

# HOUSE BILL REPORT

## SSB 6066

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### As Reported by House Committee On: Transportation

**Title:** An act relating to exempting tow truck operators using the telephone call functionality of a wireless communications device from traffic infractions.

**Brief Description:** Exempting certain tow truck operators using the telephone call functionality of a wireless communications device from traffic infractions.

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senators Liias, Warnick, Hunt and Saldaña).

#### **Brief History:**

##### **Committee Activity:**

Transportation: 2/26/18 [DPA].

#### **Brief Summary of Substitute Bill (As Amended by Committee)**

- Requires the Washington Traffic Safety Commission to review available information on the safety record of tow trucks in the state related to the use of a wireless communications device while driving, and to report to the transportation committees of the Legislature by December 1, 2018, on the findings of this review as they relate to a possible partial exemption for tow truck operators from the prohibition on the use of a wireless communications device.

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass as amended. Signed by 20 members: Representatives Clibborn, Chair; Fey, Vice Chair; Wylie, Vice Chair; Harmsworth, Assistant Ranking Minority Member; Chapman, Gregerson, Hayes, Irwin, Kloba, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Riccelli, Rodne, Stambaugh, Tarleton, Valdez and Van Werven.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Pike, Shea and Young.

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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.*

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

## **Background:**

### Distracted Driving.

A person who uses a personal electronic device while driving a motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delay, is guilty of a traffic infraction. The activity of driving does not include when a vehicle has pulled over to the side of or off of a highway and has stopped in a location where it can safely remain stationary.

A "personal electronic device" means a portable electronic device that is capable of wireless communication or electronic data retrieval and that is not manufactured primarily for hands-free use in a motor vehicle. It includes cell phones, tablets, laptops, two-way messaging devices, and electronic games. Two-way radios, citizens band radios, and amateur radio equipment are excluded from the definition of personal electronic device.

The following activities are prohibited while driving:

1. holding a personal electronic device in either or both hands;
2. using a hand or finger to compose, send, read, view, access, browse, transmit, save, or retrieve electronic mail (email), text messages, instant messages, photographs, or other electronic data; and
3. watching a video on a personal electronic device.

The minimal use of a finger to activate, deactivate, or initiate a function of a personal electronic device is permitted.

Exceptions for this infraction apply to the following uses:

1. the use of a personal electronic device to contact emergency services;
2. a transit system employee's use of a system for time-sensitive relay communication between the transit system employee and the transit system's dispatch services;
3. a commercial motor vehicle driver's use of a personal electronic device within the scope of his or her employment if such use is permitted under federal law; and
4. the operation of an authorized emergency vehicle.

The state preempts local laws regulating the use of personal electronic devices in motor vehicles while driving.

### Tow Trucks.

A "registered tow truck operator" is any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles. A "tow truck" is a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the Washington State Patrol.

### Washington Traffic Safety Commission.

The Washington Traffic Safety Commission (WTSC) was established in 1967, following passage of the Federal Highway Safety Act of 1966, to oversee efforts to improve safety on Washington's public highways. The WTSC's Commission is composed of the Governor as Chair, the Superintendent of Public Instruction, the Director of the Department of Licensing, the Secretary of the Department of Transportation, the Chief of the Washington State Patrol, the Secretary of the Department of Health, the Secretary of the Department of Social and Health Services, a representative of the Association of Washington Cities appointed by the Governor, a member of the Association of Counties appointed by the Governor, and a representative of the judiciary appointed by the Governor.

The WTSC is the federally recognized highway safety office of Washington and uses *Target Zero—Washington State's Strategic Highway Safety Plan* to guide its safety efforts. The WTSC also collects fatal and serious injury crash data, engages in research studies, and oversees highway safety pilot projects.

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**Summary of Amended Bill:**

The WTSC is required to review information available on the safety record of tow trucks in the state related to the use of the telephone call functionality of a wireless communications device. By December 1, 2018, the WTSC must report to the transportation committees of the Legislature on its findings as they relate to allowing registered tow truck operators to use the telephone call functionality of a wireless communications device to respond to a request for towing services while driving. A technical correction clarifies the definition of "use."

**Amended Bill Compared to Substitute Bill:**

The amended bill removes the authorization for a tow truck operator of a tow truck registered in accordance with state tow truck laws to use his or her wireless communications device for the purpose of making a phone call when doing so in response to calls regarding disabled vehicles. It retains the technical correction.

The amended bill also requires the WTSC to review available information on the safety record of tow trucks in the state related to the use of the telephone call functionality of a wireless communications device. By December 1, 2018, it requires the WTSC to report to the transportation committees of the Legislature on its findings as they relate to allowing registered tow truck operators to use the telephone call functionality of a wireless communications device to respond to a request for towing services while driving.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

### **Staff Summary of Public Testimony:**

(In support) The exemption that had been in place for tow truck operators under state law was removed last year. It was retained in the House version of the distracted driving bill, but was taken out in negotiations with the Senate. The House Transportation Committee should reaffirm its decision from last year and restore the exemption. This exemption is helpful to tow truck operators when they are handling roadside emergencies. Procedures have been set up by tow truck businesses to use these devices.

There is value in the amendment, which includes an assessment of whether or not the exemption for tow truck operators should be put in place. When a tow truck operator is driving towards a disabled vehicle, they should be able to be contact individuals with whom they need to be communicating. The bill also makes a necessary technical correction to the underlying law.

(Opposed) The distracted driving bill that passed last year protects drivers, and an exemption for tow truck operators would hurt drivers' safety. The new distracted driving law has been adjusted for new cell phone technology. It is not clear why tow truck operators cannot use devices that are compliant with current law.

Hands-free use is a better alternative to searching for and holding a phone. Washington State Patrol policy is that all officers must use Bluetooth while driving state vehicles, even though they are eligible for an exemption. The technical change made in the bill is needed. With the advancement of voice command technology, there is no need for this exemption.

The language in the current bill is overly broad and would allow the exemption for tow truck operators to include use of a device when a tow truck operator is responding to a non-emergency event. A vehicle could be "disabled" while in a driveway or a parking lot.

**Persons Testifying:** (In support) Senator Liias, prime sponsor; and Peter Lukevich, Towing and Recovery Association of Washington.

(Opposed) Jean Leonard, Washington Insurers and State Farm; Mel Sorensen, Property Casualty Insurers Association of America; Allstate; American Family Insurance; Monica Alexander, Washington State Patrol; Pam Pannkuk, Washington Traffic Safety Commission; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

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