
SUBSTITUTE SENATE BILL 5289

State of Washington

65th Legislature

2017 Regular Session

By Senate Transportation (originally sponsored by Senators Rivers, Llias, Miloscia, Carlyle, and Kuderer)

READ FIRST TIME 02/23/17.

1 AN ACT Relating to updating the distracted driving infraction;
2 adding new sections to chapter 46.61 RCW; repealing RCW 46.61.667 and
3 46.61.668; prescribing penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.61
6 RCW to read as follows:

7 (1) A person who uses a personal electronic device while driving
8 a motor vehicle on a public highway is guilty of a traffic infraction
9 and must pay a fine as provided in RCW 46.63.110(3).

10 (2) Subsection (1) of this section does not apply to:

11 (a) A driver who is using a personal electronic device to contact
12 emergency services;

13 (b) The use of a system by a transit system employee for time-
14 sensitive relay communication between the transit system employee and
15 the transit system's dispatch services;

16 (c) An individual employed as a commercial motor vehicle driver
17 who uses a personal electronic device within the scope of such
18 individual's employment if such use is permitted under 49 U.S.C. Sec.
19 31136 as it existed on the effective date of this section; and

20 (d) A person operating an authorized emergency vehicle.

1 (3) The state preempts the field of regulating the use of
2 personal electronic devices in motor vehicles while driving, and this
3 section supersedes any local laws, ordinances, orders, rules, or
4 regulations enacted by any political subdivision or municipality to
5 regulate the use of a personal electronic device by the operator of a
6 motor vehicle.

7 (4) A second or subsequent offense under this section is subject
8 to two times the penalty amount under RCW 46.63.110.

9 (5) For purposes of this section:

10 (a) "Driving" means to operate a motor vehicle on a public
11 highway, including while temporarily stationary because of traffic, a
12 traffic control device, or other momentary delays. "Driving" does not
13 include when the vehicle has pulled over to the side of, or off of,
14 an active roadway and has stopped in a location where it can safely
15 remain stationary.

16 (b) "Personal electronic device" means any portable electronic
17 device that is capable of wireless communication or electronic data
18 retrieval and is not manufactured primarily for hands-free use in a
19 motor vehicle. "Personal electronic device" includes, but is not
20 limited to, a cell phone, tablet, laptop, two-way messaging device,
21 or electronic game. "Personal electronic device" does not include
22 two-way radio, citizens band radio, or amateur radio equipment.

23 (c) "Use" or "uses" means:

24 (i) Holding a personal electronic device in either hand or both
25 hands;

26 (ii) Using your hand or finger to compose, send, read, view,
27 access, browse, transmit, save, or retrieve email, text messages,
28 instant messages, photographs, or other electronic data; however,
29 this does not preclude the minimal use of a finger to activate,
30 deactivate, or initiate a function of the device;

31 (iii) Watching video on a personal electronic device.

32 NEW SECTION. **Sec. 2.** The following acts or parts of acts are
33 each repealed:

34 (1) RCW 46.61.667 (Using a wireless communications device or
35 handheld mobile telephone while driving) and 2013 c 224 s 15, 2010 c
36 223 s 3, & 2007 c 417 s 2; and

37 (2) RCW 46.61.668 (Sending, reading, or writing a text message
38 while driving) and 2013 c 224 s 16, 2010 c 223 s 4, & 2007 c 416 s 1.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.61
2 RCW to read as follows:

3 (1)(a) It is a traffic infraction to drive dangerously
4 distracted. Any driver who commits this infraction must be assessed a
5 base penalty of thirty dollars.

6 (b) Enforcement of the infraction of driving dangerously
7 distracted may be accomplished only as a secondary action when a
8 driver of a motor vehicle has been detained for a suspected violation
9 of a separate traffic infraction or an equivalent local ordinance.

10 (c) For the purposes of this section, "dangerously distracted"
11 means a person who engages in any activity not related to the actual
12 operation of a motor vehicle in a manner that interferes with the
13 safe operation of such motor vehicle on any highway.

14 (2) The additional monetary penalty imposed under this section
15 must be deposited into the distracted driving prevention account
16 created in subsection (3) of this section.

17 (3) The distracted driving prevention account is created in the
18 state treasury. All receipts from the base penalty in subsection (1)
19 of this section must be deposited into the account. Moneys in the
20 account may be spent only after appropriation. Expenditures from the
21 account may be used only to support programs dedicated to reducing
22 distracted driving and improving driver education on distracted
23 driving.

24 NEW SECTION. **Sec. 4.** This act takes effect January 1, 2018.

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