

REFERENCE TITLE: cellular telephone use; texting; driving

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1443

Introduced by
Senator Melvin

AN ACT

AMENDING TITLE 28, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 21;
RELATING TO THE USE OF COMMUNICATION DEVICES WHILE DRIVING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 28, chapter 3, Arizona Revised Statutes, is amended
3 by adding article 21, to read:

4 ARTICLE 21. USE OF COMMUNICATION DEVICES WHILE DRIVING

5 28-1201. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CELLULAR TELEPHONE" MEANS AN ANALOG OR DIGITAL WIRELESS TELEPHONE
8 AUTHORIZED BY THE FEDERAL COMMUNICATIONS COMMISSION TO OPERATE IN THE
9 FREQUENCY BANDWIDTH RESERVED FOR CELLULAR RADIOPHONES.

10 2. "ENGAGE IN A CALL":

11 (a) MEANS TALKING INTO OR LISTENING ON A HANDHELD CELLULAR TELEPHONE.

12 (b) DOES NOT INCLUDE HOLDING A CELLULAR TELEPHONE TO ACTIVATE,
13 DEACTIVATE OR INITIATE A FUNCTION OF THE CELLULAR TELEPHONE.

14 3. "HANDHELD CELLULAR TELEPHONE" MEANS A CELLULAR TELEPHONE THAT
15 REQUIRES THE USE OF AT LEAST ONE HAND TO ENGAGE IN A CALL.

16 4. "HANDS-FREE DEVICE" MEANS AN ATTACHMENT, ADD-ON OR ADDITION TO A
17 CELLULAR TELEPHONE, WHETHER OR NOT PERMANENTLY INSTALLED IN A MOTOR VEHICLE,
18 THAT WHEN USED ALLOWS THE MOTOR VEHICLE OPERATOR TO MAINTAIN BOTH HANDS ON
19 THE STEERING WHEEL.

20 5. "IMMEDIATE PROXIMITY" MEANS THE DISTANCE THAT PERMITS THE USER OF A
21 CELLULAR TELEPHONE TO HEAR TELECOMMUNICATIONS TRANSMITTED OVER THE CELLULAR
22 TELEPHONE BUT THAT DOES NOT REQUIRE PHYSICAL CONTACT WITH THE USER'S EAR.

23 6. "PERSONAL DIGITAL ASSISTANT" MEANS A WIRELESS ELECTRONIC
24 COMMUNICATION DEVICE THAT PROVIDES FOR DATA COMMUNICATION OTHER THAN BY
25 VOICE.

26 7. "USE" MEANS, FOR A CELLULAR TELEPHONE:

27 (a) HOLDING A CELLULAR TELEPHONE TO, OR IN THE IMMEDIATE PROXIMITY OF,
28 THE USER'S EAR.

29 (b) PRESSING THE BUTTONS ON A CELLULAR TELEPHONE TO USE ANY OF THE
30 FUNCTIONS OF THE CELLULAR TELEPHONE.

31 28-1202. Use of cellular telephones while driving; text
32 messaging while driving; prohibition; exceptions

33 A. A PERSON WHO OPERATES A MOTOR VEHICLE ON A HIGHWAY SHALL NOT USE A
34 CELLULAR TELEPHONE TO ENGAGE IN A CALL WHILE THE MOTOR VEHICLE IS IN MOTION
35 UNLESS THE CELLULAR TELEPHONE IS EQUIPPED WITH A HANDS-FREE DEVICE.

36 B. IT IS A REBUTTABLE PRESUMPTION THAT AN OPERATOR OF A MOTOR VEHICLE
37 WHO HOLDS A CELLULAR TELEPHONE TO, OR IN THE IMMEDIATE PROXIMITY OF, THE
38 OPERATOR'S EAR WHILE THE MOTOR VEHICLE IS IN MOTION IS ENGAGING IN A CALL.

39 C. A PERSON SHALL NOT OPERATE A MOTOR VEHICLE ON A HIGHWAY WHILE USING
40 A CELLULAR TELEPHONE OR A PERSONAL DIGITAL ASSISTANT TO SEND OR RECEIVE A
41 WRITTEN MESSAGE WHILE THE MOTOR VEHICLE IS IN MOTION.

42 D. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

43 1. LAW ENFORCEMENT AND SAFETY PERSONNEL WHILE IN THE PERFORMANCE OF
44 OFFICIAL DUTIES.

1 2. DRIVERS OF AUTHORIZED EMERGENCY VEHICLES WHILE IN THE PERFORMANCE
2 OF OFFICIAL DUTIES.

3 3. HOLDERS OF COMMERCIAL DRIVER LICENSES WHILE DRIVING WITHIN THE
4 SCOPE OF THEIR EMPLOYMENT.

5 4. PUBLIC TRANSIT PERSONNEL WHILE DRIVING WITHIN THE SCOPE OF THEIR
6 EMPLOYMENT.

7 5. A PERSON WHO IS REPORTING CRIMINAL, RECKLESS OR NEGLIGENT BEHAVIOR.

8 6. A PERSON WHO BELIEVES THE PERSON IS IN PHYSICAL DANGER IF THE
9 PERSON IS THE ONLY ADULT IN THE MOTOR VEHICLE.

10 7. THE USE OF A CELLULAR TELEPHONE OR A PERSONAL DIGITAL ASSISTANT FOR
11 THE SOLE PURPOSE OF COMMUNICATING WITH ANY OF THE FOLLOWING REGARDING AN
12 EMERGENCY SITUATION:

13 (a) AN EMERGENCY RESPONSE OPERATOR.

14 (b) A HOSPITAL, PHYSICIAN'S OFFICE OR HEALTH CLINIC.

15 (c) A PROVIDER OF AMBULANCE SERVICES.

16 (d) A PROVIDER OF FIREFIGHTING SERVICES.

17 (e) A LAW ENFORCEMENT AGENCY.

18 28-1203. Nonmoving violation; civil penalties; accident reports

19 A. A VIOLATION OF THIS ARTICLE IS A NONMOVING CIVIL TRAFFIC VIOLATION.

20 B. IF A PERSON VIOLATES THIS ARTICLE AND THE PERSON IS NOT INVOLVED IN
21 A MOTOR VEHICLE ACCIDENT, THE PERSON IS SUBJECT TO A CIVIL PENALTY OF FIFTY
22 DOLLARS.

23 C. IF A PERSON VIOLATES THIS ARTICLE AND THE PERSON IS INVOLVED IN A
24 MOTOR VEHICLE ACCIDENT, THE PERSON IS SUBJECT TO A CIVIL PENALTY OF TWO
25 HUNDRED DOLLARS.

26 D. IF A PERSON IS CITED FOR VIOLATING THIS ARTICLE, THE PERSON IS
27 INVOLVED IN A MOTOR VEHICLE ACCIDENT AND A WRITTEN ACCIDENT REPORT IS
28 REQUIRED PURSUANT TO ARTICLE 4 OF THIS CHAPTER, THE LAW ENFORCEMENT OFFICER
29 INVESTIGATING THE ACCIDENT SHALL INDICATE ON THE WRITTEN ACCIDENT FORM THE
30 PERSON'S USE OF A CELLULAR TELEPHONE OR A PERSONAL DIGITAL ASSISTANT TO SEND
31 OR RECEIVE A WRITTEN MESSAGE AT THE TIME OF THE ACCIDENT.

32 Sec. 2. Warning period

33 For the purpose of informing and educating persons who operate motor
34 vehicles, beginning on January 1, 2010 through January 31, 2010, any law
35 enforcement officer authorized to issue traffic complaints may stop motor
36 vehicles and issue verbal warnings to persons who would be violating section
37 28-1192, Arizona Revised Statutes, as added by this act, if it was effective
38 on the day the warning is issued.

39 Sec. 3. Effective date

40 Title 28, chapter 3, article 21, Arizona Revised Statutes, as added by
41 this act, is effective from and after January 31, 2010.