
HOUSE BILL 2236

State of Washington 65th Legislature 2017 3rd Special Session

By Representatives Young, MacEwen, and Condotta

1 AN ACT Relating to establishing driving in significant traffic
2 delays in certain circumstances as an exemption from the prohibition
3 on using a personal electronic device while driving a motor vehicle;
4 and amending RCW 46.61.---

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

6 **Sec. 1.** RCW 46.61.--- and 2017 c 334 s 1 are each amended to
7 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).

11 (2) Subsection (1) of this section does not apply to:

12 (a) A person operating a motor vehicle other than a commercial
13 motor vehicle during an emergency situation or extraordinary
14 circumstances, which have temporarily caused a significant traffic
15 delay;

16 (b) A driver who is using a personal electronic device to contact
17 emergency services;

18 ~~((b))~~ (c) The use of a system by a transit system employee for
19 time-sensitive relay communication between the transit system
20 employee and the transit system's dispatch services;

1 (~~(e)~~) (d) An individual employed as a commercial motor vehicle
2 driver who uses a personal electronic device within the scope of such
3 individual's employment if such use is permitted under 49 U.S.C. Sec.
4 31136 as it existed on July 23, 2017; and

5 (~~(d)~~) (e) A person operating an authorized emergency vehicle.

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

12 (4) A second or subsequent offense under this section is subject
13 to two times the penalty amount under RCW 46.63.110.

14 (5) For purposes of this section:

15 (a) "Driving" means to operate a motor vehicle on a public
16 highway, including while temporarily stationary because of traffic, a
17 traffic control device, or other momentary delays. "Driving" does not
18 include when the vehicle has pulled over to the side of, or off of,
19 an active roadway and has stopped in a location where it can safely
20 remain stationary.

21 (b) "Personal electronic device" means any portable electronic
22 device that is capable of wireless communication or electronic data
23 retrieval and is not manufactured primarily for hands-free use in a
24 motor vehicle. "Personal electronic device" includes, but is not
25 limited to, a cell phone, tablet, laptop, two-way messaging device,
26 or electronic game. "Personal electronic device" does not include
27 two-way radio, citizens band radio, or amateur radio equipment.

28 (c) "Use" or "uses" means:

29 (i) Holding a personal electronic device in either hand or both
30 hands;

31 (ii) Using your hand or finger to compose, send, read, view,
32 access, browse, transmit, save, or retrieve email, text messages,
33 instant messages, photographs, or other electronic data; however,
34 this does not preclude the minimal use of a finger to activate,
35 deactivate, or initiate a function of the device;

36 (iii) Watching video on a personal electronic device.

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