HOUSE BILL 1371

State of Washington 65th Legislature 2017 Regular Session

By Representatives Farrell, Lovick, Haler, Harris, Clibborn, Orwall, Kagi, Robinson, Appleton, Ryu, Goodman, Tarleton, Gregerson, Sells, Ormsby, and Cody

Read first time 01/18/17. Referred to Committee on Transportation.

- 1 AN ACT Relating to updating the distracted driving infraction;
- 2 adding a new section to chapter 46.61 RCW; repealing RCW 46.61.667
- 3 and 46.61.668; prescribing penalties; and providing an effective
- 4 date.

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- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 6 <u>NEW SECTION.</u> **Sec. 1.** A new section is added to chapter 46.61 7 RCW to read as follows:
- 8 (1) A person who uses a personal electronic device while driving 9 a motor vehicle on a public highway is guilty of a traffic infraction 10 and must pay a fine as provided in RCW 46.63.110(3).
 - (2) Subsection (1) of this section does not apply to:
- 12 (a) A driver who is using a personal electronic device to contact 13 emergency services;
- 14 (b) The use of a system by a transit system employee for time-15 sensitive relay communication between the transit system employee and 16 the transit system's dispatch services; and
- (c) An individual employed as a commercial motor vehicle driver who uses a personal electronic device within the scope of such individual's employment if such use is permitted under 49 U.S.C. Sec.
- 20 31136 as it existed on the effective date of this section.

p. 1 HB 1371

- (3) The state preempts the field of regulating the use of personal electronic devices in motor vehicles while driving, and this section supersedes any local laws, ordinances, orders, rules, or regulations enacted by any political subdivision or municipality to regulate the use of a personal electronic device by the operator of a motor vehicle.
- 7 (4) A second or subsequent offense under this section is subject 8 to two times the penalty amount under RCW 46.63.110.
 - (5) For purposes of this section:
- 10 (a) "Driving" means to operate a motor vehicle on a public 11 highway, including while temporarily stationary because of traffic, a 12 traffic control device, or other momentary delays. "Driving" does not 13 include when the vehicle has pulled over to the side of, or off of, 14 an active roadway and has stopped in a location where it can safely 15 remain stationary.
 - (b) "Personal electronic device" means any portable electronic device that is capable of wireless communication or electronic data retrieval and is not manufactured primarily for hands-free use in a motor vehicle. "Personal electronic device" includes, but is not limited to, a cell phone, tablet, laptop, two-way messaging device, or electronic game.
 - (c) "Use" or "uses" means:

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- 23 (i) Holding a personal electronic device in either hand or both 24 hands;
- (ii) Using your hand or finger to compose, send, read, view, access, browse, transmit, save, or retrieve email, text messages, instant messages, photographs, or other electronic data; however, this does not preclude the minimal use of a finger to activate, deactivate, or initiate a function of the device;
- 30 (iii) Watching video on a personal electronic device.
- NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:
- 33 (1) RCW 46.61.667 (Using a wireless communications device or 34 handheld mobile telephone while driving) and 2013 c 224 s 15, 2010 c 35 223 s 3, & 2007 c 417 s 2; and
- 36 (2) RCW 46.61.668 (Sending, reading, or writing a text message 37 while driving) and 2013 c 224 s 16, 2010 c 223 s 4, & 2007 c 416 s 1.

p. 2 HB 1371

1 <u>NEW SECTION.</u> **Sec. 3.** This act takes effect January 1, 2018.

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p. 3 HB 1371