

1 **AMENDMENTS TO PROHIBITION ON USING A HANDHELD**
2 **WIRELESS COMMUNICATION DEVICE WHILE OPERATING**
3 **A VEHICLE**

4 2012 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Lyle W. Hillyard**

7 House Sponsor: Richard A. Greenwood

8
9 **LONG TITLE**

10 **General Description:**

11 This bill modifies the Traffic Code and the Utah Criminal Code by amending
12 provisions to relating the prohibition of using a wireless communication device while
13 operating a moving motor vehicle.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ amends definitions;
- 17 ▶ provides that a person may not use a handheld wireless communication device while
18 operating a moving motor vehicle on a highway in this state to:

- 19 • text message;
- 20 • ~~§~~ **manually** ~~§~~ communicate through an electronic mail system;
- 21 • manually enter data into a handheld wireless communication device;
- 22 • send data, read text, or view images on a handheld wireless communication
23 device; or
- 24 • manipulate an application from a handheld wireless communication device

24a ~~§~~ ~~[§, unless the application is being manipulated with a hands free application]~~ ~~§~~ ;

25 ▶ provides that a person is not prohibited from using a handheld wireless
26 communication device while operating a moving motor vehicle:

- 27 • when making or receiving a telephone call; ~~§~~ [or] ~~§~~



28 • when using a handheld wireless communication device for global positioning or
29 navigation services; ~~§~~→ or

29a • to operate a hands-free or voice operated technology or to operate a system that is
29b physically or electronically integrated into the motor vehicle; ←~~§~~

30 ▶ provides that a person is guilty of automobile homicide involving a handheld
31 wireless communication device if the person uses a handheld wireless
32 communication device for certain purposes while operating a moving motor vehicle
33 in a negligent or criminally negligent manner and causes the death of another
34 person; and

35 ▶ makes technical changes.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **41-6a-1716**, as enacted by Laws of Utah 2009, Chapter 291

43 **76-5-207.5**, as enacted by Laws of Utah 2009, Chapter 291



45 *Be it enacted by the Legislature of the state of Utah:*

46 Section 11. Section **41-6a-1716** is amended to read:

47 **41-6a-1716. Prohibition on using a handheld wireless communication device for**
48 **text messaging communication while operating a moving motor vehicle -- Penalties.**

49 (1) As used in this section:

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

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

53 (A) wireless telephone;

54 (B) personal digital assistant;

55 (C) pager; or

56 (D) text messaging device.

57 (b) (i) "Text [messaging" has the same meaning as defined in Section ~~76-4-401.~~

58 message" means to ~~§~~→ **manually** ←~~§~~ communicate in the form of electronic text or one or more

58a electronic

59 images sent by the actor from a handheld wireless communication device to another person's
 60 handheld wireless communication device or computer by addressing the communication to the
 61 person's telephone number.

62 (ii) "Text message" includes ~~§~~ manually ~~←§~~ composing a communication in the form of
 62a electronic text
 63 or an electronic image by the actor even if the electronic text or image has not been sent to
 64 another person.

64a ~~§~~ ~~[~~§~~ (iii) "Text message" does not include communicating, composing a communication,~~
 64b ~~or receiving a communication in the form of electronic text or one or more electronic images~~
 64c ~~sent by the actor from a handheld wireless communication device to another person's~~
 64d ~~handheld wireless communication device or computer by addressing the communication to the~~
 64e ~~person's telephone number if the electronic text or image is communicated, composed, or~~
 64f ~~received using a hands free application. ~~←§~~] ~~←§~~~~

65 (2) Except as provided in Subsection (3), a person may not use a handheld wireless
 66 communication device [~~for text messaging or electronic mail communication~~] while operating
 67 a moving motor vehicle on a highway in this state[:] to:

68 (a) text message;

69 (b) ~~§~~ manually ~~←§~~ communicate through an electronic mail system;

70 (c) manually enter data into a handheld wireless communication device;

71 (d) send data, read text, or view images on a handheld wireless communication device;

72 or

73 (e) manipulate an application from a handheld wireless communication device

73a ~~§~~ ~~[~~§~~, unless the application is being manipulated with a hands free application ~~←§~~] ~~←§~~ .~~

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

76 (a) when making or receiving a telephone call;

77 (b) when using a handheld wireless communication device for global positioning or
 78 navigation services;

79 [(a)] (c) during a medical emergency;

80 [(b)] (d) when reporting a safety hazard or requesting assistance relating to a safety
 81 hazard;

82 [(c)] (e) when reporting criminal activity or requesting assistance relating to a criminal
 83 activity;

84 [(d)] (f) when providing roadside or medical assistance; ~~§~~ [or] ~~←§~~

85 [(e)] (g) when used by a law enforcement officer or emergency service personnel acting

86 within the course and scope of the law enforcement officer's or emergency service personnel's
87 employment ~~§~~ **→ ; or**

87a **(h) to operate:**

87b **(i) hands-free or voice operated technology; or**

87c **(ii) a system that is physically or electronically integrated into the motor vehicle** ~~←§~~ .

88 (4) A person convicted of a violation of this section is guilty of a:

89 (a) class C misdemeanor; or

90 (b) class B misdemeanor if the person:

91 (i) has also inflicted serious bodily injury upon another as a proximate result of using a
92 handheld wireless communication device for text messaging or electronic mail communication
93 while operating a moving motor vehicle on a highway in this state; or

94 (ii) has a prior conviction under this section, that is within three years of:

95 (A) the current conviction under this section; or

96 (B) the commission of the offense upon which the current conviction is based.

97 Section 2. Section **76-5-207.5** is amended to read:

98 **76-5-207.5. Automobile homicide involving using a handheld wireless**
99 **communication device while driving.**

100 (1) As used in this section:

101 (a) "Criminally negligent" means criminal negligence as defined by Subsection
102 76-2-103(4).

103 ~~[(a)]~~ (b) "Handheld wireless communication device" has the same meaning as defined
104 in Section 41-6a-1716.

105 ~~[(b)]~~ (c) "Motor vehicle" means any self-propelled vehicle and includes any
106 automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.

107 ~~[(c) "Text messaging" has the same meaning as defined in Section 76-4-401.]~~

108 ~~[(2) (a) As used in this Subsection (2), "negligent"]~~

109 (d) "Negligent" means simple negligence, the failure to exercise that degree of care that
110 reasonable and prudent persons exercise under like or similar circumstances.

111 ~~[(b)]~~ (2) Criminal homicide is automobile homicide, a third degree felony, if the person
112 operates a moving motor vehicle in a negligent manner:

113 ~~[(i)]~~ (a) while using a handheld wireless communication device [~~for text messaging or~~
114 ~~electronic mail communication~~] in violation of Section 41-6a-1716; and

115 ~~[(ii)]~~ (b) causing the death of another person.

116 ~~[(3) (a) As used in this Subsection (3), "criminally negligent" means criminal~~
117 ~~negligence as defined by Subsection 76-2-103(4).]~~

118 ~~[(b)]~~ (3) Criminal homicide is automobile homicide, a second degree felony, if the
119 person operates a moving motor vehicle in a criminally negligent manner:

120 ~~[(i)]~~ (a) while using a handheld wireless communication device [~~for text messaging or~~

121 ~~electronic mail communication]~~ in violation of Section 41-6a-1716; and
122 [(ii)] (b) causing the death of another person.

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Office of Legislative Research and General Counsel