

**Representative Carol Spackman Moss** proposes the following substitute bill:

1                                   **REGULATING THE USE OF A WIRELESS**  
2                                   **COMMUNICATION DEVICE WHILE**  
3                                   **OPERATING A MOTOR VEHICLE**

4                                   2009 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Chief Sponsor: Carol Spackman Moss**

7                                   Senate Sponsor: \_\_\_\_\_

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9                                   **LONG TITLE**

10                                  **General Description:**

11                                  This bill modifies the Motor Vehicles Code by amending provisions relating to using a  
12                                  handheld wireless communication device while operating a moving motor vehicle.

13                                  **Highlighted Provisions:**

14                                  This bill:

- 15                                  ▶ provides definitions;
- 16                                  ▶ prohibits a person from using a handheld wireless communication device while  
17                                  operating a moving motor vehicle unless the wireless communication device is  
18                                  designed and configured to allow for hands-free talking and listening and is used in  
19                                  that manner;
- 20                                  ▶ provides exceptions to the handheld wireless communication device prohibition;
- 21                                  ▶ provides that it is an infraction for violating the handheld wireless communication  
22                                  device prohibition;
- 23                                  ▶ provides that a violation of the handheld wireless communication device prohibition  
24                                  is not a reportable violation and points may not be assessed against a person for the  
25                                  violation;



26           ▶ provides that enforcement of a violation of this section shall only be as a secondary  
27 action when the vehicle has been detained for a suspected violation of certain  
28 offenses; and

29           ▶ makes technical changes.

30 **Monies Appropriated in this Bill:**

31           None

32 **Other Special Clauses:**

33           None

34 **Utah Code Sections Affected:**

35 ENACTS:

36           **41-6a-1716**, Utah Code Annotated 1953



37  
38 *Be it enacted by the Legislature of the state of Utah:*

39           Section 1. Section **41-6a-1716** is enacted to read:

40           **41-6a-1716. Prohibition on using a wireless communication device while operating**  
41 **a motor vehicle -- Exceptions -- Penalty.**

42           (1) As used in this section:

43           (a) (i) "Handheld wireless communication device" means a handheld device used for  
44 the transfer of information without the use of electrical conductors or wires.

45           (ii) "Handheld wireless communication device" includes a:

46           (A) wireless telephone;

47           (B) personal digital assistant;

48           (C) pager; or

49           (D) text messaging device.

50           (b) "Text messaging" has the same meaning as defined in Section 76-4-401.

51           (2) (a) Except as provided in Subsection (3), a person may not use a handheld wireless  
52 communication device while operating a moving motor vehicle upon a highway of this state  
53 unless the wireless communication device:

54           (i) is specifically designed and configured to allow hands-free listening and talking;

55 and

56           (ii) is used in the manner described in Subsection (2)(a)(i).

57           (b) The use of a handheld wireless communication device under this Subsection (2)  
58 includes the use of a handheld wireless communication device for text messaging or electronic  
59 mail communication.

60           (3) Subsection (2) does not prohibit a person from using a handheld wireless  
61 communication device while operating a moving motor vehicle:

62           (a) during an emergency;

63           (b) when reporting a safety hazard or requesting assistance relating to a safety hazard;

64           (c) when reporting criminal activity or requesting assistance relating to a criminal  
65 activity;

66           (d) when providing medical or roadside assistance; or

67           (e) when used by a law enforcement officer or emergency service personnel acting  
68 within the course and scope of their employment.

69           (4) (a) A person who violates this section is guilty of an infraction.

70           (b) A violation of this section is not a reportable violation as defined under Section  
71 53-3-102, and points may not be assessed against a person for the violation.

72           (5) Enforcement of this section by a state or local law enforcement officer shall be only  
73 as a secondary action when the vehicle has been detained for a suspected violation by any  
74 person in the vehicle of Title 41, Motor Vehicles, other than this section, or for another offense.