

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:

17       “(a) **Who activates or deactivates a mobile [*communication*] electronic**  
18 **device or a function of the device [*or who*];**

19       “(b) **Who is employed as a commercial motor vehicle driver, or as**  
20 **a school bus driver, and is using a mobile electronic device within the**  
21 **scope of the person’s employment if the use is permitted under regu-**  
22 **lations promulgated pursuant to 49 U.S.C. 31136;**

23       “(c) **Who is operating a two-way radio device that transmits radio**  
24 **communication transmitted by a station operating on an authorized**  
25 **frequency within the citizens’ or family radio service bands in ac-**  
26 **cordance with rules of the Federal Communications Commission while**  
27 **transporting forest products, or while operating a vehicle to assist in**  
28 **logging operations, within the scope of the person’s employment; or**

29       “(d) **Who is using a two-way radio device while operating a school**  
30 **bus or school activity vehicle within the scope of the person’s em-**

1 **ployment.**

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

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

6 **“(a) [Is] was summoning or providing** medical or other emergency help  
7 if no other person in the vehicle [is] **was** capable of summoning help;

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

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

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

13 **“(c) Was driving an ambulance or emergency vehicle while acting**  
14 **within the scope of the person’s employment;**

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

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

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

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

23 **“(h) [Is] (e) [Holds] Was 18 years of age or older, held** a valid amateur  
24 radio operator license issued or any other license issued by the Federal  
25 Communications Commission and [is] **was** operating an amateur radio;

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

1       “(g) Was using a medical device.

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

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

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

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

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

11       “[(4)] (5) The offense described in this section, [*operating*] **driving** a motor  
12 vehicle while using a mobile [*communication*] **electronic** device, is:

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

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

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

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

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

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

30       “[(5)] (8) The Department of Transportation shall place signs on state

1 highways to notify drivers that [*violation of this section is subject to a max-*  
2 *imum fine of \$500*] **it is unlawful to drive a motor vehicle on the high-**  
3 **ways of this state while using a mobile electronic device and violators**  
4 **are subject to criminal penalties.**

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

7 “811.507. (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

3       “(3) This section does not apply to a person:

4       “(a) Who activates or deactivates a mobile electronic device or a function  
5 of the device;

6       “(b) Who is employed as a commercial motor vehicle driver, or as a school  
7 bus driver, and is using a mobile electronic device within the scope of the  
8 person’s employment if the use is permitted under regulations promulgated  
9 pursuant to 49 U.S.C. 31136;

10       “(c) Who is operating a two-way radio device that transmits radio com-  
11 munication transmitted by a station operating on an authorized frequency  
12 within the citizens’ or family radio service bands in accordance with rules  
13 of the Federal Communications Commission while transporting forest pro-  
14 ducts, or while operating a vehicle to assist in logging operations, within the  
15 scope of the person’s employment; or

16       “(d) Who is using a two-way radio device while operating a school bus  
17 or school activity vehicle within the scope of the person’s employment.

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

20       “(a) Used the mobile electronic device to communicate if the person was  
21 summoning or providing medical or other emergency help if no other person  
22 in the vehicle was capable of summoning help;

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

24       “(c) Was driving an ambulance or emergency vehicle while acting within  
25 the scope of the person’s employment;

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

28       “(e) Was 18 years of age or older, held a valid amateur radio operator  
29 license issued or any other license issued by the Federal Communications  
30 Commission and was operating an amateur radio;

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

6 “(g) Was using a medical device.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11       **“[(8)] (9) The department [of Transportation] shall place signs on state**  
12 **highways to notify drivers that it is unlawful to drive a motor vehicle on the**  
13 **highways of this state while using a mobile electronic device and violators**  
14 **are subject to criminal penalties.**

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

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

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

28       **“SECTION 5. The amendments to ORS 811.507 by section 1 of this**  
29 **2017 Act apply to conduct that occurs on or after the effective date of**  
30 **this 2017 Act.**



1       **“SECTION 6. (1) Section 4 of this 2017 Act and the amendments to**  
2 **ORS 811.507 by section 2 of this 2017 Act become operative on January**  
3 **1, 2018.**

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

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

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