
HOUSE BILL 2235

State of Washington 65th Legislature 2017 3rd Special Session

By Representatives Young, Orcutt, and MacEwen

1 AN ACT Relating to narrowing the applicability of the prohibition
2 on using a personal electronic device while driving a motor vehicle
3 to exclude certain circumstances when a motor vehicle is temporarily
4 stationary; and amending RCW 46.61.---

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

6 **Sec. 1.** RCW 46.61.--- and 2017 c 334 s 1 are each amended to
7 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;

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 July 23, 2017; and

21 (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~~) but does not include when the vehicle is
12 temporarily stationary because of traffic, a traffic control device,
13 or other momentary delays, except for the purposes of operating a
14 commercial motor vehicle, as defined in RCW 46.25.010, for which
15 "driving" also includes the operation of a motor vehicle when it is
16 temporarily stationary because of traffic, a traffic control device,
17 or other momentary delays. "Driving" does not include when the
18 vehicle has pulled over to the side of, or off of, an active roadway
19 and has stopped in a location where it can safely remain stationary.

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

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

28 (i) Holding a personal electronic device in either hand or both
29 hands;

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

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

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