

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 2**

1 On page 1 of the printed bill, line 3, delete “and amending ORS 811.507”
2 and insert “; amending ORS 811.507; and declaring an emergency”.

3 Delete lines 5 through 28 and delete pages 2 and 3 and insert:

4 **“SECTION 1.** ORS 811.507 is amended to read:

5 “811.507. (1) As used in this section:

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

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

14 **“(b)(A) ‘Mobile electronic device’ means an electronic device that**
15 **is not permanently installed in a motor vehicle.**

16 **“(B) ‘Mobile electronic device’ includes but is not limited to a device**
17 **capable of text messaging, voice communication, entertainment, nav-**
18 **igation, accessing the Internet or producing electronic mail.**

19 **“(c) ‘Using a mobile electronic device’ includes but is not limited**
20 **to using a mobile electronic device for text messaging, voice commu-**
21 **nication, entertainment, navigation, accessing the Internet or**

1 **producing electronic mail.**

2 “(2) A person commits the offense of operating a motor vehicle while us-
3 ing a mobile [*communication*] **electronic** device if the person, while operat-
4 ing a motor vehicle on a highway[,]:

5 **“(a) Holds a mobile electronic device in the person’s hand; or**

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

7 “(3) This section does not apply to a person who activates or deactivates
8 a mobile [*communication*] **electronic** device or a function of the device [*or*
9 *who*].

10 **“(4) It is an affirmative defense to a prosecution of a person under**
11 **this section that the person:**

12 **“(a) [*Uses*] Used the mobile electronic device [*for voice communication*]**
13 **to communicate** if the person:

14 **“[(a)] (A) [*Is*] Was summoning or providing** medical or other emergency
15 **help** if no other person in the vehicle [*is*] **was** capable of summoning help;
16 **or**

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

19 **“[(c) *Is operating an ambulance or emergency vehicle*];**

20 **“(B) Was an individual employed as a commercial motor vehicle**
21 **driver or a school bus driver who uses a mobile electronic device**
22 **within the scope of the person’s employment if the use is permitted**
23 **under regulations promulgated pursuant to 49 U.S.C. 31136 as in effect**
24 **on January 1, 2017;**

25 **“[(d)] (b) [*Is*] Was 18 years of age or older and [*is*] was** using a hands-free
26 **accessory;**

27 **“(c) Was operating an ambulance or emergency vehicle while acting**
28 **in the scope of the person’s employment;**

29 **“(d) Was a police officer, firefighter or emergency medical services**
30 **provider and was acting in the scope of the person’s employment;**

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

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

5 “[(g) *Is operating a tow vehicle or roadside assistance vehicle while acting*
6 *in the scope of the person’s employment;*]

7 “[(h) *Holds a valid amateur radio operator license issued or any other li-*
8 *cence issued by the Federal Communications Commission and is operating an*
9 *amateur radio;*]

10 “[(i) **(e) [Is] Was** operating a two-way radio device that transmits radio
11 communication transmitted by a station operating on an authorized fre-
12 quency within the citizens’ or family radio service bands in accordance with
13 rules of the Federal Communications Commission[;] **to summon medical**
14 **or other emergency help; or**

15 **“(f) Was using a medical device.**

16 “[(j) *Is operating a vehicle owned or contracted by a utility for the purpose*
17 *of installing, repairing, maintaining, operating or upgrading utility service,*
18 *including but not limited to natural gas, electricity, water or telecommuni-*
19 *cations, while acting in the scope of the person’s employment; or]*

20 “[(k) *Is using a function of the mobile communication device that allows for*
21 *only one-way voice communication while the person is:*]

22 “[(A) *Operating a motor vehicle in the scope of the person’s employment;*]

23 “[(B) *Providing transit services; or]*

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

25 “[(4) **(5)** The offense described in this section, operating a motor vehicle
26 while using a mobile [*communication*] **electronic** device, is:

27 **“(a) Except as provided in paragraph (b) of this subsection, for a**
28 **person’s first conviction, a Class [C] A traffic violation.**

29 **“(b) For a person’s first conviction, if commission of the offense**
30 **contributes to an accident that is required under ORS 811.725 to be**

1 reported to the Department of Transportation, a Class B misdemeanor.

2 “(c) For a person’s second conviction, a Class B misdemeanor.

3 “(d) For a person’s third or subsequent conviction, a Class A
4 misdemeanor.

5 “(6) In addition to any other sentence that may be imposed, the
6 court shall impose a minimum fine of \$2,000 on a person for a third
7 or subsequent conviction of operating a motor vehicle while using a
8 mobile electronic device.

9 “(7) For purposes of this section, sentences for two or more con-
10 victions that are imposed in the same sentencing proceeding are con-
11 sidered to be one sentence.

12 “[5] (8) The Department of Transportation shall place signs on state
13 highways to notify drivers that *[violation of this section is subject to a max-*
14 *imum fine of \$500]* **it is unlawful to operate a motor vehicle on the**
15 **highways of this state while using a mobile electronic device and vi-**
16 **olators are subject to criminal penalties.**

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

19 “811.507. (1) As used in this section:

20 “(a) ‘Hands-free accessory’ means an attachment or built-in feature for or
21 an addition to a mobile electronic device that when used gives a person the
22 ability to keep both hands on the steering wheel.

23 “(b)(A) ‘Mobile electronic device’ means an electronic device that is not
24 permanently installed in a motor vehicle.

25 “(B) ‘Mobile electronic device’ includes but is not limited to a device ca-
26 pable of text messaging, voice communication, entertainment, navigation,
27 accessing the Internet or producing electronic mail.

28 “(c) ‘Using a mobile electronic device’ includes but is not limited to using
29 a mobile electronic device for text messaging, voice communication, enter-
30 tainment, navigation, accessing the Internet or producing electronic mail.

1 “(2) A person commits the offense of operating a motor vehicle while us-
2 ing a mobile electronic device if the person, while operating a motor vehicle
3 on a highway:

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

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

6 “(3) This section does not apply to a person who activates or deactivates
7 a mobile communication device or a function of the device.

8 “(4) It is an affirmative defense to a prosecution of a person under this
9 section that the person:

10 “(a) Used the mobile electronic device to communicate if the person:

11 “(A) Was summoning or providing medical or other emergency help if no
12 other person in the vehicle was capable of summoning help; or

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

17 “(b) Was 18 years of age or older and was using a hands-free accessory;

18 “(c) Was operating an ambulance or emergency vehicle while acting in
19 the scope of the person’s employment;

20 “(d) Was a police officer, firefighter or emergency medical services pro-
21 vider and was acting in the scope of the person’s employment;

22 “(e) Was operating a two-way radio device that transmits radio commu-
23 nication transmitted by a station operating on an authorized frequency
24 within the citizens’ or family radio service bands in accordance with rules
25 of the Federal Communications Commission to summon medical or other
26 emergency help; or

27 “(f) Was using a medical device.

28 “(5) The offense described in this section, operating a motor vehicle while
29 using a mobile electronic device, is:

30 “(a) Except as provided in paragraph (b) of this subsection, for a person’s

1 first conviction, a Class A traffic violation.

2 “(b) For a person’s first conviction, if commission of the offense contrib-
3 utes to an accident that is required under ORS 811.725 to be reported to the
4 Department of Transportation, a Class B misdemeanor.

5 “(c) For a person’s second conviction, a Class B misdemeanor.

6 “(d) For a person’s third or subsequent conviction, a Class A
7 misdemeanor.

8 “(6) In addition to any other sentence that may be imposed, the court
9 shall impose a minimum fine of \$2,000 on a person for a third or subsequent
10 conviction of operating a motor vehicle while using a mobile electronic de-
11 vice.

12 “(7) For purposes of this section, sentences for two or more convictions
13 that are imposed in the same sentencing proceeding are considered to be one
14 sentence.

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

19 “(A) **Complete at the person’s own expense a distracted driving**
20 **avoidance course approved by the Department of Transportation under**
21 **section 4 of this 2017 Act; and**

22 “(B) **Provide proof of completion to the court.**

23 “(b) **The court may schedule a hearing to determine whether the**
24 **person successfully completed the distracted driving avoidance course.**

25 “(c) **If the person has successfully completed the requirements de-**
26 **scribed in paragraph (a) of this subsection, the court shall enter a**
27 **sentence of discharge.**

28 “(d) **If the person has not successfully completed the requirements**
29 **described in paragraph (a) of this subsection, the court shall:**

30 “(A) **Grant the person an extension based on good cause shown; or**

1 **“(B) Impose the fine under subsection (5)(a) of this section.**

2 **“[(8)] (9) The Department of Transportation shall place signs on state**
3 **highways to notify drivers that it is unlawful to operate a motor vehicle on**
4 **the highways of this state while using a mobile electronic device and viola-**
5 **tors are subject to criminal penalties.”.**

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

8 **“SECTION 4. (1) The Department of Transportation by rule shall**
9 **establish standards for a distracted driving avoidance course provided**
10 **to persons who violate ORS 811.507. The standards must describe the**
11 **contents and quality of a curriculum for the course, specify require-**
12 **ments for obtaining a certificate or other evidence of having com-**
13 **pleted the course and otherwise determine the level and depth of**
14 **knowledge a person must have obtained from the course.**

15 **“(2) The department shall maintain a list of providers approved to**
16 **lead the course described in this section and shall update the list**
17 **monthly. The department shall prescribe procedures for providing the**
18 **provider list to local courts.**

19 **“SECTION 5. The amendments to ORS 811.507 by section 1 of this**
20 **2017 Act apply to conduct that occurs on or after the effective date of**
21 **this 2017 Act.**

22 **“SECTION 6. (1) Section 4 of this 2017 Act and the amendments to**
23 **ORS 811.507 by section 2 of this 2017 Act become operative on January**
24 **1, 2018.**

25 **“(2) The Department of Transportation may take any action before**
26 **the operative date specified in subsection (1) of this section that is**
27 **necessary to enable the department, on and after the operative date**
28 **specified in subsection (1) of this section, to exercise the duties, func-**
29 **tions and powers conferred on the department by section 4 of this 2017**
30 **Act and the amendments to ORS 811.507 by section 2 of this 2017 Act.**

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

4
