical or other emergency help if no other person in the vehicle is capable
22 of summoning help;

23 (B) Is operating an ambulance, emergency vehicle or a vehicle owned or contracted by a utility
24 while acting in the scope of the person’s employment;

25 (C) Is an individual employed as a commercial motor vehicle driver or a school bus driver who
26 uses a mobile electronic device within the scope of the person’s employment if the use is permitted
27 under regulations promulgated pursuant to 49 U.S.C. 31136 as in effect on January 1, 2017; or

28 (D) Is a police officer, firefighter or emergency medical services provider while acting in the
29 scope of the person’s employment;

30 (b) Is 18 years of age or older and is using a hands-free accessory;

31 (c) Is operating a two-way radio device that transmits radio communication transmitted by a
32 station operating on an authorized frequency within the citizens’ or family radio service bands in
33 accordance with rules of the Federal Communications Commission to summon medical or other
34 emergency help; or

35 (d) Is using a medical device.

36 (4) The offense described in this section, operating a motor vehicle while using a mobile elec-
37 tronic device, is:

38 (a) For a person’s first conviction, a Class B traffic violation unless commission of the offense
39 contributes to an accident.

40 (b) For a person’s second or subsequent conviction within a 10-year period, a Class A traffic
41 violation.

42 (c) If commission of the offense contributes to an accident, a Class A traffic violation.

43 **(5)(a) For a person’s first conviction of operating a motor vehicle while using a mobile**
44 **electronic device, the court may suspend the fine to be imposed under subsection (4)(a) of**
45 **this section on the condition that the person, within 120 days of sentencing:**

1 (A) Complete at the person's own expense a distracted driving avoidance course approved
2 by the Department of Transportation under section 4 of this 2017 Act; and

3 (B) Provide proof of completion to the court.

4 (b) The court may schedule a hearing to determine whether the person successfully
5 completed the distracted driving avoidance course.

6 (c) If the person has successfully completed the requirements described in paragraph (a)
7 of this subsection, the court shall enter a sentence of discharge.

8 (d) If the person has not successfully completed the requirements described in paragraph
9 (a) of this subsection, the court shall:

10 (A) Grant the person an extension based on good cause shown; or

11 (B) Impose the fine under subsection (4)(a) of this section.

12 [(5)] (6) The Department of Transportation shall place signs on state highways to notify drivers
13 that violation of this section is subject to a maximum fine of \$2,000.

14 **SECTION 3.** Section 4 of this 2017 Act is added to and made a part of the Oregon Vehicle
15 Code.

16 **SECTION 4.** (1) The Department of Transportation by rule shall establish standards for
17 a distracted driving avoidance course provided to persons who violate ORS 811.507. The
18 standards must describe the contents and quality of a curriculum for the course, specify
19 requirements for obtaining a certificate or other evidence of having completed the course
20 and otherwise determine the level and depth of knowledge a person must have obtained from
21 the course.

22 (2) The department shall maintain a list of providers approved to lead the course de-
23 scribed in this section and shall update the list monthly. The department shall prescribe
24 procedures for providing the provider list to local courts.

25 **SECTION 5.** The amendments to ORS 811.507 by section 1 of this 2017 Act apply to con-
26 duct that occurs on or after the effective date of this 2017 Act.

27 **SECTION 6.** (1) Section 4 of this 2017 Act and the amendments to ORS 811.507 by section
28 2 of this 2017 Act become operative on January 1, 2018.

29 (2) The Department of Transportation may take any action before the operative date
30 specified in subsection (1) of this section that is necessary to enable the department, on and
31 after the operative date specified in subsection (1) of this section, to exercise the duties,
32 functions and powers conferred on the department by section 4 of this 2017 Act and the
33 amendments to ORS 811.507 by section 2 of this 2017 Act.

34 **SECTION 7.** This 2017 Act being necessary for the immediate preservation of the public
35 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
36 October 1, 2017.