

INTERIM STUDY PROPOSAL 2019-096

State of Arkansas

As Engrossed: S2/11/19

92nd General Assembly

A Bill

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SENATE BILL 66

By: Senator A. Clark

Filed with: Senate Committee on Transportation, Technology, and Legislative Affairs
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO CLARIFY THE LAW CONCERNING DISTRACTED
DRIVING; TO MAKE A VIOLATION OF THE DISTRACTED
DRIVING LAW A SECONDARY OFFENSE; AND FOR OTHER
PURPOSES.

Subtitle

TO CLARIFY THE LAW CONCERNING DISTRACTED
DRIVING; AND TO MAKE A VIOLATION OF THE
DISTRACTED DRIVING LAW A SECONDARY
OFFENSE.

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

SECTION 1. Arkansas Code § 27-16-804(g)(1)(D), concerning the issuance
of and restrictions on drivers with restricted licenses, learner's licenses,
and intermediate licenses is repealed.

~~(D)(i) A driver with an intermediate driver's license
shall not use a cellular telephone device or other interactive wireless
communication device while operating a motor vehicle except for an emergency
purpose.~~

~~(ii) As used in this subdivision (g)(1)(D),
"emergency purpose" means the driver:~~

~~(a) Has reason to fear for his or her life,
safety, or property;~~

~~(b) Reasonably believes that a criminal act may be perpetrated against him or her, his or her property, another person, or another person's property; or~~

~~(c) Is reporting:~~

- ~~(1) A fire;~~
- ~~(2) A traffic accident;~~
- ~~(3) A serious road hazard;~~
- ~~(4) A medical emergency;~~
- ~~(5) A hazardous materials emergency;~~
- ~~(6) Another driver who is recklessly, carelessly, or unsafely driving; or~~
- ~~(7) Another driver who appears to be driving under the influence of drugs or alcohol.~~

SECTION 2. Arkansas Code Title 27, Chapter 51, Subchapter 15, is repealed.

~~Subchapter 15~~

~~Paul's Law: To Prohibit Drivers From Using a Wireless Communications Device While Operating a Motor Vehicle~~

~~27-51-1501. Title.~~

~~This subchapter is known and may be cited as "Paul's Law: To Prohibit Drivers From Using a Wireless Communications Device While Operating a Motor Vehicle".~~

~~27-51-1502. Purpose.~~

~~The purpose of this subchapter is to:~~

- ~~(1) Improve the safety of the roads for all drivers and passengers by prohibiting a driver of a motor vehicle from engaging in text messaging;~~
- ~~(2) Prevent accidents caused by the distractive practice of text messaging while operating a motor vehicle;~~
- ~~(3) Preserve human life and maintain the safety of the citizens of the State of Arkansas and visitors to our state by taking steps to reduce motor vehicle accidents, injuries, and deaths;~~

~~(4) Reduce health care costs, health insurance rates, and automobile insurance rates by attempting to reduce the number of motor vehicle accidents that cause injury, death, and property damage; and~~

~~(5) Reduce the amount of time that law enforcement and the court system work on accidents and offenses arising out of motor vehicle accidents caused by drivers who are distracted by sending or reading text messages.~~

~~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) "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 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.~~

~~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; 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;~~

~~(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 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.~~

~~27-51-1505. Preemption.~~

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

~~27-51-1506. 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.~~

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

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

8 ~~(2) The law enforcement officer investigating the collision or~~
9 ~~accident shall indicate on the written accident form that the driver of the~~
10 ~~motor vehicle was using a wireless telecommunications device at the time of~~
11 ~~the collision or accident.~~

12
13 SECTION 3. Arkansas Code Title 27, Chapter 51, Subchapter 16, is
14 repealed.

15 Subchapter 16

16 ~~— Fewer Distractions Mean Safer Driving Act~~

17
18 ~~27-51-1601. Title.~~

19 ~~This subchapter shall be known and may be cited as the “Fewer~~
20 ~~Distractions Mean Safer Driving Act”.~~

21
22 ~~27-51-1602. Definitions.~~

23 ~~As used in this subchapter:~~

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

26 ~~(A) Law enforcement personnel;~~

27 ~~(B) Fire department personnel;~~

28 ~~(C) Public safety personnel;~~

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

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

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

34 ~~(B) “Handheld wireless telephone” does not include a:~~

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

36 ~~(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.~~

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

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

8
9 ~~27-51-1604. Restrictions on drivers at least 18 but under 21 years of~~
10 ~~age.~~

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

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

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

23
24 ~~27-51-1605. Enforcement.~~

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

27
28 ~~27-51-1606. Preemption.~~

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

31
32 ~~27-51-1607. Penalties.~~

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

35 ~~(2) Each subsequent violation of this subchapter is punishable~~
36 ~~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.~~

~~27-51-1608. [Repealed.]~~

~~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.~~

SECTION 4. Arkansas Code Title 27, Chapter 51, is amended to add an additional subchapter to read as follows:

Subchapter 18

- Distracted Driving Prohibited

DO NOT CODIFY. Title.

1 This subchapter shall be known and may be cited as "Paul's Law: Fewer
2 Distractions Mean Safer Driving".

3
4 27-51-1801. Purpose.

5 The purpose of this subchapter is to:

6 (1) Improve the safety of the roads for all drivers and
7 passengers by prohibiting a driver of a motor vehicle from engaging in text
8 messaging and internet use;

9 (2) Prevent accidents caused by distracted driving;

10 (3) Preserve human life and maintain the safety of the citizens
11 of the State of Arkansas and visitors to our state by taking steps to reduce
12 motor vehicle accidents, injuries, and deaths;

13 (4) Reduce healthcare costs, health insurance rates, and
14 automobile insurance rates by attempting to reduce the number of motor
15 vehicle accidents that cause injury, death, and property damage;

16 (5) Reduce the amount of time that law enforcement and the court
17 system work on motor vehicle accidents and offenses arising out of motor
18 vehicle accidents caused by drivers who are distracted by the use of wireless
19 telecommunications devices; and

20 (6) Provide drivers, passengers, and law enforcement with a
21 clear and concise statement of the law concerning the use of wireless
22 telecommunications devices cell phones and the internet while operating a
23 motor vehicle.

24
25 27-51-1802. Definitions.

26 As used in this subchapter:

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

29 (A) Law enforcement personnel;

30 (B) Fire department personnel;

31 (C) Public safety personnel;

32 (D) Emergency medical personnel; or

33 (E) A 911 public safety communications center"

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

(B) "Operate a motor vehicle" or "operating a motor vehicle" does not mean driving or operating a motor vehicle:

(i) That is temporarily stationary because of the driver's or the operator's response to traffic, a traffic light, a stop sign, or yield sign; or

(ii) That has been pulled over to the side 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) "Wireless interactive communication" means talking, typing, 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, type, or 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.

27-51-1803. Use of a wireless telecommunications device while operating a motor vehicle.

(a)(1) Except as 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; 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

1 telephone number or name in a wireless telecommunications device for the
2 purpose of making a telephone call.

3 (b) A driver of a motor vehicle is exempt from the requirements of
4 this section if he or she is:

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

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

9 (A) Report illegal activity;

10 (B) Summon medical or other emergency assistance;

11 (C) Prevent injury to a person or property;

12 (D) Relay information between a transit or for-hire
13 operator dispatcher; or

14 (E) Navigate using a global positioning system; or

15 (3) A physician or healthcare provider using a wireless
16 telecommunications device to communicate with a hospital, health clinic, or
17 the office of the physician or healthcare provider, or to provide for the
18 health care or medical emergency of a person.

19
20 27-51-1804. Restrictions on drivers under 18 years of age.

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

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

29
30 27-51-1805. Restrictions on drivers at least 18 years of age but under
31 21 years of age.

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

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

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

9 (c) A law enforcement officer may stop or detain a driver of a motor
10 vehicle solely to determine compliance with this section.

11
12 27-51-1806. Restrictions in school zones.

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

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

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

22
23 27-51-1807. Restrictions in highway work zones.

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

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

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

32 (d) As used in this section:

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

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

- 3 (A) The Arkansas Department of Transportation;
4 (B) A county;
5 (C) A municipality; or
6 (D) A contractor or subcontractor of the State Highway
7 Commission or a county or municipality that is performing duties related to
8 the highway work zone.

9
10 27-51-1808. Enforcement.

11 Except as provided under § 27-51-1804, a driver of a motor vehicle is
12 not to be stopped or detained solely to determine compliance with this
13 subchapter.

14
15 27-51-1809. Penalties.

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

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

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

26
27
28 /s/A. Clark
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30

31 Referred requested by the Arkansas Senate

32 Prepared by: DTP/VJF
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