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As Engrossed: S3/26/19

A Bill

SENATE BILL 534

By: Senator B. Johnson
By: Representative Christiansen

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING DISTRACTED DRIVING
TO COMPLY WITH DISTRACTED DRIVING REQUIREMENTS UNDER
FEDERAL LAW; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING DISTRACTED
DRIVING TO COMPLY WITH DISTRACTED DRIVING
REQUIREMENTS UNDER FEDERAL LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 27-23-103(38), concerning the definition of "texting", is amended to read as follows:

(38)(A) "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device.

(B) "Texting" includes without limitation using a short message service, ~~e-mailing~~ emailing, instant messaging, entering a command or request to access an ~~Internet~~ internet page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry for present or future communication.

(C) "Texting" does not include:

(i) Pressing a single button to initiate or terminate a voice communication using a mobile telephone;

(ii) Inputting, selecting, or reading information on a global positioning system or navigation system; or



(iii) Using a device capable of performing multiple functions, including without limitation a fleet management system, a dispatching device, a smart phone, a citizens band radio, and a music player, for a purpose that is not otherwise prohibited in 49 C.F.R. parts 383 or 392, ~~as in effect on January 1, 2013;~~

SECTION 2. Arkansas Code § 27-23-130(d), concerning prohibition against texting, is amended to read as follows:

(d) A person who is convicted of violating this section shall be:

(1) Guilty of ~~commits~~ a violation; and

(2) Fined not less than twenty-five dollars (\$25.00).

SECTION 3. Arkansas Code § 27-51-1503 is amended to read as follows:
27-51-1503. Definitions.

As used in this subchapter:

(1) "Access, read, or post to a social networking site" means using a wireless telecommunications device to interact with a web-based service that allows a person to:

(A) Construct a profile within a bounded system;

(B) Articulate a list of other members with whom the person shares a connection; and

(C) Communicate with other members of the site;

(2)(A) "Operate a motor vehicle" or "operating a motor vehicle" means operating a motor vehicle on a public road, street, or highway.

(B) "Operate a motor vehicle" or "operating a motor vehicle" does not include driving or operating a motor vehicle that has pulled over to the side of or off of a public road, street, or highway and stopped by the driver in a location where the motor vehicle may safely remain stationary;

(3) "Texting" means reading from or manually entering data into a wireless telecommunications device, including doing so for the purpose of SMS texting, emailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication; and

(4)(A) "Wireless telecommunications device" means a cellular telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, or a substantially similar wireless device that is readily

removable from the vehicle and is used to write, send, or read text or data through manual input.

(B) "Wireless telecommunications device" does not include a:

(i) Citizens band radio;
(ii) Citizens band radio hybrid;
(iii) Commercial two-way radio communication device;
(iv) Two-way radio transmitter or receiver used by a licensee of the Federal Communications Commission in the Amateur Radio Service; or

(v) Hands-free wireless ~~telephone or telecommunications~~ device; and

~~(3) "Write, send, or read a text-based communication" means using a wireless telecommunications device to manually communicate with a person by using a text-based communication commonly referred to as a text message, instant message, or electronic mail.~~

SECTION 4. Arkansas Code § 27-51-1504 is amended to read as follows:
27-51-1504. Use of wireless telecommunications device when driving.

(a)(1) Except as otherwise provided in subsection (b) of this section, a driver of a motor vehicle shall not operate a motor vehicle while using a wireless telecommunications device to:

(A) ~~Write, send, or read a text-based communication~~ Engage in texting; or

(B) Access, read, or post to a social networking site.

(2) A driver of a motor vehicle is not in violation of subdivision (a)(1) of this section if he or she reads, selects, or enters a telephone number or name in a wireless telecommunications device for the purpose of making a telephone call.

(b) A person is exempt from the requirements of this section if he or she is:

(1) Performing official duties as a certified law enforcement officer, firefighter, ambulance driver, or emergency medical technician;

(2) Operating a motor vehicle while using a wireless telecommunications device to:

(A) Report illegal activity;

- (B) Summon medical or other emergency assistance; or
 - (C) Prevent injury to a person or property;
 - ~~(D) Relay information between a transit or for hire operator dispatcher, if the wireless telecommunications device is permanently affixed to the motor vehicle; or~~
 - ~~(E) Navigate using a global positioning system; or~~
- (3) A physician or healthcare provider using a wireless telecommunications device for emergency medical purposes ~~to communicate with a hospital, health clinic, or the office of the physician, or to provide for the health care or medical emergency of a person.~~

SECTION 5. Arkansas Code § 27-51-1505 is amended to read as follows:
27-51-1505. Preemption.

This subchapter supersedes and preempts all county or municipal ordinances regarding the use of a ~~handheld wireless telephone~~ wireless telecommunication device ~~for wireless interactive communication~~ texting while operating a motor vehicle.

SECTION 6. Arkansas Code § 27-51-1506(a), concerning penalties under “Paul’s Law: To Prohibit Drivers From Using a Wireless Communications Device While Operating a Motor Vehicle”, is amended to read as follows:

(a)(1) A violation of this subchapter is punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred fifty dollars (\$250) for the first offense.

(2) Each subsequent violation of this subchapter is punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

SECTION 7. Arkansas Code §§ 27-51-1602-27-51-1609 are amended to read as follows:

~~27-51-1602. Definitions.~~

~~As used in this subchapter:~~

~~(1) “Emergency purpose” means the reason for contacting any of the following to report an emergency:~~

~~(A) Law enforcement personnel;~~

~~(B) Fire department personnel;~~

~~(C) Public safety personnel;~~

~~(D) Emergency medical personnel; or~~

~~(E) A 911 public safety communications center;~~

~~(2)(A) "Handheld wireless telephone" means a wireless interactive communication device with which a user engages in wireless interactive communication using at least one (1) hand.~~

~~(B) "Handheld wireless telephone" does not include a:~~

~~(i) Hands free wireless telephone or device;~~

~~(ii) Citizens band radio;~~

~~(iii) Citizens band radio hybrid; or~~

~~(iv) Global positioning or navigation device or~~

~~system;~~

~~(3)(A) "Hands free wireless telephone or device" means a wireless telephone or other wireless communication device that allows a user to engage in wireless interactive communication without the use of either hand with:~~

~~(i) An internal feature or function; or~~

~~(ii) An attachment or additional device.~~

~~(B) A hands free wireless telephone or device may be a permanent or temporary part of the wireless telephone or other wireless communication device.~~

~~(C) A hands free wireless telephone or device may require the use of either hand to activate, deactivate, or initiate a function of the wireless telephone or other communication device;~~

~~(4) "Highway work zone" means any area upon or adjacent to a highway, road, or street of this state where construction, reconstruction, maintenance, or any other type of work is being performed or is in progress;~~

~~(5) "Highway worker" means an employee of any of the following who is present in a highway work zone:~~

~~(A) The Arkansas Department of Transportation;~~

~~(B) A county;~~

~~(C) A municipality; or~~

~~(D) A contractor or subcontractor of the State Highway Commission or a county or municipality that is performing duties related to the highway work zone;~~

~~(6) "Wireless interactive communication" means talking, typing,~~

~~emailing, or accessing information on the internet with a wireless telephone, and~~

~~(7)(A) "Wireless telephone" means a wireless interactive communication device.~~

~~(B) "Wireless telephone" includes a handheld wireless telephone and a hands free wireless telephone or device.~~

~~27-51-1603. Restrictions on drivers under 18 years of age.~~

~~(a) Except as provided under subsection (b) of this section, a driver of a motor vehicle who is under eighteen (18) years of age shall not use a wireless telephone for wireless interactive communication while operating a motor vehicle.~~

~~(b) A driver of a motor vehicle who is under eighteen (18) years of age may use a wireless telephone for wireless interactive communication while operating a motor vehicle for an emergency purpose only.~~

~~27-51-1604. Restrictions on drivers at least 18 but under 21 years of age.~~

~~(a)(1) Except as otherwise provided in this section, the driver of a motor vehicle who is at least eighteen (18) but under twenty-one (21) years of age shall not use a handheld wireless telephone for wireless interactive communication while operating a motor vehicle.~~

~~(2) The driver of a motor vehicle who is at least eighteen (18) but under twenty-one (21) years of age may use a hands free wireless telephone or device for wireless interactive communication while operating a motor vehicle.~~

~~(b) A driver of a motor vehicle who is at least eighteen (18) but under twenty-one (21) years of age may use a handheld wireless telephone for wireless interactive communication while operating a motor vehicle for an emergency purpose only.~~

~~27-51-1605. Enforcement.~~

~~A driver of a motor vehicle is not to be stopped or detained solely to determine compliance with this subchapter.~~

~~27-51-1606. Preemption.~~

~~This subchapter supersedes and preempts all county or municipal ordinances regarding wireless telephone use by drivers of motor vehicles.~~

~~27-51-1607. Penalties.~~

~~(a)(1) A violation of this subchapter is punishable by a fine of not more than two hundred fifty dollars (\$250) for the first offense.~~

~~(2) Each subsequent violation of this subchapter is punishable by a fine of not more than five hundred dollars (\$500).~~

~~(b) If a person pleads guilty or nolo contendere to or the finder of fact determines that the person was involved in a collision or accident while in violation of this subchapter, a court shall in addition to any other sentence, assess an additional fine of double the amount of the standard fine imposed under subdivisions (a)(1) and (2) of this section.~~

~~27-51-1609. Restrictions in school zones.~~

~~(a) Except as provided under subsection (b) of this section, a driver of a motor vehicle shall not use a handheld wireless telephone while operating a motor vehicle when passing a school building or school zone during school hours when children are present and outside the building.~~

~~(b) A driver of a motor vehicle who is passing a school building or school zone during school hours when children are present and outside the building may use a handheld wireless telephone while operating a motor vehicle for an emergency purpose.~~

~~(c) This section does not apply to law enforcement officers.~~

~~27-51-1610. Restrictions in highway work zones.~~

~~(a) Except as provided under subsection (b) of this section, the driver of a motor vehicle shall not use a handheld wireless telephone while operating a motor vehicle in a highway work zone when a highway worker is present.~~

~~(b) The driver of a motor vehicle who is in a highway work zone when a highway worker is present may use a handheld wireless telephone while operating a motor vehicle for an emergency purpose.~~

~~(c) This section does not apply to law enforcement officers.~~

27-51-1602. Definitions.

As used in this subchapter:

(1) "Emergency" means a situation in which a person is in need of assistance from any of the following:

(A) Law enforcement personnel;

(B) Fire department personnel;

(C) Public safety personnel;

(D) Emergency medical personnel; or

(E) A 911 public safety communications center;

(2) "Texting" means reading from or manually entering data into a wireless telecommunications device, including doing so for the purpose for short message service texting, emailing, instant messaging, or engaging in another form of electronic data retrieval or electronic data communication;

(3) "Wireless interactive communication" means talking, typing, texting, emailing, or accessing information on the internet via Wi-Fi, cellular data, or similar means; and

(4)(A) "Wireless telecommunications device" means a handheld cellular telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, or a substantially similar wireless device that is readily removable from a vehicle and is used to talk or type, send, or read text or data through manual input.

(B) "Wireless telecommunications device" does not include
a:

(i) Citizens band radio;

(ii) Citizens band radio hybrid;

(iii) Commercial two-way radio communication device;

(iv) Two-way radio transmitter or receiver used by a licensee of the Federal Communications Commission in the Amateur Radio Service;

(v) Hands-free wireless telephone or device; or

(vi) Global positioning or navigation device system.

27-51-1603. Restrictions on drivers under 18 years of age.

(a) Except as provided under subsection (b) of this section, a driver of a motor vehicle who is under eighteen (18) years of age shall not use a wireless telecommunications device or a hands-free wireless telephone or device while operating a motor vehicle.

(b) A driver of a motor vehicle who is under eighteen (18) years of age may use a wireless telecommunications device or a hands-free wireless telephone or device while operating a motor vehicle only in an emergency.

27-51-1604. Restrictions on drivers at least 18 years of age but under 21 years of age.

(a)(1) Except as provided under subsection (b) of this section, a driver of a motor vehicle who is at least eighteen (18) years of age but under twenty-one (21) years of age shall not use a wireless telecommunications device for wireless interactive communication while operating a motor vehicle.

(2) A driver of a motor vehicle who is at least eighteen (18) years of age but under twenty-one (21) years of age may use a hands-free wireless telephone or device for wireless interactive communication while operating a motor vehicle.

(b) A driver of a motor vehicle who is at least eighteen (18) years of age but under twenty-one (21) years of age may use a wireless telecommunications device for wireless interactive communication while operating a motor vehicle only in an emergency.

27-51-1605. Restrictions in school zones.

(a) Except as provided under subsection (b) of this section, a driver of a motor vehicle shall not use a wireless telecommunications device while operating a motor vehicle when passing a school building or school zone during school hours when children are present and outside the building.

(b) A driver of a motor vehicle who is passing a school building or school zone during school hours when children are present and outside the building may use a wireless telecommunications device while operating a motor vehicle only in an emergency.

(c) This section does not apply to a law enforcement officer engaged in the performance of his or her official duties.

27-51-1606. Restrictions in highway work zones.

(a) Except as provided under subsection (b) of this section, a driver of a motor vehicle shall not use a wireless telecommunications device while operating a motor vehicle in a highway work zone when a highway worker is

present.

(b) A driver of a motor vehicle who is in a highway work zone when a highway worker is present may use a wireless telecommunications device while operating a motor vehicle only in an emergency.

(c) This section does not apply to a law enforcement officer engaged in the performance of his or her official duties.

(d) As used in this section:

(1) "Highway work zone" means any area upon or adjacent to a highway, road, or street of this state where construction, reconstruction, maintenance, or any other type of work is being performed or is in progress; and

(2) "Highway worker" means an employee of any of the following who is present in a highway work zone:

(A) The Arkansas Department of Transportation;

(B) A county;

(C) A municipality; or

(D) A contractor or subcontractor of the State Highway Commission or a county or municipality that is performing duties related to the highway work zone.

27-51-1607. Penalties.

(a)(1) A violation of this subchapter is punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred fifty dollars (\$250) for the first offense.

(2) Each subsequent violation of this subchapter is punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

(b) If a person pleads guilty or nolo contendere to a violation of this subchapter or the finder of fact determines that the person was involved in a collision or accident while in violation of this subchapter, a court shall, in addition to any other sentence, assess an additional fine of double the amount of the standard fine imposed under subdivisions (a)(1) and (2) of this section.

/s/B. Johnson

APPROVED: 4/5/19