

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S1/29/09

A Bill

SENATE BILL 31

5 By: Senators Hendren, *Faris*
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For An Act To Be Entitled

9 AN ACT TO REQUIRE A DRIVER OF A MOTOR VEHICLE TO
10 USE A HANDS-FREE *WIRELESS* TELEPHONE DEVICE WHILE
11 DRIVING ON A PUBLIC HIGHWAY; TO PRESCRIBE CERTAIN
12 LIMITATIONS FOR THE USE OF A *WIRELESS* TELEPHONE
13 DEVICE BY THE DRIVER OF A MOTOR VEHICLE ON A
14 PUBLIC HIGHWAY; AND FOR OTHER PURPOSES.

Subtitle

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17 *TO REQUIRE A DRIVER OF A MOTOR VEHICLE*
18 *TO USE A HANDS-FREE WIRELESS TELEPHONE*
19 *DEVICE WHILE DRIVING ON A PUBLIC*
20 *HIGHWAY.*
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code Title 27, Chapter 51, Subchapter 14 is
27 amended to add an additional section to read as follows:

28 27-51-1408. Operation of a motor vehicle while using a wireless
29 telephone device allowed under limited circumstances.

30 (a)(1) As used in this section, "hands-free mode" means the use of a
31 wireless telephone that allows a user to engage in conversation or
32 communication without the use of either hand by means of:

33 (A) An internal feature or function; or

34 (B) An attachment or additional device.

35 (2) Hands-free mode may be a permanent or temporary part of the
36 wireless telephone or other wireless communication device.



1 (3) Hands-free mode may require the use of either hand to
2 activate, deactivate, or initiate a function of the wireless telephone.

3 (b) Except as provided in subsection (c) of this section, it is
4 unlawful for a person to use a wireless telephone device while operating a
5 motor vehicle and driving on a public highway, road, or street.

6 (c) A person shall use a wireless telephone device while operating a
7 motor vehicle on a public highway, road, or street only under one (1) or more
8 of the following circumstances:

9 (1) The person:

10 (A) Is operating a motor vehicle that is equipped with a
11 wireless telephone with hands-free mode; and

12 (B) Is using the wireless telephone in hands-free mode;

13 (2) The person is contacting:

14 (A) Law enforcement officials;

15 (B) Fire department personnel;

16 (C) Public safety personnel;

17 (D) Emergency medical personnel; or

18 (E) A 911 public safety communications center to report an
19 emergency situation;

20 (3) The person is performing his or her official duties as a
21 certified law enforcement officer, firefighter, ambulance driver, or
22 emergency medical technician; or

23 (4) The motor vehicle is stopped.

24 (d) A person who violates subsection (b) of this section shall be
25 subject to:

26 (1) For a first offense:

27 (A) The issuance of a citation as a warning;

28 (B) No imposition of a penalty; and

29 (C) No requirement of a court appearance unless the person
30 wishes to contest the offense; and

31 (2) For a second or subsequent offense, a fine not to exceed
32 fifty dollars (\$50.00).

33 (e) A violation of subsection (b) of this section shall be a secondary
34 offense, and the operator of a motor vehicle shall not be stopped or detained
35 solely to determine compliance with this section.

36 (f) The Office of Driver Services of the Revenue Division of the

1 Department of Finance and Administration shall not:

2 (1) Include in the traffic violation report of any person any
3 conviction arising out of a violation of this section;

4 (2) Use or accumulate a violation of this section to suspend or
5 revoke the driver's license of any person as an habitual violator of traffic
6 laws; or

7 (3) Use a violation of this section in any other way under the
8 administrative authority of the office to suspend or revoke a driver's
9 license.

10 (g) A violation of this section shall not be admissible into evidence
11 in a civil action.

12 (h) Nothing in this section prohibits the court or the Office of
13 Driver Services from maintaining records on violations of this section to
14 determine if a person has violated the section more than one (1) time and is
15 subject to additional penalties for the repeated violations as provided under
16 subdivision (d)(2) of this section.

17 (i) This section supersedes and preempts all county or municipal
18 ordinances regarding the use of a handheld wireless telephone by an operator
19 of a motor vehicle.

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23 /s/ Hendren
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