

# HOUSE BILL REPORT

## HB 2574

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**As Reported by House Committee On:**  
Transportation

**Title:** An act relating to enhancing public safety by reducing distracted driving incidents caused by the use of personal wireless communications devices.

**Brief Description:** Enhancing public safety by reducing distracted driving incidents caused by the use of personal wireless communications devices.

**Sponsors:** Representatives Farrell, Fey, Peterson, Moscoso, Clibborn, Fitzgibbon, Kilduff, Robinson, McBride and Gregerson.

**Brief History:**

**Committee Activity:**

Transportation: 1/27/16, 2/9/16 [DPS].

**Brief Summary of Substitute Bill**

- Extends the personal wireless communications device-related activities subject to a traffic infraction to include a person driving while holding a personal wireless communications device in his or her hands or using a personal wireless communications device to read or manually enter data.
- Provides for several exceptions for wireless communications device use while driving.
- Prohibits only the first violation of the above traffic infraction from being made available to insurance companies and employers, excepting violations by commercial driver's license holders, which can all be made available to insurance companies and employers.
- Directs that all monetary penalties and fees collected for the above traffic infraction be deposited in the Highway Safety Fund and used only for driver education.
- Requires the Washington State Patrol to offer a training course on the safe operation of an emergency services vehicle while using a personal wireless communications device.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Bergquist, Gregerson, McBride, Moeller, Morris, Ortiz-Self, Riccelli, Sells and Tarleton.

**Minority Report:** Do not pass. Signed by 12 members: Representatives Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Hayes, Hickel, Kochmar, Pike, Rodne, Rossetti, Shea, Stambaugh and Young.

**Staff:** Jennifer Harris (786-7143).

### **Background:**

#### Prohibited Activities and Exceptions.

A person operating a moving motor vehicle is guilty of a traffic infraction if he or she holds a wireless communications device to his or her ear. A person operating a moving motor vehicle is also guilty of a traffic infraction if he or she sends, reads, or writes a text message by means of a wireless communications device.

Exceptions for both infraction types are similar and apply to a person operating: (1) an authorized emergency vehicle; (2) a voice-operated global positioning system (GPS) that is affixed to the vehicle for a text-message infraction (or a device in hands-free mode, for a device-to-ear infraction); or (3) a moving motor vehicle while using a wireless communications device to (a) report illegal activity, (b) summon medical or other emergency help, (c) prevent injury to a person or property, or (d) relay information that is time sensitive between a transit or for-hire operator and that operator's dispatcher so long as the device is permanently affixed to the vehicle. For a device-to-ear infraction, there are also exceptions for operating a tow truck responding to a disabled vehicle and for operating a moving motor vehicle while using a hearing aid.

#### Special Application of Restrictions.

The holder of an intermediate driver's license or driver's instruction permit is not permitted to use a wireless communications device except for the purposes listed in exception (3) above.

A person operating a commercial motor vehicle is not prohibited from using an electronic wireless communications device to send, read, or write a text message if he or she has moved the vehicle to the side of or off of the highway and has stopped in a location where the vehicle can safely remain stationary, or if such activity is necessary to communicate with law enforcement officials or other emergency services. However, only the following exceptions apply to a person operating a commercial motor vehicle while using a wireless communications device: when necessary to communicate with law enforcement officials or other emergency services, or using a mobile telephone in hands-free mode. The other exceptions noted above are not applicable to a person operating a commercial motor vehicle.

## Violations.

Infractions for sending, reading, or writing a text message by means of a wireless communications device are not permitted to become part of a driver's record, nor are they permitted to be made available to insurance companies or employers.

Monetary penalties and fees collected for the use of a personal wireless communications device in a prohibited manner while operating a motor vehicle are divided between the local jurisdictions that assess them and the state as specified by law. The state share of these monetary penalties and fees must be deposited into the State General Fund, the State Emergency Services and Trauma Care Services Trust Account, the Auto Theft Account, the Traumatic Brain Injury Account, and the Judicial Information System Account as specified by law.

## Preemption.

The state preempts any local law regulating the use of wireless communications devices in motor vehicles.

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## **Summary of Substitute Bill:**

### Prohibited Activities and Exceptions.

The activities subject to a traffic infraction include a person operating a motor vehicle on a public highway: (1) holding a personal wireless communications device in his or her hands, or (2) using a personal wireless communications device to read or to manually enter data. The use of a personal wireless communications device that is equipped with an attachment or addition or that is physically or electronically integrated into a motor vehicle is permitted, and a person operating a motor vehicle is permitted to use either hand to activate, deactivate, or initiate a function of such a device.

A personal wireless communications device includes any device through which personal wireless services are transmitted; however, a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes is not considered a personal wireless communications device.

Exceptions to the above restrictions apply to: (1) a driver who uses a personal wireless communications device to contact emergency services; (2) the use by a transit system employee of a system for time-sensitive relay communication between the employee and the transit system's dispatch services; (3) emergency services personnel who use a personal wireless communications device while operating an emergency services vehicle after the completion of a training course offered by the Washington State Patrol (WSP) on the safe operation of an emergency services vehicle while using a personal wireless communications device; (4) individuals employed as commercial motor vehicle drivers who use a wireless communications device within the scope of their employment as permitted under federal law;

(5) the driver of a vehicle when that vehicle is engaged in a self-parking process; (6) any person riding in a fully autonomous vehicle.

A person is subject to a traffic infraction for engaging in the above prohibited activities if operating a motor vehicle while it is moving or temporarily stopped due to traffic or a stop sign. A person is not subject to a traffic infraction for engaging in the above activities if the vehicle is stopped for a traffic light or is pulled over to the side of or off of the roadway and the vehicle has stopped in a location where it can safely remain stationary.

#### Special Application of Restrictions.

The holder of an intermediate driver's license or driver's instruction permit is only permitted to use a wireless communications device while operating a motor vehicle if he or she is doing so to contact emergency services.

#### Violations.

The first traffic infraction for engaging in the above prohibited activities received by anyone other than a holder of a commercial driver's license is prohibited from being made available to insurance companies or employers. All traffic infractions received by commercial driver's license holders for the above prohibited activities can be made available to insurance companies or employers.

All monetary penalties and fees collected for the use of a personal wireless communications device in a prohibited manner while operating a motor vehicle must be deposited in the Highway Safety Fund and used only for the purpose of driver education.

#### Training Course.

The WSP is authorized to offer a training course on the safe operation of an emergency services vehicle while using a personal wireless communications device.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill: (1) eliminates all references to federal funding qualification as an objective and adds references to adjusting to and taking advantage of new technology as an objective in the intent section; (2) excludes a motor vehicle that is temporarily stationary because of a traffic light from the definition of "operating a motor vehicle"; (3) broadens the exception for usage of a personal wireless communications device by emergency services personnel to apply in all instances where emergency services personnel operate an emergency services vehicle and requires emergency services personnel to complete a training course offered by the WSP to qualify for this exception; (4) requires the WSP to offer a training course on the safe operation of an emergency services vehicle while using a personal wireless communications device; (5) adds an exception for usage of a personal wireless communications device for individuals employed as commercial motor vehicle drivers who use such a device within the scope of employment as permitted under federal law; (6) adds exceptions to provisions prohibiting the use of a personal wireless communications device for the driver of a vehicle when that vehicle is engaged in a self-parking process and for any

person riding in a fully autonomous vehicle; (7) eliminates the increased penalty when more than one traffic infraction violation is received within a five-year period for prohibited personal wireless communications device usage; (8) allows drivers with instruction permits or intermediate driver's licenses to use a wireless communications device while driving if they are doing so to contact emergency services; (9) eliminates the requirement that the Department of Licensing incorporate questions on distracted driving in the written portion of the driver's license examination; and (10) directs that all monetary penalties and fees collected for use of a personal wireless communications device in a prohibited manner while operating a motor vehicle be deposited in the Highway Safety Fund and used only for the purpose of driver education.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 10, 2016.

**Effective Date of Substitute Bill:** The bill takes effect on August 1, 2016.

**Staff Summary of Public Testimony:**

(In support) This bill is about fundamentally updating laws to promote safety in light of the changing ways that technology is used in cars. Automobile crashes are a significant cause of congestion and distracted driving, particularly due to the use of smart phones. Updating the laws on how we use smart phones to align with how we use technology in our cars will help reduce the number of crashes that occur. The bill does not take smart phones away from drivers; it just says that the driver cannot hold a smart phone in his or her hand or punch numbers into smart phones while driving. The use of bluetooth technology and mounted phones is permitted under the bill. This bill also allows GPS to be used.

According to the National Safety Council, cell phones account for 26 percent of all crashes, which translates into over 25,000 crashes in Washington being caused by cell phones in 2013. Cell phones are different than other distractions. They take people's minds, hands, and vision off of the task of driving. Cell phones have an addictive quality that makes people always want to stay connected; when a phone beeps, it makes people want to grab the phone.

Cell phone use in vehicles remains the leading cause of death and serious injury. Drivers who have received a citation for distracted driving in Washington are at a much greater risk of crashing or hitting a bicyclist or a child walking to school. This is not something that skilled people can be trained to do very well. This is a significant problem and affects people's lives on a daily basis in Washington. People think that if this were a risk there would be a law against it. There are options for using GPS in other ways.

The "Click It or Ticket" campaign resulted in King County achieving a seat belt usage rate of 98 percent. This rate of compliance has a great deal to do with the laws the Legislature has passed, with enforcement, and with education. Last year, more than 1,750 drivers were stopped for talking or texting while on a cell phone, but of these, 14 percent were only issued a warning because officers could not prove the drivers were texting or holding the phone

directly to their ear. Enforcement changes behavior, but current laws do not provide officers with the ability to enforce the law in this area because they do not include all of the current capabilities of phones. The bill adds clarifying language to existing law that will enable law enforcement to hold people accountable for their driving behavior.

A driver holding and using a cell phone drives as though he or she has a blood alcohol level of 0.08, but the driver cannot be pulled over. However, if a driver is suspected of driving under the influence (DUI), an officer does not have to wait to stop the driver. Washington is the leader in the area of DUI laws, which has brought fatality rates down in the state. In 2007 Washington enacted the first cell phone law, but that was the same year that Apple introduced the iPhone. The law is now out of date. A phone is no longer just a communication device to use to talk and text; it is social media. The purpose of this law is to tell good citizens how to be safe and to sanction those who do not want to follow the law and who threaten people's health and safety.

Hand-held and hands-free devices significantly increase cognitive distraction. Voice-activated technology increases levels of mental distraction to unsafe levels of driving. Using voice commands on in-vehicle information systems and smart phones causes unsafe driving conditions. According to an AAA opinion poll, 82 percent of Washington drivers strongly or somewhat support a ban on the hand-held use of cell phones, 42 percent support a complete ban on cell phone use for all drivers, and 92 percent support a ban on reading, typing, sending a text, or emailing while driving.

(Opposed) None.

**Persons Testifying:** Representative Farrell, prime sponsor; Shelly Baldwin, Washington Traffic Safety Commission; Dr. Beth Ebel, Harborview Injury Prevention, Washington Chapter of American Academy of Pediatrics, and the Washington State Medical Association; Daniel Coon, AAA Washington; Annie Kirk, Seattle and King County Public Health; Amy Freedheim, King County; and Monica Alexander, Washington State Patrol.

**Persons Signed In To Testify But Not Testifying:** None.