

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2228

By: Ford and **Pae** of the House

and

Gollihare of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to motor vehicles; amending 47 O.S.
12 2021, Section 11-901d, as amended by Section 93,
13 Chapter 282, O.S.L. 2022 (47 O.S. Supp. 2022, Section
14 11-901d), which relates to text messaging; modifying
15 types of devices unlawful to use while operating a
16 motor vehicle; modifying amount of fine, costs, and
17 fees; directing distribution of fine, costs, and
18 fees; allowing for the use of certain technologies;
19 modifying definition; disallowing confiscation of
20 certain devices and information; making certain
21 exceptions; and providing an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 47 O.S. 2021, Section 11-901d, as
24 amended by Section 93, Chapter 282, O.S.L. 2022 (47 O.S. Supp. 2022,
 Section 11-901d), is amended to read as follows:

1 Section 11-901d. A. ~~It~~ While a motor vehicle is in motion, it
2 shall be unlawful for any person to operate a motor vehicle on any
3 street or highway within this state while ~~using~~:

4 1. Using a hand-held electronic communication device or
5 cellular telephone to manually compose, send or read an electronic
6 text message while the motor vehicle is in motion; or

7 2. Holding or using a hand-held cellular telephone.

8 B. Any person who violates the provisions of subsection A of
9 this section shall, upon conviction, be punished by a fine of not
10 more than ~~One Hundred Dollars (\$100.00)~~ Five Dollars (\$5.00) and
11 costs and fees not to exceed Ninety-five Dollars (\$95.00). The
12 court clerk shall collect the fine, costs, and fees and direct their
13 distribution as follows:

14 1. The sum of Thirty-three Dollars and seventy-two cents
15 (\$33.72) for each offense of which the defendant is convicted,
16 irrespective of whether the sentence is deferred, shall cover
17 docketing of the case, filing of all papers, issuance of process,
18 warrants, order, and other services to the date of judgment;

19 2. The sum of Eight Dollars and eighty cents (\$8.80) shall be
20 assessed and credited to the District Attorneys Council Revolving
21 Fund, created pursuant to Section 215.28 of Title 19 of the Oklahoma
22 Statutes, to defray the cost of prosecution;

23 3. The sum of Eleven Dollars (\$11.00) shall be assessed and
24 credited to the Oklahoma Court Information System Revolving Fund,

1 created pursuant to Section 1315 of Title 20 of the Oklahoma
2 Statutes;

3 4. The sum of Four Dollars and fifty cents (\$4.50) shall be
4 assessed and credited to the Sheriff's Service Fee Account of the
5 county in which the conviction occurred for the purpose of enhancing
6 existing or providing additional courthouse security;

7 5. The sum of One Dollar and thirty cents (\$1.30) shall be
8 assessed and credited to the Office of the Attorney General Victim
9 Services Unit;

10 6. The sum of One Dollar and thirty cents (\$1.30) shall be
11 assessed and credited to the Child Abuse Multidisciplinary Account,
12 created pursuant to Section 1-9-103 of Title 10A of the Oklahoma
13 Statutes;

14 7. The sum of Two Dollars and twenty-five cents (\$2.25) shall
15 be assessed and credited to the Sheriff's Service Fee Account of the
16 sheriff of the county in which the arrest was made;

17 8. The sum of Four Dollars and fifty cents (\$4.50) shall be
18 assessed and credited to the Council on Law Enforcement Education
19 and Training (CLEET) Fund, created pursuant to Section 1313.2 of
20 Title 20 of the Oklahoma Statutes;

21 9. The sum of Four Dollars and fifty cents (\$4.50) shall be
22 assessed. Four Dollars and ten cents (\$4.10) of each fine, cost,
23 and fee received pursuant to this paragraph shall be credited to the
24 A.F.I.S. Fund, pursuant to Section 150.25 of Title 74 of the

1 Oklahoma Statutes, and the remaining balance shall be deposited in
2 the General Revenue Fund by the court clerk. The payments shall be
3 made to the appropriate fund by the court clerk on a monthly basis
4 as set forth by subsection I of Section 1313.2 of Title 20 of the
5 Oklahoma Statutes;

6 10. The sum of Four Dollars and fifty cents (\$4.50) shall be
7 assessed. Four Dollars and twenty-eight cents (\$4.28) of each fee
8 received pursuant to this paragraph shall be collected and sent to
9 the Oklahoma State Bureau of Investigation for deposit into the
10 Forensic Science Improvement Revolving Fund, pursuant to Section
11 150.35 of Title 74 of the Oklahoma Statutes. The remaining balance
12 shall be retained by the municipal court clerk;

13 11. The sum of Nine Dollars (\$9.00) shall be assessed and
14 forwarded monthly in one check or draft to the Department of Public
15 Safety to be deposited in the Department of Public Safety Patrol
16 Vehicle Revolving Fund, created pursuant to Section 2-143 of this
17 title;

18 12. Pursuant to subsection C of Section 220 of Title 19 of the
19 Oklahoma Statutes, the court clerk shall assess an administrative
20 fee of ten percent (10%) on fines, costs, and fees assessed in
21 paragraphs 2, 4, 5, 6, 8, 9, 10, and 11 of this subsection which
22 shall be deposited in the Court Clerk's Revolving Fund; and

23 13. Pursuant to subsection D of Section 220 of Title 19 of the
24 Oklahoma Statutes, the court clerk shall assess an administrative

1 fee of fifteen percent (15%) on fines, costs, and fees assessed in
2 paragraphs 2, 4, 5, 6, 8, 9, 10, and 11 of this subsection which
3 shall be deposited in the District Court Revolving Fund.

4 C. The Department of Public Safety shall not record or assess
5 points for violations of this section on any license holder's
6 traffic record maintained by Service Oklahoma.

7 D. The provisions of subsection A of this section shall not
8 apply if the person is using the cellular telephone or electronic
9 communication device ~~for~~:

10 1. In conjunction with hands-free or voice-operated technology;
11 or

12 2. For the sole purpose of communicating with any of the
13 following regarding an imminent emergency situation:

14 ~~1. A~~

15 a. an emergency response operator~~†~~

16 ~~2. A~~

17 b. a hospital, physician's office or health clinic~~†~~

18 ~~3. A~~

19 c. a provider of ambulance services~~†~~

20 ~~4. A~~

21 d. a provider of firefighting services~~†~~ or

22 ~~5. A~~

23 e. a law enforcement agency.

24

1 E. Municipalities may enact and municipal police officers may
2 enforce ordinances prohibiting and penalizing conduct under the
3 provisions of this section. The provisions of such ordinances shall
4 be the same as provided for in this section; the enforcement
5 provisions of those ordinances shall not be more stringent than
6 those of this section; and the fine and court costs for municipal
7 ordinance violations shall be the same or a lesser amount as
8 provided for in this section.

9 F. For the purpose of this section:

10 1. "Cellular telephone" means an analog or digital wireless
11 telephone authorized by the Federal Communications Commission to
12 operate in the frequency bandwidth reserved for cellular telephones;

13 2. "Compose", "send" or "read" with respect to a text message
14 means the manual entry, sending or retrieval of a text message to
15 communicate with any person or device;

16 3. "Electronic communication device" means an electronic device
17 that permits the user to manually transmit a communication of
18 written text by means other than through an oral transfer or wire
19 communication. This term does not include:

20 a. a device that is physically or electronically
21 integrated into a motor vehicle,

22 b. a voice-operated global positioning or navigation
23 system that is affixed to a motor vehicle,

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1 c. a hands-free or voice-operated device that allows the
2 user to write, send or read a text message without the
3 use of either hand except to activate, deactivate or
4 initiate a feature or function, ~~or~~

5 d. an ignition interlock device that has been installed
6 on a motor vehicle, or

7 e. amateur radio use or operation; and

8 4. "Text message" includes a text-based message, instant
9 message, electronic message, photo, video or electronic mail.

10 G. A law enforcement officer shall not, without the consent of
11 the person:

12 1. Confiscate a cellular telephone or electronic communication
13 device for the purpose of determining compliance with this section;

14 2. Confiscate a cellular telephone or electronic communication
15 device and retain it as evidence pending trial for a violation of
16 this section; or

17 3. Extract or otherwise download information from a cellular
18 telephone or electronic communication device for a violation of this
19 section unless:

20 a. the law enforcement officer has probable cause to
21 believe that the cellular telephone or electronic
22 communication device has been used in the commission
23 of a crime,

- 1 b. the information is extracted or otherwise downloaded
2 under a valid search warrant, or
3 c. otherwise authorized by law.

4 SECTION 2. This act shall become effective July 1, 2024.

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6 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/22/2023 -
7 DO PASS, As Amended and Coauthored.