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HOUSE BILL 2635

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By Representatives Carlyle, Orwall, Clibborn, Maxwell, Pettigrew, Ericks, Hunt, Eddy, Appleton, Pedersen, Kenney, and Morrell

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1 AN ACT Relating to the use of wireless communications devices while  
2 driving; and amending RCW 46.20.055, 46.20.075, 46.61.667, and  
3 46.61.668.

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

5 **Sec. 1.** RCW 46.20.055 and 2006 c 219 s 14 are each amended to read  
6 as follows:

7 (1) **Driver's instruction permit.** The department may issue a  
8 driver's instruction permit with or without a photograph to an  
9 applicant who has successfully passed all parts of the examination  
10 other than the driving test, provided the information required by RCW  
11 46.20.091, paid a fee of twenty dollars, and meets the following  
12 requirements:

13 (a) Is at least fifteen and one-half years of age; or

14 (b) Is at least fifteen years of age and:

15 (i) Has submitted a proper application; and

16 (ii) Is enrolled in a traffic safety education program offered,  
17 approved, and accredited by the superintendent of public instruction or  
18 offered by a driver training school licensed and inspected by the

1 department of licensing under chapter 46.82 RCW, that includes practice  
2 driving.

3 (2) **Waiver of written examination for instruction permit.** The  
4 department may waive the written examination, if, at the time of  
5 application, an applicant is enrolled in:

6 (a) A traffic safety education course as defined by RCW  
7 28A.220.020(2); or

8 (b) A course of instruction offered by a licensed driver training  
9 school as defined by RCW 46.82.280(~~(4)~~).

10 The department may require proof of registration in such a course  
11 as it deems necessary.

12 (3) **Effect of instruction permit.** A person holding a driver's  
13 instruction permit may drive a motor vehicle, other than a motorcycle,  
14 upon the public highways if:

15 (a) The person has immediate possession of the permit; (~~and~~)

16 (b) The person is not using a wireless communications device,  
17 unless the person is using the device to report illegal activity,  
18 summon medical or other emergency help, or prevent injury to a person  
19 or property; and

20 (c) An approved instructor, or a licensed driver with at least five  
21 years of driving experience, occupies the seat beside the driver.

22 (4) **Term of instruction permit.** A driver's instruction permit is  
23 valid for one year from the date of issue.

24 (a) The department may issue one additional one-year permit.

25 (b) The department may issue a third driver's permit if it finds  
26 after an investigation that the permittee is diligently seeking to  
27 improve driving proficiency.

28 (c) A person applying to renew an instruction permit must submit  
29 the application to the department in person.

30 **Sec. 2.** RCW 46.20.075 and 2009 c 125 s 1 are each amended to read  
31 as follows:

32 (1) An intermediate license authorizes the holder to drive a motor  
33 vehicle under the conditions specified in this section. An applicant  
34 for an intermediate license must be at least sixteen years of age and:

35 (a) Have possessed a valid instruction permit for a period of not  
36 less than six months;

1 (b) Have passed a driver licensing examination administered by the  
2 department;

3 (c) Have passed a course of driver's education in accordance with  
4 the standards established in RCW 46.20.100;

5 (d) Present certification by his or her parent, guardian, or  
6 employer to the department stating (i) that the applicant has had at  
7 least fifty hours of driving experience, ten of which were at night,  
8 during which the driver was supervised by a person at least twenty-one  
9 years of age who has had a valid driver's license for at least three  
10 years, and (ii) that the applicant has not been issued a notice of  
11 traffic infraction or cited for a traffic violation that is pending at  
12 the time of the application for the intermediate license;

13 (e) Not have been convicted of or found to have committed a traffic  
14 violation within the last six months before the application for the  
15 intermediate license; and

16 (f) Not have been adjudicated for an offense involving the use of  
17 alcohol or drugs during the period the applicant held an instruction  
18 permit.

19 (2) For the first six months after the issuance of an intermediate  
20 license or until the holder reaches eighteen years of age, whichever  
21 occurs first, the holder of the license may not operate a motor vehicle  
22 that is carrying any passengers under the age of twenty who are not  
23 members of the holder's immediate family as defined in RCW 42.17.020.  
24 For the remaining period of the intermediate license, the holder may  
25 not operate a motor vehicle that is carrying more than three passengers  
26 who are under the age of twenty who are not members of the holder's  
27 immediate family.

28 (3) The holder of an intermediate license may not operate a motor  
29 vehicle between the hours of 1 a.m. and 5 a.m. except when the holder  
30 is accompanied by a parent, guardian, or a licensed driver who is at  
31 least twenty-five years of age.

32 (4) The holder of an intermediate license may not operate a moving  
33 motor vehicle while using a wireless communications device unless the  
34 holder is using the device to report illegal activity, summon medical  
35 or other emergency help, or prevent injury to a person or property.

36 (5) It is a traffic infraction for the holder of an intermediate  
37 license to operate a motor vehicle in violation of the restrictions  
38 imposed under this section.

1           ~~((+5))~~ (6) Except for a violation of subsection (4) of this  
2 section, enforcement of this section by law enforcement officers may be  
3 accomplished only as a secondary action when a driver of a motor  
4 vehicle has been detained for a suspected violation of this title or an  
5 equivalent local ordinance or some other offense.

6           ~~((+6))~~ (7) An intermediate licensee may drive at any hour without  
7 restrictions on the number of passengers in the vehicle if necessary  
8 for agricultural purposes.

9           ~~((+7))~~ (8) An intermediate licensee may drive at any hour without  
10 restrictions on the number of passengers in the vehicle if, for the  
11 twelve-month period following the issuance of the intermediate license,  
12 he or she:

13           (a) Has not been involved in an accident involving only one motor  
14 vehicle;

15           (b) Has not been involved in an accident where he or she was cited  
16 in connection with the accident or was found to have caused the  
17 accident;

18           (c) Has not been involved in an accident where no one was cited or  
19 was found to have caused the accident; and

20           (d) Has not been convicted of or found to have committed a traffic  
21 offense described in chapter 46.61 RCW or violated restrictions placed  
22 on an intermediate licensee under this section.

23           **Sec. 3.** RCW 46.61.667 and 2007 c 417 s 2 are each amended to read  
24 as follows:

25           (1) Except as provided in subsections (2) and (3) of this section,  
26 a person operating a moving motor vehicle while holding a wireless  
27 communications device to his or her ear is guilty of a traffic  
28 infraction.

29           (2) Subsection (1) of this section does not apply to a person  
30 operating:

31           (a) An authorized emergency vehicle, or a tow truck responding to  
32 a disabled vehicle;

33           (b) A moving motor vehicle using a wireless communications device  
34 in hands-free mode;

35           (c) A moving motor vehicle using a hand-held wireless  
36 communications device to:

37           (i) Report illegal activity;

1 (ii) Summon medical or other emergency help;

2 (iii) Prevent injury to a person or property;

3 (d) A moving motor vehicle while using a hearing aid.

4 (3) Subsection (1) of this section does not restrict the operation  
5 of an amateur radio station by a person who holds a valid amateur radio  
6 operator license issued by the federal communications commission.

7 (4) For purposes of this section, "hands-free mode" means the use  
8 of a wireless communications device with a speaker phone, headset, or  
9 earpiece.

10 (5) The state preempts the field of regulating the use of wireless  
11 communications devices in motor vehicles, and this section supersedes  
12 any local laws, ordinances, orders, rules, or regulations enacted by a  
13 political subdivision or municipality to regulate the use of wireless  
14 communications devices by the operator of a motor vehicle.

15 ~~(6) ((Enforcement of this section by law enforcement officers may  
16 be accomplished only as a secondary action when a driver of a motor  
17 vehicle has been detained for a suspected violation of this title or an  
18 equivalent local ordinance or some other offense.~~

19 (+7)) Infractions that result from the use of a wireless  
20 communications device while operating a motor vehicle under this  
21 section shall not become part of the driver's record under RCW  
22 46.52.101 and 46.52.120. Additionally, a finding that a person has  
23 committed a traffic infraction under this section shall not be made  
24 available to insurance companies or employers.

25 **Sec. 4.** RCW 46.61.668 and 2007 c 416 s 1 are each amended to read  
26 as follows:

27 (1) Except as provided in subsection (2) of this section, a person  
28 operating a moving motor vehicle who, by means of an electronic  
29 wireless communications device, other than a voice-activated global  
30 positioning or navigation system that is permanently affixed to the  
31 vehicle, sends, reads, or writes a text message, is guilty of a traffic  
32 infraction. A person does not send, read, or write a text message when  
33 he or she reads, selects, or enters a phone number or name in a  
34 wireless communications device for the purpose of making a phone call.

35 (2) Subsection (1) of this section does not apply to a person  
36 operating:

37 (a) An authorized emergency vehicle; or

1 (b) A moving motor vehicle while using an electronic wireless  
2 communications device to:

- 3 (i) Report illegal activity;
- 4 (ii) Summon medical or other emergency help;
- 5 (iii) Prevent injury to a person or property; or
- 6 (iv) Relay information between a transit or for-hire operator and  
7 that operator's dispatcher, in which the device is permanently affixed  
8 to the vehicle.

9 (3) (~~Enforcement of this section by law enforcement officers may  
10 be accomplished only as a secondary action when a driver of a motor  
11 vehicle has been detained for a suspected violation of this title or an  
12 equivalent local ordinance or some other offense.~~

13 (4)) Infractions under this section shall not become part of the  
14 driver's record under RCW 46.52.101 and 46.52.120. Additionally, a  
15 finding that a person has committed a traffic infraction under this  
16 section shall not be made available to insurance companies or  
17 employers.

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