

AMENDED**ARIZONA STATE SENATE**
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TO: MEMBERS OF THE SENATE

DATE: March 28, 2019

SUBJECT: Strike everything amendment to H.B. 2318, relating to texting while driving; prohibition; enforcementPurpose

An emergency measure that prohibits the use of a cell phone while driving a vehicle, with certain exceptions.

Background

A class G license is a graduated driver license for individuals who are at least 16 years old but are younger than 18 years old, and allows an individual to drive any vehicle that does not require a motorcycle or commercial driver license ([A.R.S. § 28-3101](#)). [Laws 2017, Chapter 209](#) prohibits class G licensed drivers from using a wireless communication device while driving a motor vehicle. A peace officer can only stop or issue a citation for a violation if there is another violation of a motor vehicle law of Arizona ([A.R.S. §§ 28-3154](#) and [28-3174](#)).

Current statute prohibits a person from driving a vehicle on a highway at a speed greater than is reasonable and prudent under the circumstances, conditions and actual and potential hazards. A person is required to control the speed of a vehicle as necessary to avoid colliding with any object, person, vehicle or other conveyance on, entering or adjacent to the highway in compliance with legal requirements and the duty of all persons to exercise reasonable care for the protection of others ([A.R.S. § 28-701](#)).

Certain cities in Arizona have enacted ordinances prohibiting texting while driving, distracted driving, or both. Civil penalties for violations of these ordinances range from \$50 to \$500 depending on the circumstances. According to the National Conference of State Legislatures (NCSL), 47 states have enacted text messaging bans while driving and 16 states prohibit hand-held cell phone use while driving ([NCSL](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Prohibits a person from operating a motor vehicle on a street or highway while engaging in either of the following:
 - a) physically holding or supporting a portable wireless communication device or stand-alone electronic device; or

- b) writing, sending, or reading any text-based communication, including text messages, instant messages, email or internet data on a portable wireless communication device or stand-alone electronic device.
2. Specifies that a person may engage in the actions listed above if the motor vehicle is parked or stopped at a red light or railroad crossing.
3. Specifies that the prohibition of using portable wireless communication devices or stand-alone devices does not apply to all of the following:
 - a) an operator of an authorized emergency, law enforcement or probation vehicle acting in official capacity;
 - b) an operator of a radio frequency device who is licensed pursuant to the Federal Communications Commission; and
 - c) an operator of a fleet vehicle or an operator in possession of a commercial driver license while utilizing a two-way radio or private land mobile radio system in the performance of work-related duties.
4. Specifies that a person may use a portable wireless communication device in order to do any of the following:
 - a) report illegal activity;
 - b) summon emergency help; or
 - c) relay information related to occupational duties between the operator and a dispatcher, or digital network or software application, if the device in use is permanently or temporarily affixed to the motor vehicle.
5. Specifies that a person operating a motor vehicle may engage in voice-based communication using an earpiece, headphone device or a device worn on a wrist, or voice-based communication through a portable wireless communication device to direct writing, sending, reading or communicating of text-based communication.
6. Specifies that a person may use a portable wireless communication device in a hands-free manner for the purposes of navigation, using a global positioning system, or obtaining information related to driving the motor vehicle.
7. Specifies that a person may use a communication device accessible through an interface and embedded in a motor vehicle if the device is utilized in a hands-free manner, except to activate or deactivate a function of the device.
8. Specifies that a peace officer may only issue a warning for a violation from the effective date of this legislation through December 31, 2020.
9. Allows a peace officer to issue a citation for a violation beginning January 1, 2021.
10. Prohibits a peace officer who stops a vehicle for an alleged violation from taking possession of, or otherwise inspecting a portable wireless communication device unless otherwise authorized by law.

11. States that a person in violation of operating a motor vehicle while using a portable wireless communication device as outlined after January 1, 2021, subject to a civil penalty as follows:
 - a) between \$75 and \$149 for a first violation; and
 - b) between \$150 and \$250 for a second or subsequent violation.
12. States that a person is guilty of causing serious physical injury or death by a moving violation if a person causes serious physical injury or death while in violation of operating a motor vehicle while using a portable wireless communication device as outlined after January 1, 2021.
13. States that the regulation of portable wireless communication devices while operating a motor vehicle is of statewide concern and is not subject to further regulation from and after December 31, 2020.
14. States that if a local authority has already prohibited the use of portable wireless communication devices while driving before the effective date of this legislation, the local authority is not subject to the warning period and may continue to issue citations for violations through December 31, 2020, and may enact a law to mirror this legislation without regard for the warning period.
15. States that a local authority that has not already prohibited the use of portable wireless communication devices while driving before the effective date of this legislation may adopt a law mirroring this legislation.
16. Adds using a portable wireless communication device while driving to the list of actions that temporarily disqualifies a person from a commercial drive license.
17. Prohibits the operator of a motor vehicle on a public roadway or off-highway vehicle trail from all of the following:
 - a) viewing broadcast television or a visual image from a display device within a motor vehicle unless the visual image is a static image or imagery in support of mapping services;
 - b) watching video or movie unless related to the navigation of a vehicle; and
 - c) record or broadcast video, except for the sole purpose of continuously recording or broadcasting within or outside the motor vehicle.
18. Requires the Arizona Department of Transportation (ADOT) to post signs at every point an interstate or U.S. highway enters the state stating the following:
 - a) the use of portable wireless communication devices while driving is prohibited in Arizona; and
 - b) a person is subject to a civil penalty if using a portable wireless communication device while driving.
19. Prohibits ADOT from considering a violation when determining whether the person's driver license should be suspended or revoked.

20. Requires ADOT, when considering an application for an original driver license, to consider a person's knowledge of the effect of using portable wireless communication devices on the effective operation of a vehicle.
21. Defines *portable wireless communication device* and *stand-alone electronic device*.
22. Makes technical and conforming changes.
23. Becomes effective on the signature of the Governor, if the emergency clause is enacted.

Amendments Adopted by Committee

1. Adopted the strike everything amendment.
2. Adds using a portable wireless communication device while driving to the list of actions that temporarily disqualifies a person from a commercial drive license.

Senate Action

TPS 3/27/19 DPA/SE 6-2-0