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SENATE BILL 5289

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State of Washington                      65th Legislature                      2017 Regular Session

By Senators Rivers, Liiias, Miloscia, Carlyle, and Kuderer

Read first time 01/19/17. Referred to Committee on Transportation.

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

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

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

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

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

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

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

17            (c) An individual employed as a commercial motor vehicle driver  
18 who uses a personal electronic device within the scope of such  
19 individual's employment if such use is permitted under 49 U.S.C. Sec.  
20 31136 as it existed on the effective date of this section.

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.

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

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

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

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

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32 each repealed:

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

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

1        NEW SECTION.   **Sec. 3.**   This act takes effect January 1, 2018.

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