

HOUSE BILL NO. 562

INTRODUCED BY C. KNUDSEN

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A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN USES OF MOBILE COMMUNICATIONS DEVICES WHILE DRIVING A MOTOR VEHICLE FROM LOCAL ORDINANCES; PROVIDING A PENALTY; AND AMENDING SECTIONS 7-14-4116, 61-8-103, AND 61-12-101, MCA."

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

Section 1. Section 7-14-4116, MCA, is amended to read:

"7-14-4116. ~~No authority to require fee and permit for oversize vehicles~~ Limits on authority -- vehicle loads -- electronic communications devices -- penalties. (1) The authority to regulate trafficways and motor vehicles provided in this part does not include the authority to:

(a) require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is maintained by and under the jurisdiction of an entity other than the city or town; or

(b) subject to subsection (2), enact or enforce an ordinance, rule, or regulation that restricts or prohibits the use of a mobile electronic communications device while operating a motor vehicle unless the ordinance, rule, or regulation includes an exception that a person may use a mobile electronic communications device to write, type, send, or read a communication while operating a motor vehicle if:

(i) the vehicle has been driven off or to the side of an active roadway and has stopped in a location where it can safely remain stationary; or

(ii) the vehicle is temporarily stationary because of traffic or a traffic control signal.

(2) If a local authority enacts an ordinance, rule, or regulation pursuant to subsection (1)(b), violation of an ordinance, rule, or regulation that restricts or prohibits the use of a mobile electronic communications device while operating a motor vehicle is a misdemeanor punishable by a fine of no more than \$100.

(3) For the purposes of this section, "mobile electronic communications device" means a handheld device or other portable electronic equipment capable of providing data communication between two or more people, including a mobile telephone, a cellular, analog, wireless, or digital telephone, a paging device, a personal digital assistant, a laptop computer, video gaming equipment, or any other substantially similar communications



1 device."

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3 **Section 2.** Section 61-8-103, MCA, is amended to read:

4 **"61-8-103. Provisions uniform throughout state -- power of local authorities -- penalties.** (1) The
5 provisions of this chapter ~~shall be~~ are applicable and uniform throughout this state and in all political subdivisions
6 and municipalities. ~~therein and no~~ A local authority ~~shall~~ may not enact or enforce any ordinance, rule, or
7 regulation in conflict with the provisions of this chapter unless ~~expressly~~ expressly authorized ~~herein by this chapter.~~ ~~Local~~
8 Except as provided in subsection (2), local authorities may, ~~however,~~ adopt additional traffic regulations ~~which~~
9 that are not in conflict with the provisions of this chapter.

10 (2) Subject to subsection (3), local authorities may not enact or enforce an ordinance, rule, or regulation
11 that restricts or prohibits the use of a mobile electronic communications device while operating a motor vehicle
12 unless the ordinance, rule, or regulation includes an exception that a person may use a mobile electronic
13 communications device to write, type, send, or read a communication while operating a motor vehicle if:

14 (a) the vehicle has been driven off or to the side of an active roadway and has stopped in a location
15 where it can safely remain stationary; or

16 (b) the vehicle is temporarily stationary because of traffic or a traffic control signal.

17 (3) If a local authority enacts an ordinance, rule, or regulation pursuant to subsection (2), violation of an
18 ordinance, rule, or regulation that restricts or prohibits the use of a mobile electronic communications device while
19 operating a motor vehicle is a misdemeanor punishable by a fine of no more than \$100.

20 (4) For the purposes of this section, "mobile electronic communications device" means a handheld
21 device or other portable electronic equipment capable of providing data communication between two or more
22 people, including a mobile telephone, a cellular, analog, wireless, or digital telephone, a paging device, a personal
23 digital assistant, a laptop computer, video gaming equipment, or any other substantially similar communications
24 device."

25

26 **Section 3.** Section 61-12-101, MCA, is amended to read:

27 **"61-12-101. Powers of local authorities to regulate traffic -- penalties.** (1) The provisions of chapters
28 8 and 9 do not prevent local authorities with respect to sidewalks, streets, and highways under their jurisdiction
29 and within the reasonable exercise of the police power from:

30 (a) regulating the standing or parking of vehicles;

- 1 (b) regulating the traffic by means of police officers or traffic control devices;
- 2 (c) regulating or prohibiting processions or assemblages on the highways;
- 3 (d) designating particular highways as one-way highways and requiring that all vehicles on those
4 highways be moved in one specific direction;
- 5 (e) regulating the speed of vehicles in public parks;
- 6 (f) designating any highway as a through highway, as defined in 61-8-341, and requiring that all vehicles
7 stop before entering or crossing a through highway and designating any intersection, as defined in 61-8-102, as
8 a stop intersection and requiring all vehicles to stop at one or more entrances to stop intersections;
- 9 (g) restricting the use of highways as authorized in 61-10-128(2);
- 10 (h) regulating the operation of bicycles or mopeds, as defined in 61-8-102, and requiring the registration
11 and licensing of bicycles or mopeds, including requiring a registration fee;
- 12 (i) regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;
- 13 (j) altering the speed limits as authorized in Title 7, chapter 14, and Title 61, chapter 8;
- 14 (k) regulating the operating of a vehicle by a person who is a habitual user of or under the influence of
15 any narcotic drug or who is under the influence of any other drug to a degree that renders the person incapable
16 of safely operating a vehicle within the incorporated limits of any city or town;
- 17 (l) regulating or prohibiting a person who is under the influence of intoxicating liquor from operating or
18 being in actual physical control of a vehicle within the incorporated limits of a city or town;
- 19 (m) regulating or prohibiting the operation of a vehicle by a person in willful or wanton disregard for the
20 safety of persons or property within the incorporated limits of a city or town;
- 21 (n) enacting as ordinances any provisions of chapter 8 or 9 and any other law regulating traffic,
22 pedestrians, vehicles, and operators of vehicles that are not in conflict with state law or federal regulations and
23 enforcing the ordinances;
- 24 (o) regulating the operation of motorized nonstandard vehicles on sidewalks, streets, and highways; and
- 25 (p) regulating the operation of golf carts on streets and highways.
- 26 (2) The powers of a local authority to regulate traffic do not include:
- 27 (a) the power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load,
28 object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway
29 that is under the jurisdiction of an entity other than the local authority; or
- 30 (b) subject to subsection (3), the power to enact or enforce an ordinance, rule, or regulation that restricts

1 or prohibits the use of a mobile electronic communications device while operating a motor vehicle unless the
2 ordinance, rule, or regulation includes an exception that a person may use a mobile electronic communications
3 device to write, type, send, or read a communication while operating a motor vehicle if:

4 (i) the vehicle has been driven off or to the side of an active roadway and has stopped in a location where
5 it can safely remain stationary; or

6 (ii) the vehicle is temporarily stationary because of traffic or a traffic control signal.

7 (3) If a local authority enacts an ordinance, rule, or regulation pursuant to subsection (2)(b), violation of
8 an ordinance, rule, or regulation that restricts or prohibits the use of a mobile electronic communications device
9 while operating a motor vehicle is a misdemeanor punishable by a fine of no more than \$100.

10 (4) For the purposes of this section, "mobile electronic communications device" means a handheld
11 device or other portable electronic equipment capable of providing data communication between two or more
12 people, including a mobile telephone, a cellular, analog, wireless, or digital telephone, a paging device, a personal
13 digital assistant, a laptop computer, video gaming equipment, or any other substantially similar communications
14 device."

15 - END -