

1 **SENATE FLOOR VERSION**

2 February 15, 2024

3 SENATE BILL NO. 1347

By: Gollihare

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6 An Act relating to motor vehicles; amending 47 O.S.
7 2021, Section 11-901d, as amended by Section 93,
8 Chapter 282, O.S.L. 2022 (47 O.S. Supp. 2023, Section
9 11-901d), which relates to text messaging; modifying
10 types of devices unlawful to use while operating a
11 motor vehicle; modifying amount of fine, costs, and
fees; directing distribution of fine, costs, and
fees; allowing for the use of certain technologies;
modifying definition; disallowing confiscation of
certain devices and information; making certain
exceptions; and providing an effective date.

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

15 SECTION 1. AMENDATORY 47 O.S. 2021, Section 11-901d, as
16 amended by Section 93, Chapter 282, O.S.L. 2022 (47 O.S. Supp. 2023,
17 Section 11-901d), is amended to read as follows:

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

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

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

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

7 1. The sum of Thirty-three Dollars and seventy-two cents
8 (\$33.72) for each offense for which the defendant is convicted,
9 regardless of whether the sentence is deferred, shall cover
10 docketing of the case, filing of all papers, issuance of process,
11 warrants, order, and other services to the date of judgment;

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

16 3. The sum of Eleven Dollars (\$11.00) shall be assessed and
17 credited to the Oklahoma Court Information System Revolving Fund,
18 created pursuant to Section 1315 of Title 20 of the Oklahoma
19 Statutes;

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

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

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

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

11 8. The sum of Four Dollars and fifty cents (\$4.50) shall be
12 assessed and credited to the CLEET Fund, created pursuant to Section
13 1313.2 of Title 20 of the Oklahoma Statutes;

14 9. The sum of Four Dollars and fifty cents (\$4.50) shall be
15 assessed. Four Dollars and ten cents (\$4.10) of each fine, cost,
16 and fee received pursuant to this paragraph shall be credited to the
17 A.F.I.S. Fund, created pursuant to Section 150.25 of Title 74 of the
18 Oklahoma Statutes, and the remaining balance shall be deposited in
19 the General Revenue Fund by the court clerk. The payments shall be
20 made to the appropriate fund by the court clerk on a monthly basis
21 as set forth by subsection I of Section 1313.2 of Title 20 of the
22 Oklahoma Statutes;

23 10. The sum of Four Dollars and fifty cents (\$4.50) shall be
24 assessed. Four Dollars and twenty-eight cents (\$4.28) of each fee

1 received pursuant to this paragraph shall be collected and sent to
2 the Oklahoma State Bureau of Investigation for deposit into the
3 Forensic Science Improvement Revolving Fund, created pursuant to
4 Section 150.35 of Title 74 of the Oklahoma Statutes. The remaining
5 balance shall be retained by the court clerk;

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

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

16 13. Pursuant to subsection D of Section 220 of Title 19 of the
17 Oklahoma Statutes, the court clerk shall assess an administrative
18 fee of fifteen percent (15%) on fines, costs, and fees assessed in
19 paragraphs 2, 4, 5, 6, 8, 9, 10, and 11 of this subsection which
20 shall be deposited in the District Court Revolving Fund.

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

1 D. The provisions of subsection A of this section shall not
2 apply if the person is using the cellular telephone or electronic
3 communication device ~~for~~ for;

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

5 or

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

8 ~~1. An~~

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

10 ~~2. A~~

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

12 ~~3. A~~

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

14 ~~4. A~~

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

16 ~~5. A~~

17 e. a law enforcement agency.

18 E. Municipalities may enact and municipal police officers may
19 enforce ordinances prohibiting and penalizing conduct under the
20 provisions of this section. The provisions of such ordinances shall
21 be the same as provided for in this section; the enforcement
22 provisions of those ordinances shall not be more stringent than
23 those of this section; and the fine and court costs for municipal
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1 ordinance violations shall be the same or a lesser amount as
2 provided for in this section.

3 F. For the purpose of this section:

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

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

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

14 a. a device that is physically or electronically
15 integrated into a motor vehicle,

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

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

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

24 e. amateur radio use or operation; and

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

3 G. A law enforcement officer shall not, without the consent of
4 the person:

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

7 2. Confiscate a cellular telephone or electronic communication
8 device and retain it as evidence pending trial for a violation of
9 this section; or

10 3. Extract or otherwise download information from a cellular
11 telephone or electronic communication device for a violation of this
12 section unless:

13 a. the law enforcement officer has probable cause to
14 believe that the cellular telephone or electronic
15 communication device has been used in the commission
16 of a crime,

17 b. the information is extracted or otherwise downloaded
18 under a valid search warrant, or

19 c. otherwise authorized by law.

20 SECTION 2. This act shall become effective November 1, 2025.

21 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
22 February 15, 2024 - DO PASS