

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2597**

1 On page 1 of the printed A-engrossed bill, delete lines 5 through 25 and
2 delete pages 2 through 4 and insert:

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

4 **“811.507. (1) As used in this section:**

5 **“(a)(A) ‘Driving’ means operating a motor vehicle on a highway or**
6 **premises open to the public, and while temporarily stationary because**
7 **of traffic, a traffic control device or other momentary delays.**

8 **“(B) ‘Driving’ does not include when the motor vehicle has stopped**
9 **in a location where it can safely remain stationary and:**

10 **“(i) Is pulled over on the side of, or is pulled off, a roadway;**

11 **“(ii) Is in a designated parking space; or**

12 **“(iii) Is required to park in the roadway to conduct necessary utility**
13 **maintenance work.**

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

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

1 “(c)(A) ‘**Mobile electronic device**’ means an electronic device that
2 is not permanently installed in a motor vehicle.

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

6 “(d) ‘**Using a mobile electronic device**’ includes but is not limited
7 to using a mobile electronic device for text messaging, voice commu-
8 nication, entertainment, navigation, accessing the Internet or
9 producing electronic mail.

10 “(2) A person commits the offense of *[operating]* **driving** a motor vehicle
11 while using a mobile *[communication]* **electronic** device if the person, while
12 *[operating]* **driving** a motor vehicle on a highway[,], or **premises open to**
13 **the public:**

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

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

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

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

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

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

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

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

29 “(B) **Was an individual employed as a commercial motor vehicle**
30 **driver or a school bus driver who uses a mobile electronic device**

1 **within the scope of the person’s employment if the use is permitted**
2 **under regulations promulgated pursuant to 49 U.S.C. 31136;**

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

5 “(c) **Was driving an ambulance or emergency vehicle while acting**
6 **in the scope of the person’s employment;**

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

9 “[*e*] *Is operating a motor vehicle while providing public safety services or*
10 *emergency services;*]

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

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

15 “[*h*] (e) [*Holds*] **Held** a valid amateur radio operator license issued or
16 any other license issued by the Federal Communications Commission and
17 [*is*] **was** operating an amateur radio **to summon medical or other emer-**
18 **gency help;**

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

24 “(g) **Was using a medical device.**

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

29 “[*k*] *Is using a function of the mobile communication device that allows for*
30 *only one-way voice communication while the person is;*]

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

2 “[B] *Providing transit services; or*]

3 “[C] *Participating in public safety or emergency service activities.*]

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

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

8 **“(b) For a person’s first conviction, if commission of the offense
9 contributes to an accident described in ORS 811.720, a Class A traffic
10 violation.**

11 **“(c) For a person’s second conviction within a 10-year period fol-
12 lowing the date of the person’s first conviction, a Class A traffic vio-
13 lation.**

14 **“(d) For a person’s third or subsequent conviction within a 10-year
15 period preceding the date of the person’s current conviction, a Class
16 B misdemeanor.**

17 **“(6) In addition to any other sentence that may be imposed, the
18 court shall impose a minimum fine of \$2,000 on a person convicted of
19 a Class B misdemeanor under subsection (5)(d) of this section.**

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

23 “[5] (8) The Department of Transportation shall place signs on state
24 highways to notify drivers that [*violation of this section is subject to a max-
25 imum fine of \$500*] **it is unlawful to drive a motor vehicle on the high-
26 ways of this state while using a mobile electronic device and violators
27 are subject to criminal penalties.**

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

30 “811.507. (1) As used in this section:

1 “(a)(A) ‘Driving’ means operating a motor vehicle on a highway or prem-
2 ises open to the public, and while temporarily stationary because of traffic,
3 a traffic control device or other momentary delays.

4 “(B) ‘Driving’ does not include when the motor vehicle has stopped in a
5 location where it can safely remain stationary and:

6 “(i) Is pulled over on the side of, or is pulled off, a roadway;

7 “(ii) Is in a designated parking space; or

8 “(iii) Is required to park in the roadway to conduct necessary utility
9 maintenance work.

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

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

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

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

21 “(2) A person commits the offense of driving a motor vehicle while using
22 a mobile electronic device if the person, while driving a motor vehicle on a
23 highway or premises open to the public:

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

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

26 “(3) This section does not apply to a person who activates or deactivates
27 a mobile electronic device or a function of the device.

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

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

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

3 “(B) Was an individual employed as a commercial motor vehicle driver
4 or a school bus driver who uses a mobile electronic device within the scope
5 of the person’s employment if the use is permitted under regulations
6 promulgated pursuant to 49 U.S.C. 31136;

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

8 “(c) Was driving an ambulance or emergency vehicle while acting in the
9 scope of the person’s employment;

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

12 “(e) Held a valid amateur radio operator license issued or any other li-
13 cense issued by the Federal Communications Commission and was operating
14 an amateur radio to summon medical or other emergency help;

15 “(f) Was operating a two-way radio device that transmits radio commu-
16 nication transmitted by a station operating on an authorized frequency
17 within the citizens’ or family radio service bands in accordance with rules
18 of the Federal Communications Commission to summon medical or other
19 emergency help; or

20 “(g) Was using a medical device.

21 “(5) The offense described in this section, driving a motor vehicle while
22 using a mobile electronic device, is:

23 “(a) Except as provided in paragraph (b) of this subsection, for a person’s
24 first conviction, a Class B traffic violation.

25 “(b) For a person’s first conviction, if commission of the offense contrib-
26 utes to an accident described in ORS 811.720, a Class A traffic violation.

27 “(c) For a person’s second conviction within a 10-year period following
28 the date of the person’s first conviction, a Class A traffic violation.

29 “(d) For a person’s third or subsequent conviction within a 10-year period
30 preceding the date of the person’s current conviction, a Class B

1 misdemeanor.

2 “(6) In addition to any other sentence that may be imposed, the court
3 shall impose a minimum fine of \$2,000 on a person convicted of a Class B
4 misdemeanor under subsection (5)(d) of this section.

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

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

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

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

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

18 “(c) If the person has successfully completed the requirements de-
19 scribed in paragraph (a) of this subsection, the court shall enter a
20 sentence of discharge.

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

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

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

25 “[8] (9) The department [*of Transportation*] shall place signs on state
26 highways to notify drivers that it is unlawful to drive a motor vehicle on the
27 highways of this state while using a mobile electronic device and violators
28 are subject to criminal penalties.

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

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

8 **“(2) The department shall maintain a list of providers approved to**
9 **lead the course described in this section and shall update the list**
10 **monthly. The department shall prescribe procedures for providing the**
11 **provider list to courts.**

12 **“SECTION 5. The amendments to ORS 811.507 by section 1 of this**
13 **2017 Act apply to conduct that occurs on or after the effective date of**
14 **this 2017 Act.**

15 **“SECTION 6. (1) Section 4 of this 2017 Act and the amendments to**
16 **ORS 811.507 by section 2 of this 2017 Act become operative on January**
17 **1, 2018.**

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

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

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