
ENGROSSED SENATE BILL 5160

State of Washington 59th Legislature 2005 Regular Session

By Senators Eide, Swecker, Berkey and Regala

Read first time 01/17/2005. Referred to Committee on Transportation.

1 AN ACT Relating to the use of a wireless communications device
2 while operating a motor vehicle; adding a new section to chapter 46.61
3 RCW; creating new sections; prescribing penalties; and providing an
4 effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The use of wireless communications devices
7 by motorists has increased in recent years. While wireless
8 communications devices have assisted with quick reporting of road
9 emergencies, their use has also contributed to accidents and other
10 mishaps on Washington state roadways. When motorists hold a wireless
11 communications device in one hand and drive with the other, their
12 chances of becoming involved in a traffic mishap increase. It is the
13 legislature's intent to phase out the use of hand-held wireless
14 communications devices by motorists while operating a vehicle.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.61 RCW
16 to read as follows:

17 (1) Except as provided in subsection (2) of this section, a person

1 operating a moving motor vehicle while holding a wireless
2 communications device to his or her ear is guilty of a traffic
3 infraction.

4 (2) Subsection (1) of this section does not apply to a person
5 operating:

6 (a) An authorized emergency vehicle;

7 (b) A moving motor vehicle using a wireless communications device
8 in hands-free mode;

9 (c) A moving motor vehicle using a hand-held wireless
10 communications device to:

11 (i) Report illegal activity;

12 (ii) Summon medical or other emergency help;

13 (iii) Prevent injury to a person or property.

14 (3) For purposes of this section, "hands-free mode" means the use
15 of a wireless communications device with a speaker phone, headset, or
16 earpiece.

17 (4) The state preempts the field of regulating the use of wireless
18 communications devices in motor vehicles, and this section supersedes
19 any local laws, ordinances, orders, rules, or regulations enacted by a
20 political subdivision or municipality to regulate the use of wireless
21 communications devices by the operator of a motor vehicle.

22 (5) Enforcement of this section by law enforcement officers may be
23 accomplished only as a secondary action when a driver of a motor
24 vehicle has been detained for a suspected violation of this title or an
25 equivalent local ordinance or some other offense.

26 (6) Infractions that result from the use of a wireless
27 communication device while operating a motor vehicle under this section
28 shall not become part of the driver's record under RCW 46.52.101 and
29 46.52.120. Additionally, a finding that a person has committed a
30 traffic infraction under this section shall not be made available to
31 insurance companies or employers.

32 NEW SECTION. **Sec. 3.** For the first six months after the effective
33 date of this act, law enforcement officers may only issue verbal
34 warnings for violations of section 2 of this act.

1 NEW SECTION. **Sec. 4.** This act takes effect January 1, 2006.

--- END ---