

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1965

By: O'Donnell and Rogers

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8 COMMITTEE SUBSTITUTE

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10 An Act relating to motor vehicles; amending 47 O.S.
11 2011, Section 11-901c, as amended by Section 6,
12 Chapter 207, O.S.L. 2012 (47 O.S. Supp. 2014, Section
13 11-901c), which relates to the unlawful use of a
14 cellular telephone or electronic communication
15 device; modifying scope of certain prohibited act;
16 clarifying language; defining terms; providing
17 exceptions; specifying information that is admissible
18 as evidence; providing method of enforcement; and
19 providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 11-901c, as
amended by Section 6, Chapter 207, O.S.L. 2012 (47 O.S. Supp. 2014,
Section 11-901c), is amended to read as follows:

Section 11-901c. A. It shall be unlawful for any person to
operate a motor vehicle or a commercial motor vehicle or for a
public transit driver to operate a motor vehicle on any street or
highway within this state while using a cellular telephone or

1 electronic communication device ~~to write, send, or read a text-based~~
2 or while sending or reading data on such a device for the purpose of
3 nonvoice interpersonal communication including, but not limited to,
4 communication methods known as texting, emailing and instant
5 messaging, while the motor vehicle is in motion. For purposes of
6 this subsection, a motor vehicle that is stationary and is not being
7 operated is not subject to the prohibition as provided for in this
8 subsection.

9 B. Any person who violates the provisions of subsection A of
10 this section shall, upon conviction, be guilty of a misdemeanor
11 punishable by a fine of Two Hundred Fifty Dollars (\$250.00) for a
12 first offense. A second or subsequent conviction for a violation of
13 the provisions of subsection A of this section shall be punishable
14 by a fine of not more than Five Hundred Dollars (\$500.00).

15 C. As used in this section:

16 1. "Cellular telephone" means an analog or digital wireless
17 telephone authorized by the Federal Communications Commission to
18 operate in the frequency bandwidth reserved for cellular telephones;

19 2. "Communications service" means any service lawfully provided
20 for a charge or compensation by any cable system or by any radio,
21 fiber optic, photo-optical, electromagnetic, photoelectronic,
22 satellite, microwave, data transmission, Internet-based or wireless
23 distribution network, system or facility including, but not limited
24 to, any electronic data, video, audio, Internet access, microwave

1 and radio communications, transmissions, signals and services and
2 any such communications, transmissions, signals and services
3 directly or indirectly by or through any of those networks, systems
4 or facilities;

5 3. "Electronic communication device" means ~~an~~ any electronic
6 device, used or capable of being used in a handheld manner, that
7 ~~permits the user~~ is designed or intended to manually receive or
8 ~~transmit a communication of written text by means other than through~~
9 ~~an oral transfer or wire communication~~ or character-based messages,
10 access or store data, or connect to the Internet or any
11 communications service that allows text communications. This term
12 does not include a voice-activated global positioning or navigation
13 system that is affixed to a motor vehicle;

14 ~~3.~~ 4. "Public transit driver" means:

- 15 a. any operator of a public transit vehicle owned and
16 operated by the State of Oklahoma, any public trust
17 authority, county, municipality, town or city within
18 this state,
- 19 b. any operator of a school bus or multi-passenger motor
20 vehicle owned and approved to operate by the State
21 Department of Education or any school district within
22 this state, or
- 23 c. any operator, conductor or driver of a locomotive
24 engine, railway car or train of cars; and

1 4. 5. "Write, send, or read a text-based communication", also
2 known as texting, means manually entering alphanumeric text into,
3 sending text, or reading text from, an electronic device, and
4 includes, but is not limited to, short message service (SMS), e-
5 mailing, instant messaging (IM), a command or request to access a
6 World Wide Web page, or engaging in any other form of electronic
7 text retrieval or entry, for present or future communication. ~~As~~
8 ~~used in this paragraph, texting does not include:~~

9 a. ~~using~~

10 D. The provisions of this section shall not apply to a motor
11 vehicle operator who is:

12 1. Performing official duties as an operator of an authorized
13 emergency vehicle as defined in Section 1-103 of this title;

14 2. Reporting an emergency, or criminal or suspicious activity
15 to law enforcement authorities;

16 3. Receiving messages that are:

17 a. related to the operator or navigation of the motor
18 vehicle,

19 b. safety-related information including emergency,
20 traffic or weather alerts,

21 c. data used primarily by the motor vehicle, or

22 d. radio broadcasts;

23 4. Using voice commands to select or enter a telephone number,
24 an extension number, or voicemail retrieval codes and commands into

1 an electronic device for the purpose of initiating or receiving a
2 phone call,

3 ~~b. inputting;~~

4 5. Inputting, selecting, or reading information on a global
5 positioning system or navigation system,~~or~~

6 ~~e. using;~~

7 6. Conducting wireless interpersonal communication that does
8 not require manual entry of multiple letters, numbers or symbols,
9 except to activate, deactivate or initiate a feature or function;

10 7. Conducting wireless interpersonal communication that does
11 not require reading text messages, except to activate, deactivate or
12 initiate a feature or function;

13 8. Using a device capable of performing multiple functions for
14 a purpose that is not otherwise prohibited in this ~~part~~ section,
15 including, but not limited to, fleet management systems, dispatching
16 devices, smart phones, citizens band radios, and music players; or

17 9. Using or operating a citizens band radio.

18 ~~D. E.~~ This act shall not apply to railroads and railroad
19 operating employees regulated by the Federal Railroad
20 Administration.

21 F. The billing records for a cellular device or electronic
22 communication device when properly obtained by law enforcement
23 authorities or the testimony of or written statements from
24 appropriate authorities receiving such messages may be admissible as

1 evidence in any proceeding to determine whether a violation of this
2 section has been committed.

3 G. Except when the person is the holder of a commercial driver
4 license and is operating a commercial motor vehicle or the person is
5 serving in the capacity of a public transit driver and is operating
6 a motor vehicle, the enforcement of this section by state or local
7 law enforcement agencies must be accomplished only as a secondary
8 action when an operator of a motor vehicle has been detained for a
9 suspected violation of another traffic law provided for in this
10 title.

11 H. Violation of this section shall not serve as the basis for
12 denying otherwise applicable motor vehicle insurance coverage.

13 SECTION 2. This act shall become effective November 1, 2015.

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15 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,
16 dated 02/11/2015 - DO PASS, As Amended and Coauthored.

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