

Senate Bill 1016

Sponsored by Senator OLSEN

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 **as introduced**.

Provides exception from offense of driving motor vehicle while using mobile electronic device for person operating school bus, if person is using communication device designed for school bus dispatch communication.

A BILL FOR AN ACT

1
2 Relating to the offense of driving a motor vehicle while using a mobile electronic device; amending
3 ORS 811.507.

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

5 **SECTION 1.** ORS 811.507, as amended by section 1, chapter 32, Oregon Laws 2018, is amended
6 to read:

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

8 (a)(A) "Driving" means operating a motor vehicle on a highway or premises open to the public,
9 and while temporarily stationary because of traffic, a traffic control device or other momentary de-
10 lays.

11 (B) "Driving" does not include when the motor vehicle has stopped in a location where it can
12 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 construction or utility maintenance work.

16 (b) "Hands-free accessory" means an attachment or built-in feature for or an addition to a mo-
17 bile electronic device that gives a person the ability to keep both hands on the steering wheel at
18 all times while using the device or requires only the minimal use of a finger, via a swipe or tap, to
19 activate or deactivate a function of the device.

20 (c) "Livestock" has the meaning given that term in ORS 609.125.

21 (d)(A) "Mobile electronic device" means an electronic device that is not permanently installed
22 in a motor vehicle.

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

25 (e) "Using a mobile electronic device" includes but is not limited to using a mobile electronic
26 device for text messaging, voice communication, entertainment, navigation, accessing the Internet
27 or producing electronic mail.

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

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

31 (b) Uses a mobile 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:

2 (a) Who is employed as a commercial motor vehicle driver, or as a school bus driver, and is
 3 using a mobile electronic device within the scope of the person's employment if the use is permitted
 4 under regulations promulgated pursuant to 49 U.S.C. 31136;

5 (b) Who is employed as a driver of a vehicle having a gross vehicle weight rating or gross ve-
 6 hicle weight of at least 10,001 pounds and is using a mobile electronic device within the scope of
 7 the person's employment and as required under regulations promulgated pursuant to 49 U.S.C. 31137;

8 (c) Who is operating a two-way radio device that transmits radio communication transmitted by
 9 a station operating on an authorized frequency within the business, citizens' or family radio service
 10 bands in accordance with rules of the Federal Communications Commission while transporting forest
 11 products, or while operating a vehicle to assist in logging operations, within the scope of the
 12 person's employment;

13 (d) Who is using a two-way radio device **or a communication device designed for school bus**
 14 **dispatch communication, which operates in a manner functionally identical to two-way ra-**
 15 **dios**, while operating a school bus or school activity vehicle within the scope of the person's em-
 16 ployment;

17 (e) Who is using a two-way radio device or operating a two-way radio device that transmits ra-
 18 dio communication transmitted by a station operating on an authorized frequency within the busi-
 19 ness, citizens' or family radio service bands in accordance with rules of the Federal Communications
 20 Commission while operating a vehicle owned or contracted by a utility for the purpose of installing,
 21 repairing, maintaining, operating or upgrading utility service, including but not limited to natural
 22 gas, electricity, water or telecommunications, within the scope of the person's employment;

23 (f) Who is using a two-way radio device while operating a vehicle wider than the lane of travel,
 24 a vehicle transporting livestock or a vehicle requiring a slow-moving vehicle emblem under ORS
 25 815.110, and the use of the device facilitates the safe operation of the vehicle; or

26 (g) Who is using a two-way radio device while operating a pilot or safety vehicle used to assist
 27 the safe movement of a vehicle described in paragraph (f) of this subsection, and the use of the de-
 28 vice facilitates the safe movement of the vehicle described in paragraph (f) of this subsection.

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

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

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

33 (c) Was driving an ambulance or emergency vehicle while acting within the scope of the person's
 34 employment;

35 (d) Was a police officer, firefighter or emergency medical services provider and was acting
 36 within the scope of the person's employment;

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

39 (f) Was operating a two-way radio device that transmits radio communication transmitted by a
 40 station operating on an authorized frequency within the business, citizens' or family radio service
 41 bands in accordance with rules of the Federal Communications Commission to summon medical or
 42 other emergency help; or

43 (g) Was using a medical device.

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

1 (a) Except as provided in paragraph (b) of this subsection, for a person's first conviction, a Class
2 B traffic violation.

3 (b) For a person's first conviction, if commission of the offense contributes to an accident de-
4 scribed in ORS 811.720, a Class A traffic violation.

5 (c) For a person's second conviction within a 10-year period following the date of the person's
6 first conviction, a Class A traffic violation.

7 (d) For a person's third or subsequent conviction within a 10-year period preceding the date of
8 the person's current conviction, a Class B misdemeanor.

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

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

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

16 (A) Complete at the person's own expense a distracted driving avoidance course approved by the
17 Department of Transportation under ORS 811.508; and

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

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

21 (c) If the person has successfully completed the requirements described in paragraph (a) of this
22 subsection, the court shall enter a sentence of discharge. Notwithstanding ORS 153.021, a sentence
23 of discharge imposed under this paragraph may not include a fine.

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

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

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

28 (9) The department shall place signs on state highways to notify drivers that it is unlawful to
29 drive a motor vehicle on the highways of this state while using a mobile electronic device and vi-
30 olators are subject to criminal penalties.

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