

Amendment No. 1 to HB0164

Howell
Signature of Sponsor

AMEND Senate Bill No. 173*

House Bill No. 164

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-8-199, is amended by deleting the section and substituting instead the following:

(a) As used in this section:

(1) "Stand-alone electronic device" means a portable device other than a wireless telecommunications device that stores audio or video data files to be retrieved on demand by a user;

(2) "Utility services" means electric, natural gas, water, waste-water, cable, telephone, or telecommunications services or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, rights of way, or associated infrastructure; and

(3) "Wireless telecommunications device" means a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a global positioning system receiver, or substantially similar portable wireless device that is used to initiate or receive communication, information, or data. "Wireless telecommunications device" does not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device,

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or in-vehicle security, navigation, autonomous technology, or remote diagnostics system.

(b)

(1) A person, while operating a motor vehicle on any road or highway in this state, shall not:

(A) Physically hold or support, with any part of the person's body,

a:

(i) Wireless telecommunications device. This subdivision

(b)(1)(A)(i) does not prohibit a person eighteen (18) years of age or older from:

(a) Using an earpiece, headphone device, or device worn on a wrist to conduct a voice-based communication; or

(b) Using only one (1) button on a wireless telecommunications device to initiate or terminate a voice communication; or

(ii) Stand-alone electronic device;

(B) Write, send, or read any text-based communication, including, but not limited to, a text message, instant message, email, or internet data on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1)(B) does not apply to any person eighteen (18) years of age or older who uses such devices:

(i) To automatically convert a voice-based communication to be sent as a message in a written form; or

(ii) For navigation of the motor vehicle through use of a device's global positioning system;

(C) Reach for a wireless telecommunications device or stand-alone electronic device in a manner that requires the driver to no longer be:

(i) In a seated driving position; or

(ii) Properly restrained by a safety belt;

(D) Watch a video or movie on a wireless telecommunications device or stand-alone electronic device other than viewing data related to the navigation of the motor vehicle; or

(E) Record or broadcast video on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1) does not apply to electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle.

(2) Notwithstanding subdivisions (b)(1)(A) and (B), and in addition to the exceptions described in those subdivisions, a function or feature of a wireless telecommunications device or stand-alone electronic device may be activated or deactivated in a manner requiring the physical use of the driver's hand while the driver is operating a motor vehicle if:

(A) The wireless telecommunications device or stand-alone electronic device is mounted on the vehicle's windshield, dashboard, or center console in a manner that does not hinder the driver's view of the road; and

(B) The driver's hand is used to activate or deactivate a feature or function of the wireless telecommunications device or stand-alone electronic device with the motion of one (1) swipe or tap of the driver's finger, and does not activate camera, video, or gaming features or functions for viewing, recording, amusement, or other non-navigational functions, other than features or functions related to the transportation of persons or property for compensation or payment of a fee.

(c)

(1) A violation of this section is a Class C misdemeanor, subject only to imposition of a fine not to exceed fifty dollars (\$50.00). However, if the violation is the person's third or subsequent offense or if the violation results in an accident, the fine is one hundred dollars (\$100); or if the violation occurs in a work zone when employees of the department of transportation or construction workers are present or in a marked school zone when a warning flasher or flashers are in operation, the fine is two hundred dollars (\$200). Any person violating this section is subject to the imposition of court costs not to exceed ten dollars (\$10.00), including, but not limited to, any statutory fees of officers. State and local litigation taxes are not applicable to a case prosecuted under this section.

(2) In lieu of any fine imposed under subdivision (c)(1), a person who violates this section as a first offense may attend and complete a driver education course pursuant to § 55-10-301.

(3) Each violation of this section constitutes a separate offense.

(d) This section does not apply to the following persons:

(1) Officers of this state or of any county, city, or town charged with the enforcement of the laws of this state, or federal law enforcement officers when in the actual discharge of their official duties;

(2) Campus police officers and public safety officers, as defined by § 49-7-118, when in the actual discharge of their official duties;

(3) Emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and career, when in the actual discharge of their official duties;

(4) Emergency management agency officers of this state or of any county, city, or town, when in the actual discharge of their official duties;

(5) Persons using a wireless telecommunications device to communicate with law enforcement agencies, medical providers, fire departments, or other emergency service agencies while driving a motor vehicle, if the use is necessitated by a bona fide emergency, including a natural or human occurrence that threatens human health, life, or property;

(6) Employees or contractors of utility services providers acting within the scope of their employment; and

(7) Persons who are lawfully stopped or parked in their motor vehicles or who lawfully leave standing their motor vehicles.

(e) A traffic citation that is based solely upon a violation of this section is considered a moving traffic violation.

(f) The department of transportation is directed to utilize the department's permanent electronic overhead informational displays located throughout this state to provide periodic messages to the motoring public as to this section.

(g) The department of safety is directed to include distracted driving as part of the instructional information used in driver education training.

SECTION 2. Tennessee Code Annotated, Section 55-8-207, is amended by deleting the section in its entirety.

SECTION 3. This act shall take effect July 1, 2019, the public welfare requiring it.