

1 ENGROSSED HOUSE
2 BILL NO. 1965

By: O'Donnell, Rogers,
Perryman, Christian,
Sherrer, Virgin, Brown,
Shelton, Montgomery,
McDaniel (Jeannie) and
Hoskin of the House

5 and

6 Sharp of the Senate

7
8
9 An Act relating to motor vehicles; creating the
10 Trooper Nicholas Dees and Trooper Keith Burch Act of
11 2015; amending 47 O.S. 2011, Section 11-901c, as
12 amended by Section 6, Chapter 207, O.S.L. 2012 (47
13 O.S. Supp. 2014, Section 11-901c), which relates to
14 the unlawful use of a cellular telephone or
15 electronic communication device; modifying scope of
16 certain prohibited act; clarifying language; defining
17 terms; providing exceptions; specifying information
18 that is admissible as evidence; providing method of
19 enforcement; providing for noncodification; and
20 providing an effective date.

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

22 SECTION 1. NEW LAW A new section of law not to be
23 codified in the Oklahoma Statutes reads as follows:

24 This act shall be known and may be cited as the "Trooper
Nicholas Dees and Trooper Keith Burch Act of 2015".

SECTION 2. 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:

1 Section 11-901c. A. It shall be unlawful for any person to
2 operate a motor vehicle or a commercial motor vehicle or for a
3 public transit driver to operate a motor vehicle on any street or
4 highway within this state while using a cellular telephone or
5 electronic communication device ~~to write, send, or read a text-based~~
6 or while sending or reading data on such a device for the purpose of
7 nonvoice interpersonal communication including, but not limited to,
8 communication methods known as texting, emailing and instant
9 messaging, while the motor vehicle is in motion. For purposes of
10 this subsection, a motor vehicle that is stationary and is not being
11 operated is not subject to the prohibition as provided for in this
12 subsection.

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

19 C. As used in this section:

- 20 1. "Cellular telephone" means an analog or digital wireless
21 telephone authorized by the Federal Communications Commission to
22 operate in the frequency bandwidth reserved for cellular telephones;
- 23 2. "Communications service" means any service lawfully provided
24 for a charge or compensation by any cable system or by any radio,

1 fiber optic, photo-optical, electromagnetic, photoelectronic,
2 satellite, microwave, data transmission, Internet-based or wireless
3 distribution network, system or facility including, but not limited
4 to, any electronic data, video, audio, Internet access, microwave
5 and radio communications, transmissions, signals and services and
6 any such communications, transmissions, signals and services
7 directly or indirectly by or through any of those networks, systems
8 or facilities;

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

18 ~~3.~~ 4. "Public transit driver" means:

- 19 a. any operator of a public transit vehicle owned and
20 operated by the State of Oklahoma, any public trust
21 authority, county, municipality, town or city within
22 this state,
- 23 b. any operator of a school bus or multi-passenger motor
24 vehicle owned and approved to operate by the State

1 Department of Education or any school district within
2 this state, or

3 c. any operator, conductor or driver of a locomotive
4 engine, railway car or train of cars; and

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

13 ~~a. using~~

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

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

18 2. Reporting an emergency, or criminal or suspicious activity
19 to law enforcement authorities;

20 3. Receiving messages that are:

21 a. related to the operation or navigation of the motor
22 vehicle,

23 b. safety-related information including emergency,
24 traffic or weather alerts,

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

2 d. radio broadcasts;

3 4. Using voice commands to select or enter a telephone number,
4 an extension number, or voicemail retrieval codes and commands into
5 an electronic device for the purpose of initiating or receiving a
6 phone call,

7 ~~b. inputting;~~

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

10 ~~e. using;~~

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

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

17 8. Using a device capable of performing multiple functions for
18 a purpose that is not otherwise prohibited in this part section,
19 including, but not limited to, fleet management systems, dispatching
20 devices, smart phones, citizens band radios, and music players.

21 ~~D. E.~~ This act shall not apply to railroads and railroad
22 operating employees regulated by the Federal Railroad
23 Administration.

1 F. The billing records for a cellular device or electronic
2 communication device when properly obtained by law enforcement
3 authorities or the testimony of or written statements from
4 appropriate authorities receiving such messages may be admissible as
5 evidence in any proceeding to determine whether a violation of this
6 section has been committed.

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

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

17 SECTION 3. This act shall become effective November 1, 2015.

1 Passed the House of Representatives the 24th day of February,
2015.

4 _____
Presiding Officer of the House
of Representatives

6 Passed the Senate the ___ day of _____, 2015.

8 _____
Presiding Officer of the Senate