

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2228

By: Ford

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5
6 AS INTRODUCED

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

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

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

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

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

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

2 B. Any person who violates the provisions of subsection A of
3 this section shall, upon conviction, be punished by a fine of not
4 more than One Hundred Dollars (\$100.00).

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

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

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

12 or

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

15 ~~1. An~~

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

17 ~~2. A~~

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

19 ~~3. A~~

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

21 ~~4. A~~

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

23 ~~5. A~~

24 e. a law enforcement agency.

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,

24

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. the use or operation of an amateur radio; 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 November 1, 2023.

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