

SENATE BILL NO. 251

INTRODUCED BY C. KAUFMANN

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE USE OF HAND-HELD MOBILE TELEPHONES AND MOBILE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE; PROVIDING EXCEPTIONS TO THE RESTRICTION ON USE; AND PROVIDING A PENALTY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Use of hand-held mobile telephones and mobile electronic devices by motor vehicle operators prohibited -- definitions. (1) For purposes of this section, the following definitions apply:

(a) "Engage in a call" means talking into or listening on a hand-held mobile telephone but does not include holding a hand-held mobile telephone to activate, deactivate, or initiate a function of the telephone.

(b) "Hand-held mobile telephone" means a mobile telephone with which a user engages in a call using at least one hand.

(c) "Hands-free accessory" means an attachment, add-on, built-in feature, or addition to a mobile telephone, whether or not permanently installed in a motor vehicle, that when used allows the vehicle operator to maintain both hands on the steering wheel.

(d) "Hands-free mobile telephone" means a hand-held mobile telephone that has an internal feature or function or that is equipped with a hands-free accessory, whether or not permanently part of the hand-held mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate, or initiate a function of the telephone.

(e) "Immediate proximity" means the distance that permits the operator of a hand-held mobile telephone to hear telecommunications transmitted over a hand-held mobile telephone but does not require physical contact with the operator's ear.

(f) (i) "Mobile electronic device" means any hand-held or other portable electronic equipment capable of providing data communication between two or more persons, including a text messaging device, a paging device, a personal digital assistant, a laptop computer, equipment that is capable of playing a video game or a digital video disk, equipment on which digital photographs are taken or transmitted, or any combination of those

1 functions.

2 (ii) The term does not include two-way radios, audio equipment, or any equipment installed in a motor
3 vehicle for the purpose of providing navigation, emergency assistance to the operator of the motor vehicle, or
4 video entertainment to the passengers in the rear seats of the motor vehicle.

5 (g) "Mobile telephone" means a cellular, analog, wireless, or digital telephone capable of sending or
6 receiving telephone communications without an access line for service.

7 (h) "Using" or "use" means holding a hand-held mobile telephone in the user's hand or holding a
8 hand-held mobile telephone to the user's ear or in immediate proximity to the user's ear.

9 (2) (a) Except as otherwise provided in this section, a person may not operate a motor vehicle when the
10 vehicle is in motion while using a hand-held mobile telephone to engage in a call or while using a mobile
11 electronic device.

12 (b) An operator of a motor vehicle who holds a hand-held mobile telephone to or in immediate proximity
13 to the operator's ear while the motor vehicle is in motion is presumed to be engaging in a call within the meaning
14 of this section. The presumption established by this section is rebuttable by evidence tending to show that the
15 operator was not engaged in a call.

16 (c) The provisions of this subsection (2) may not be construed as authorizing the seizure or forfeiture
17 of a hand-held mobile telephone or a mobile electronic device unless otherwise provided by law.

18 (3) Subsection (2) does not apply to:

19 (a) the use of a hand-held mobile telephone for the sole purpose of communicating with any of the
20 following regarding an emergency situation:

21 (i) an emergency response operator;

22 (ii) a hospital, physician's office, or health clinic;

23 (iii) an ambulance company or service;

24 (iv) a fire department; or

25 (v) a police department;

26 (b) any of the following persons while in the performance of their official duties and within the scope of
27 their employment:

28 (i) a public safety officer as defined in 44-4-401;

29 (ii) a firefighter or an operator of an ambulance or authorized emergency vehicle as defined in 61-8-102;

30 (iii) the operator of a commercial tow truck as defined in 61-9-416; or

- 1 (iv) an employee of a construction company while working in a construction zone as defined in 61-8-314;
2 (c) a federally licensed amateur radio operator engaged in public service; or
3 (d) the use of a hands-free mobile telephone.

4 (4) A person who violates subsection (2) shall be fined not more than \$100. A violation of this section
5 may not be recorded or charged against a driver's record, points may not be assessed against the driver's record
6 pursuant to 61-11-203, and an insurance company may not hold a violation of this section against the insured.

7 (5) An operator of a motor vehicle who commits a moving violation, as defined in 61-11-203, while
8 engaged in any activity prohibited in this section shall be fined \$100 in addition to any penalty or fine imposed
9 for the moving violation.

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11 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an
12 integral part of Title 61, chapter 8, part 3, and the provisions of Title 61, chapter 8, part 3, apply to [section 1].

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