
SUBSTITUTE SENATE BILL 6227

State of Washington

63rd Legislature

2014 Regular Session

By Senate Transportation (originally sponsored by Senators Eide, Frockt, Chase, Keiser, and McAuliffe)

READ FIRST TIME 02/06/14.

1 AN ACT Relating to enhancing public safety by reducing distracted
2 driving incidents caused by the use of personal wireless communications
3 devices; amending RCW 46.61.668, 46.20.055, 46.20.075, 46.25.010, and
4 46.20.130; creating a new section; repealing RCW 46.61.667; prescribing
5 penalties; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that cell phones
8 can be a benefit to an individual's convenience and efficiency but are
9 a dangerous distraction when driving a vehicle. The legislature
10 further recognizes that under the federal funding authorization, moving
11 ahead for progress in the 21st century act, funds have been set aside
12 to combat the emerging national problem of distracted driving, and that
13 distracted driving is one of the top three causes of fatal teen
14 collisions. The legislature further recognizes that for Washington
15 state to enhance public safety and qualify for these federal funds, the
16 existing cell phone laws must be amended to meet the new requirements.
17 As such, it is the intent of the legislature that our state's existing
18 cell phone laws are brought in line with federal grant criteria to

1 ensure that the maximum amount of federal funds are made available to
2 these important safety programs.

3 **Sec. 2.** RCW 46.61.668 and 2013 c 224 s 16 are each amended to read
4 as follows:

5 (1)(a) (~~Except as provided in subsection (2)(a) of this section,~~)
6 A person operating a ((moving noncommercial)) motor vehicle (i) while
7 holding a personal wireless communications device in his or her hand or
8 hands or (ii) who((, by means of an electronic)) uses a personal
9 wireless communications device((, sends, reads, or writes a text
10 message)) to read or manually enter data including, but not limited to,
11 short message service, texting, e-mailing, instant messaging, or
12 engaging in any other form of electronic data retrieval or electronic
13 data communication, is guilty of a traffic infraction.

14 (b) (~~Except as provided in subsection (2)(b) of this section, a~~
15 ~~person driving a commercial motor vehicle, as defined in RCW 46.25.010,~~
16 ~~including while temporarily stationary because of traffic, a traffic~~
17 ~~control device, or other momentary delays, who, by means of an~~
18 ~~electronic wireless communications device, sends, reads, or writes a~~
19 ~~text message, is guilty of a traffic infraction. For purposes of this~~
20 ~~subsection, "driving" does not include operating a commercial motor~~
21 ~~vehicle with or without the motor running when the driver has moved the~~
22 ~~vehicle to the side of, or off, a highway and has stopped in a location~~
23 ~~where the vehicle can safely remain stationary.~~

24 (c) ~~A person does not send, read, or write a text message when he~~
25 ~~or she reads, selects, or enters a phone number or name in a wireless~~
26 ~~communications device for the purpose of making a phone call)) The~~
27 holder of an intermediate license under RCW 46.20.075 or driver's
28 instruction permit under RCW 46.20.055 may not use a personal wireless
29 communications device in any manner while operating a motor vehicle.

30 (2)((+a)) Subsection (1)((+a)) of this section does not apply to
31 ((a person operating)):

32 ((i) An authorized emergency vehicle;

33 (ii) A voice-operated global positioning or navigation system that
34 is affixed to the vehicle and that allows the user to send or receive
35 messages without diverting visual attention from the road or engaging
36 the use of either hand; or

1 ~~(iii) A moving motor vehicle while using an electronic wireless~~
2 ~~communications device to:~~

3 ~~(A) Report illegal activity;~~

4 ~~(B) Summon medical or other emergency help;~~

5 ~~(C) Prevent injury to a person or property; or~~

6 ~~(D) Relay information that is time sensitive between a transit or~~
7 ~~for-hire operator and that operator's dispatcher, in which the device~~
8 ~~is permanently affixed to the vehicle.~~

9 ~~(b) Subsection (1)(b) of this section does not apply to a person~~
10 ~~operating a commercial motor vehicle when necessary to communicate with~~
11 ~~law enforcement officials or other emergency services.~~

12 ~~(3) Infractions under subsection (1)(a) of this section shall not~~
13 ~~become part of the driver's record under RCW 46.52.101 and 46.52.120.~~
14 ~~Additionally, a finding that a person has committed a traffic~~
15 ~~infraction under subsection (1)(a) of this section shall not be made~~
16 ~~available to insurance companies or employers)) (a) A driver who uses~~
17 ~~a personal wireless communications device to contact emergency~~
18 ~~services; or~~

19 ~~(b) Emergency services personnel who use a personal wireless~~
20 ~~communications device while (i) operating an emergency services vehicle~~
21 ~~and (ii) engaged in the performance of their duties as emergency~~
22 ~~services personnel.~~

23 ~~(3) For purposes of this section: (a) "Operating a motor vehicle"~~
24 ~~includes the operation of a motor vehicle while it is moving and while~~
25 ~~it is temporarily stationary because of traffic, a traffic light, or a~~
26 ~~stop sign, and does not include when the vehicle has pulled over to the~~
27 ~~side of, or off, the roadway and has stopped in a location where it can~~
28 ~~safely remain stationary; and (b) "personal wireless communications~~
29 ~~device" includes a device through which personal wireless services, as~~
30 ~~defined in 47 U.S.C. Sec. 332(c)(7)(C)(i), are transmitted, and does~~
31 ~~not include a global navigation satellite system receiver used for~~
32 ~~positioning, emergency notification, or navigation purposes.~~

33 ~~(4) A person found to have committed more than one violation of~~
34 ~~this section within a five-year period must be assessed a monetary~~
35 ~~penalty equal to twice the penalty assessed under RCW 46.63.110. Fifty~~
36 ~~percent of the moneys collected under this subsection must be deposited~~
37 ~~into the highway safety fund under RCW 46.68.060.~~

1 (5) This section does not prohibit the use of a system that is
2 physically or electronically integrated into a motor vehicle and
3 provides the user with services such as emergency notification and
4 navigation.

5 (6) The state preempts the field of regulating the use of personal
6 wireless communications devices in motor vehicles, and this section
7 supersedes any local laws, ordinances, orders, rules, or regulations
8 enacted by any political subdivision or municipality to regulate the
9 use of personal wireless communications devices by the operator of a
10 motor vehicle.

11 **Sec. 3.** RCW 46.20.055 and 2012 c 80 s 5 are each amended to read
12 as follows:

13 (1) **Driver's instruction permit.** The department may issue a
14 driver's instruction permit with or without a photograph to an
15 applicant who has successfully passed all parts of the examination
16 other than the driving test, provided the information required by RCW
17 46.20.091, paid an application fee of twenty-five dollars, and meets
18 the following requirements:

19 (a) Is at least fifteen and one-half years of age; or

20 (b) Is at least fifteen years of age and:

21 (i) Has submitted a proper application; and

22 (ii) Is enrolled in a traffic safety education program offered,
23 approved, and accredited by the superintendent of public instruction or
24 offered by a driver training school licensed and inspected by the
25 department of licensing under chapter 46.82 RCW, that includes practice
26 driving.

27 (2) **Waiver of written examination for instruction permit.** The
28 department may waive the written examination, if, at the time of
29 application, an applicant is enrolled in:

30 (a) A traffic safety education course as defined by RCW
31 28A.220.020(2); or

32 (b) A course of instruction offered by a licensed driver training
33 school as defined by RCW 46.82.280.

34 The department may require proof of registration in such a course
35 as it deems necessary.

36 (3) **Effect of instruction permit.** A person holding a driver's

1 instruction permit may drive a motor vehicle, other than a motorcycle,
2 upon the public highways if:

3 (a) The person has immediate possession of the permit; and

4 ~~(b) ((The person is not using a wireless communications device,~~
5 ~~unless the person is using the device to report illegal activity,~~
6 ~~summon medical or other emergency help, or prevent injury to a person~~
7 ~~or property; and~~

8 ~~(c))~~ An approved instructor, or a licensed driver with at least
9 five years of driving experience, occupies the seat beside the driver.

10 (4) **Term of instruction permit.** A driver's instruction permit is
11 valid for one year from the date of issue.

12 (a) The department may issue one additional one-year permit.

13 (b) The department may issue a third driver's permit if it finds
14 after an investigation that the permittee is diligently seeking to
15 improve driving proficiency.

16 (c) A person applying for an additional instruction permit must
17 submit the application to the department in person and pay an
18 application fee of twenty-five dollars for each issuance.

19 **Sec. 4.** RCW 46.20.075 and 2011 c 60 s 44 are each amended to read
20 as follows:

21 (1) An intermediate license authorizes the holder to drive a motor
22 vehicle under the conditions specified in this section. An applicant
23 for an intermediate license must be at least sixteen years of age and:

24 (a) Have possessed a valid instruction permit for a period of not
25 less than six months;

26 (b) Have passed a driver licensing examination administered by the
27 department;

28 (c) Have passed a course of driver's education in accordance with
29 the standards established in RCW 46.20.100;

30 (d) Present certification by his or her parent, guardian, or
31 employer to the department stating (i) that the applicant has had at
32 least fifty hours of driving experience, ten of which were at night,
33 during which the driver was supervised by a person at least twenty-one
34 years of age who has had a valid driver's license for at least three
35 years, and (ii) that the applicant has not been issued a notice of
36 traffic infraction or cited for a traffic violation that is pending at
37 the time of the application for the intermediate license;

1 (e) Not have been convicted of or found to have committed a traffic
2 violation within the last six months before the application for the
3 intermediate license; and

4 (f) Not have been adjudicated for an offense involving the use of
5 alcohol or drugs during the period the applicant held an instruction
6 permit.

7 (2) For the first six months after the issuance of an intermediate
8 license or until the holder reaches eighteen years of age, whichever
9 occurs first, the holder of the license may not operate a motor vehicle
10 that is carrying any passengers under the age of twenty who are not
11 members of the holder's immediate family as defined in RCW 42.17A.005.
12 For the remaining period of the intermediate license, the holder may
13 not operate a motor vehicle that is carrying more than three passengers
14 who are under the age of twenty who are not members of the holder's
15 immediate family.

16 (3) The holder of an intermediate license may not operate a motor
17 vehicle between the hours of 1 a.m. and 5 a.m. except when the holder
18 is accompanied by a parent, guardian, or a licensed driver who is at
19 least twenty-five years of age.

20 ~~(4) ((The holder of an intermediate license may not operate a~~
21 ~~moving motor vehicle while using a wireless communications device~~
22 ~~unless the holder is using the device to report illegal activity,~~
23 ~~summon medical or other emergency help, or prevent injury to a person~~
24 ~~or property.~~

25 (+5)) It is a traffic infraction for the holder of an intermediate
26 license to operate a motor vehicle in violation of the restrictions
27 imposed under this section.

28 ~~((6) Except for a violation of subsection (4) of this section,))~~
29 (5) Enforcement of this section by law enforcement officers may be
30 accomplished only as a secondary action when a driver of a motor
31 vehicle has been detained for a suspected violation of this title or an
32 equivalent local ordinance or some other offense.

33 ((+7)) (6) An intermediate licensee may drive at any hour without
34 restrictions on the number of passengers in the vehicle if necessary
35 for agricultural purposes.

36 ((+8)) (7) An intermediate licensee may drive at any hour without
37 restrictions on the number of passengers in the vehicle if, for the

1 twelve-month period following the issuance of the intermediate license,
2 he or she:

3 (a) Has not been involved in an accident involving only one motor
4 vehicle;

5 (b) Has not been involved in an accident where he or she was cited
6 in connection with the accident or was found to have caused the
7 accident;

8 (c) Has not been involved in an accident where no one was cited or
9 was found to have caused the accident; and

10 (d) Has not been convicted of or found to have committed a traffic
11 offense described in chapter 46.61 RCW or violated restrictions placed
12 on an intermediate licensee under this section.

13 **Sec. 5.** RCW 46.25.010 and 2013 c 224 s 3 are each amended to read
14 as follows:

15 The definitions set forth in this section apply throughout this
16 chapter.

17 (1) "Alcohol" means any substance containing any form of alcohol,
18 including but not limited to ethanol, methanol, propanol, and
19 isopropanol.

20 (2) "Alcohol concentration" means:

21 (a) The number of grams of alcohol per one hundred milliliters of
22 blood; or

23 (b) The number of grams of alcohol per two hundred ten liters of
24 breath.

25 (3) "Commercial driver's license" (CDL) means a license issued to
26 an individual under chapter 46.20 RCW that has been endorsed in
27 accordance with the requirements of this chapter to authorize the
28 individual to drive a class of commercial motor vehicle.

29 (4) The "commercial driver's license information system" (CDLIS) is
30 the information system established pursuant to 49 U.S.C. Sec. 31309 to
31 serve as a clearinghouse for locating information related to the
32 licensing and identification of commercial motor vehicle drivers.

33 (5) "Commercial learner's permit" (CLP) means a permit issued under
34 RCW 46.25.052 for the purposes of behind-the-wheel training.

35 (6) "Commercial motor vehicle" means a motor vehicle or combination
36 of motor vehicles used in commerce to transport passengers or property
37 if the motor vehicle:

1 (a) Has a gross combination weight rating or gross combination
2 weight of 11,794 kilograms or more (26,001 pounds or more), whichever
3 is greater, inclusive of (~~a~~~~ny~~) any towed unit (~~for units~~) or
4 units with a gross vehicle weight rating or gross vehicle weight of
5 more than 4,536 kilograms (10,000 pounds or more), whichever is
6 greater; or

7 (b) Has a gross vehicle weight rating or gross vehicle weight of
8 11,794 kilograms or more (26,001 pounds or more), whichever is greater;
9 or

10 (c) Is designed to transport sixteen or more passengers, including
11 the driver; or

12 (d) Is of any size and is used in the transportation of hazardous
13 materials as defined in this section; or

14 (e) Is a school bus regardless of weight or size.

15 (7) "Conviction" means an unvacated adjudication of guilt, or a
16 determination that a person has violated or failed to comply with the
17 law in a court of original jurisdiction or by an authorized
18 administrative tribunal, an unvacated forfeiture of bail or collateral
19 deposited to secure the person's appearance in court, a plea of guilty
20 or nolo contendere accepted by the court, the payment of a fine or
21 court cost, entry into a deferred prosecution program under chapter
22 10.05 RCW, or violation of a condition of release without bail,
23 regardless of whether or not the penalty is rebated, suspended, or
24 probated.

25 (8) "Disqualification" means a prohibition against driving a
26 commercial motor vehicle.

27 (9) "Drive" means to drive, operate, or be in physical control of
28 a motor vehicle in any place open to the general public for purposes of
29 vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and
30 46.25.120, "drive" includes operation or physical control of a motor
31 vehicle anywhere in the state.

32 (10) "Drugs" are those substances as defined by RCW 69.04.009,
33 including, but not limited to, those substances defined by 49 C.F.R.
34 Sec. 40.3.

35 (11) "Employer" means any person, including the United States, a
36 state, or a political subdivision of a state, who owns or leases a
37 commercial motor vehicle, or assigns a person to drive a commercial
38 motor vehicle.

1 (12) "Gross vehicle weight rating" (GVWR) means the value specified
2 by the manufacturer as the maximum loaded weight of a single vehicle.
3 The GVWR of a combination or articulated vehicle, commonly referred to
4 as the "gross combined weight rating" or GCWR, is the GVWR of the power
5 unit plus the GVWR of the towed unit or units. If the GVWR of any unit
6 cannot be determined, the actual gross weight will be used. If a
7 vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or
8 less) has been structurally modified to carry a heavier load, then the
9 actual gross weight capacity of the modified vehicle, as determined by
10 RCW 46.44.041 and 46.44.042, will be used as the GVWR.

11 (13) "Hazardous materials" means any material that has been
12 designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be
13 placarded under subpart F of 49 C.F.R. Part 172 or any quantity of a
14 material listed as a select agent or toxin in 42 C.F.R. Part 73.

15 (14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or
16 semitrailer propelled or drawn by mechanical power used on highways, or
17 any other vehicle required to be registered under the laws of this
18 state, but does not include a vehicle, machine, tractor, trailer, or
19 semitrailer operated exclusively on a rail.

20 (15) "Out-of-service order" means a declaration by an authorized
21 enforcement officer of a federal, state, Canadian, Mexican, or local
22 jurisdiction that a driver, a commercial motor vehicle, or a motor
23 carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72,
24 392.5, 395.13, 396.9, or compatible laws, or the North American uniform
25 out-of-service criteria.

26 (16) "Positive alcohol confirmation test" means an alcohol
27 confirmation test that:

- 28 (a) Has been conducted by a breath alcohol technician under 49
29 C.F.R. Part 40; and
- 30 (b) Indicates an alcohol concentration of 0.04 or more.

31 A report that a person has refused an alcohol test, under
32 circumstances that constitute the refusal of an alcohol test under 49
33 C.F.R. Part 40, will be considered equivalent to a report of a positive
34 alcohol confirmation test for the purposes of this chapter.

35 (17) "School bus" means a commercial motor vehicle used to
36 transport preprimary, primary, or secondary school students from home
37 to school, from school to home, or to and from school-sponsored events.
38 School bus does not include a bus used as a common carrier.

- 1 (18) "Serious traffic violation" means:
- 2 (a) Excessive speeding, defined as fifteen miles per hour or more
3 in excess of the posted limit;
- 4 (b) Reckless driving, as defined under state or local law;
- 5 (c) Driving while (~~using~~) holding a (~~hand-held~~) personal
6 wireless communications device (~~{hand-held—mobile—telephone}~~),
7 defined as a violation of RCW (~~46.61.667(1)(b)~~) 46.61.668(1)(a)(i) or
8 an equivalent administrative rule or local law, ordinance, rule, or
9 resolution;
- 10 (d) Texting, defined as a violation of RCW 46.61.668(1)(a)(ii) or
11 an equivalent administrative rule or local law, ordinance, rule, or
12 resolution;
- 13 (e) A violation of a state or local law relating to motor vehicle
14 traffic control, other than a parking violation, arising in connection
15 with an accident or collision resulting in death to any person;
- 16 (f) Driving a commercial motor vehicle without obtaining a
17 commercial driver's license;
- 18 (g) Driving a commercial motor vehicle without a commercial
19 driver's license in the driver's possession; however, any individual
20 who provides proof to the court by the date the individual must appear
21 in court or pay any fine for such a violation, that the individual held
22 a valid CDL on the date the citation was issued, is not guilty of a
23 "serious traffic violation";
- 24 (h) Driving a commercial motor vehicle without the proper class of
25 commercial driver's license endorsement or endorsements for the
26 specific vehicle group being operated or for the passenger or type of
27 cargo being transported; and
- 28 (i) Any other violation of a state or local law relating to motor
29 vehicle traffic control, other than a parking violation, that the
30 department determines by rule to be serious.
- 31 (19) "State" means a state of the United States and the District of
32 Columbia.
- 33 (20) "Substance abuse professional" means an alcohol and drug
34 specialist meeting the credentials, knowledge, training, and continuing
35 education requirements of 49 C.F.R. Sec. 40.281.
- 36 (21) "Tank vehicle" means any commercial motor vehicle that is
37 designed to transport any liquid or gaseous materials within a tank or
38 tanks having an individual rated capacity of more than one hundred

1 nineteen gallons and an aggregate rated capacity of one thousand
2 gallons or more that is either permanently or temporarily attached to
3 the vehicle or the chassis. A commercial motor vehicle transporting an
4 empty storage container tank, not designed for transportation, with a
5 rated capacity of one thousand gallons or more that is temporarily
6 attached to a flatbed trailer is not considered a tank vehicle.

7 (22) "Type of driving" means one of the following:

8 (a) "Nonexcepted interstate," which means the CDL or CLP holder or
9 applicant operates or expects to operate in interstate commerce, is
10 both subject to and meets the qualification requirements under 49
11 C.F.R. Part 391 as it existed on July 8, 2014, or such subsequent date
12 as may be provided by the department by rule, consistent with the
13 purposes of this section, and is required to obtain a medical
14 examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on
15 July 8, 2014, or such subsequent date as may be provided by the
16 department by rule, consistent with the purposes of this section;

17 (b) "Excepted interstate," which means the CDL or CLP holder or
18 applicant operates or expects to operate in interstate commerce, but
19 engages exclusively in transportation or operations excepted under 49
20 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on July
21 8, 2014, or such subsequent date as may be provided by the department
22 by rule, consistent with the purposes of this section, from all or
23 parts of the qualification requirements of 49 C.F.R. Part 391 as it
24 existed on July 8, 2014, or such subsequent date as may be provided by
25 the department by rule, consistent with the purposes of this section,
26 and is therefore not required to obtain a medical examiner's
27 certificate under 49 C.F.R. Sec. 391.45 as it existed on July 8, 2014,
28 or such subsequent date as may be provided by the department by rule,
29 consistent with the purposes of this section;

30 (c) "Nonexcepted intrastate," which means the CDL or CLP holder or
31 applicant operates only in intrastate commerce and is therefore subject
32 to state driver qualification requirements; or

33 (d) "Excepted intrastate," which means the CDL or CLP holder or
34 applicant operates in intrastate commerce, but engages exclusively in
35 transportation or operations excepted from all or parts of the state
36 driver qualification requirements.

37 (23) "United States" means the fifty states and the District of
38 Columbia.

1 (24) "Verified positive drug test" means a drug test result or
2 validity testing result from a laboratory certified under the authority
3 of the federal department of health and human services that:

4 (a) Indicates a drug concentration at or above the cutoff
5 concentration established under 49 C.F.R. Sec. 40.87; and

6 (b) Has undergone review and final determination by a medical
7 review officer.

8 A report that a person has refused a drug test, under circumstances
9 that constitute the refusal of a federal department of transportation
10 drug test under 49 C.F.R. Part 40, will be considered equivalent to a
11 report of a verified positive drug test for the purposes of this
12 chapter.

13 **Sec. 6.** RCW 46.20.130 and 2006 c 190 s 1 are each amended to read
14 as follows:

15 (1) The director shall prescribe the content of the driver
16 licensing examination and the manner of conducting the examination,
17 which shall include, but is not limited to:

18 (a) A test of the applicant's eyesight and ability to see,
19 understand, and follow highway signs regulating, warning, and directing
20 traffic;

21 (b) A test of the applicant's knowledge of traffic laws and ability
22 to understand and follow the directives of lawful authority, orally or
23 graphically, that regulate, warn, and direct traffic in accordance with
24 the traffic laws of this state. The director shall incorporate
25 questions on distracted driving in this portion of the examination;

26 (c) An actual demonstration of the applicant's ability to operate
27 a motor vehicle without jeopardizing the safety of persons or property.
28 If the applicant is deaf or hearing impaired, the applicant may be
29 accompanied by an interpreter to assist the applicant during the
30 demonstration. The interpreter will be of the applicant's choosing
31 from a list provided by the department of licensing; and

32 (d) Such further examination as the director deems necessary:

33 (i) To determine whether any facts exist that would bar the
34 issuance of a vehicle operator's license under chapters 46.20, 46.21,
35 and 46.29 RCW; and

36 (ii) To determine the applicant's fitness to operate a motor
37 vehicle safely on the highways.

1 (2) If the applicant desires to drive a motorcycle or a motor-
2 driven cycle, he or she must qualify for a motorcycle endorsement under
3 RCW 46.20.500 through 46.20.515.

4 NEW SECTION. **Sec. 7.** RCW 46.61.667 (Using a wireless
5 communications device or hand-held mobile telephone while driving) and
6 2013 c 224 s 15, 2010 c 223 s 3, & 2007 c 417 s 2 are each repealed.

7 NEW SECTION. **Sec. 8.** This act takes effect August 1, 2014.

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