

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013

A Bill

DRAFT GAR/GAR
HOUSE BILL

4
5 By: Representative Fielding
6

7 For An Act To Be Entitled

8 AN ACT TO CLARIFY THE LAWS RELATED TO AND REVISE THE
9 PENALTIES FOR TEXTING OR ENGAGING IN OTHER WIRELESS
10 INTERACTIVE COMMUNICATION WHILE DRIVING; AND FOR
11 OTHER PURPOSES.
12
13

14 Subtitle

15 TO CLARIFY THE LAWS RELATED TO AND REVISE
16 THE PENALTIES FOR TEXTING OR ENGAGING IN
17 OTHER WIRELESS INTERACTIVE COMMUNICATION
18 WHILE DRIVING.
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 27-16-804(b)(2)(B)(iii), concerning the use
24 of a cellular telephone device by a driver under eighteen (18) years of age,
25 is amended to read as follows:

26 (iii) The driver shall not use a cellular telephone
27 device, wireless telephone, or other interactive wireless communication
28 device while operating a motor vehicle except for an emergency purpose as
29 provided under the Fewer Distractions Mean Safer Driving Act, § 27-51-1601 et
30 seq. ~~As used in this subdivision (b)(2)(B)(iii), "emergency purpose" means~~
31 ~~the driver:~~

32 ~~(a) Has reason to fear for his or her life, safety,~~
33 ~~or property;~~

34 ~~(b) Reasonably believes that a criminal act may be~~
35 ~~perpetrated against him or her, his or her property, another person, or~~
36 ~~another person's property; or~~

- 1 ~~(c) Is reporting:~~
- 2 ~~(1) A fire;~~
- 3 ~~(2) A traffic accident;~~
- 4 ~~(3) A serious road hazard;~~
- 5 ~~(4) A medical emergency;~~
- 6 ~~(5) A hazardous materials emergency;~~
- 7 ~~(6) Another driver who is recklessly,~~
- 8 ~~carelessly, or unsafely driving; or~~
- 9 ~~(7) Another driver who appears to be driving~~
- 10 ~~under the influence of drugs or alcohol.~~

11

12 SECTION 2. Arkansas Code § 27-16-804(e), concerning penalties for

13 violation of motor vehicle license restrictions, is amended to read as

14 follows:

15 (e) ~~It~~ Unless otherwise provided by law, it is a misdemeanor for ~~any a~~

16 person to operate a motor vehicle in ~~any a~~ manner in violation of the

17 restrictions imposed in a restricted license issued to him or her.

18

19 SECTION 3. Arkansas Code § 27-16-804(f)(4), concerning use of a

20 cellular telephone device by a driver with a learner's license, is amended to

21 read as follows:

22 (4)(A) A driver with a learner's license shall not use a

23 cellular telephone device, wireless telephone, or other interactive wireless

24 communication device while operating a motor vehicle except for an emergency

25 purpose as provided under the Fewer Distractions Mean Safer Driving Act, §

26 27-51-1601 et seq.

27 ~~(B) As used in this subdivision (f)(4), "emergency~~

28 ~~purpose" means the driver:~~

29 ~~(i) Has reason to fear for his or her life, safety,~~

30 ~~or property;~~

31 ~~(ii) Reasonably believes that a criminal act may be~~

32 ~~perpetrated against him or her, his or her property, another person, or~~

33 ~~another person's property; or~~

34 ~~(iii) Is reporting:~~

- 35 ~~(a) A fire;~~
- 36 ~~(b) A traffic accident;~~

1 ~~(c) A serious road hazard;~~
 2 ~~(d) A medical emergency;~~
 3 ~~(e) A hazardous materials emergency;~~
 4 ~~(f) Another driver who is recklessly,~~
 5 ~~carelessly, or unsafely driving; or~~
 6 ~~(g) Another driver who appears to be driving~~
 7 ~~under the influence of drugs or alcohol.~~

8 ~~(C)(B)~~ This subdivision (f)(4) is not retroactive and
 9 applies only to a person who:

10 (i) Applies for a learner's license after the
 11 effective date of this act; and

12 (ii) Is issued a learner's license after the
 13 effective date of this act.

14
 15 SECTION 4. Arkansas Code § 27-16-804(g)(1)(D), concerning use of a
 16 cellular telephone device by a driver with an intermediate license, is
 17 amended to read as follows:

18 ~~(D)(i)~~ A driver with an intermediate driver's license
 19 shall not use a cellular telephone device, wireless telephone, or other
 20 interactive wireless communication device while operating a motor vehicle
 21 except for an emergency purpose, as provided under the Fewer Distractions
 22 Mean Safer Driving Act, § 27-51-1601 et seq.

23 ~~(ii) As used in this subdivision (g)(1)(D),~~
 24 ~~"emergency purpose" means the driver:~~

25 ~~(a) Has reason to fear for his or her life,~~
 26 ~~safety, or property;~~

27 ~~(b) Reasonably believes that a criminal act~~
 28 ~~may be perpetrated against him or her, his or her property, another person,~~
 29 ~~or another person's property; or~~

30 ~~(c) Is reporting:~~

31 ~~(1) A fire;~~

32 ~~(2) A traffic accident;~~

33 ~~(3) A serious road hazard;~~

34 ~~(4) A medical emergency;~~

35 ~~(5) A hazardous materials emergency;~~

36 ~~(6) Another driver who is recklessly,~~

1 ~~carelessly, or unsafely driving; or~~

2 ~~(7) Another driver who appears to be~~
3 ~~driving under the influence of drugs or alcohol.~~

4
5 SECTION 5. Arkansas Code § 27-16-706 is amended to read as follows:

6 27-16-706. Written test - Contents.

7 The driver's license test shall include written questions concerning:

8 (1) The effects of the consumption of alcoholic beverage
9 products and the use of illegal drugs, prescription drugs, and
10 nonprescription drugs on the ability of a person to operate a motor vehicle;

11 (2) The legal and financial consequences resulting from
12 violations of the state's laws prohibiting the operation of a motor vehicle
13 while under the influence of alcohol or drugs;

14 (3) Accessible parking for a person with a disability; and

15 (4) Penalties for the unauthorized use of parking designated for
16 the exclusive use of a person with a disability; and

17 (5) The effects and hazards of distracted driving and the
18 penalties for violations of state distracted driving laws.

19
20 SECTION 6. Arkansas Code § 27-18-108 is amended to read as follows:

21 27-18-108. Instruction manual.

22 The driver's instruction manual of the Department of Arkansas State
23 Police issued to persons who are preparing to take a driver's license
24 examination shall include information on driver and highway safety matters,
25 including:

26 (1) The effects of the consumption of beverage alcohol products
27 and the use of illegal drugs, prescription drugs, and nonprescription drugs
28 on the ability of a person to operate a motor vehicle;

29 (2) The hazards of driving while under the influence;

30 (3) The penalties for driving while under the influence;

31 (4) The effect and hazards of discarding litter upon or along
32 the public highways of Arkansas and the penalties for violations of the
33 Litter Control Act, § 8-6-401 et seq.; and

34 (5) The effects and hazards of unsafe driving through highway
35 work zones and the penalties for violations for driving unsafely through
36 highway work zones; and

1 (6) The effects and hazards of distracted driving and the
 2 penalties for violations of state distracted driving laws.

3
 4 SECTION 7. Arkansas Code § 27-51-1506 is amended to read as follows:
 5 27-51-1506. Penalties.

6 (a) A person who pleads guilty or nolo contendere to or has been found
 7 guilty of violating this section commits a violation subchapter is guilty of
 8 a violation and shall:

9 (1) For a first offense:

10 (A) Pay a fine of two hundred dollars (\$200); and

11 (B) Have his or her driver's license suspended by the
 12 court for a period of not more than thirty (30) days;

13 (2) For a second offense occurring within five (5) years of the
 14 first offense:

15 (A) Pay a fine of three hundred dollars (\$300); and

16 (B) Have his or her driver's license suspended by the
 17 court for a period of not more than ninety (90) days; and

18 (3) For a third and subsequent offense occurring within five (5)
 19 years of the first offense:

20 (A) Pay a fine of five hundred dollars (\$500); and

21 (B) Have his or her driver's license suspended by the
 22 court for a period of not more than one (1) year.

23 (b) Upon request of a person whose privilege to drive has been
 24 suspended under this section the Office of Driver Services may modify the
 25 suspension under § 5-65-120.

26
 27 SECTION 8. Arkansas Code § 27-51-1607 is amended to read as follows:
 28 27-51-1607. Penalties.

29 (a) A person who pleads guilty or nolo contendere to or has been found
 30 guilty of violating this subchapter is guilty of a violation and shall:

31 ~~(a)(1) For a first offense; under this subchapter, a person~~
 32 ~~shall be issued a citation that is a warning citation, and no court~~
 33 ~~appearance is required and no penalty shall be imposed by the court.~~

34 (A) Pay a fine of two hundred dollars (\$200); and

35 (B) Have his or her driver's license suspended by the
 36 court for a period of not more than thirty (30) days;

1 (2) ~~A record of each warning citation issued shall be~~
2 ~~maintained.~~ For a second offense occurring within five (5) years of the
3 first offense:

4 (A) Pay a fine of three hundred dollars (\$300); and

5 (B) Have his or her driver's license suspended by the
6 court for a period of not more than ninety (90) days; and

7 ~~(b) A person who pleads guilty or nolo contendere to or has been found~~
8 ~~guilty of violating this subchapter for a second or subsequent offense is~~
9 ~~guilty of a violation under § 5-1-108 and shall be fined fifty dollars~~
10 ~~(\$50.00).~~

11 (3) For a third or subsequent offense occurring within five (5)
12 years of the first offense:

13 (A) Pay a fine of five hundred dollars (\$500); and

14 (B) Have his or her driver's license suspended by the
15 court for a period of not more than one (1) year.

16 (b) Upon request of a person whose privilege to drive has been
17 suspended under this section the Office of Driver Services may modify the
18 suspension under § 5-65-120.

19
20 SECTION 9. Arkansas Code Title 27, Chapter 51, Subchapter 15 is
21 amended to add an additional section to read as follows:

22 27-51-1507. Applicability.

23 This subchapter does not apply to a commercial motor vehicle as defined
24 in §27-23-103.

Police Reported Driver Distraction

2008			
DRIVER DISTRACTION			
DISTRACTION	# Drivers	# Fat	# Inj
NOT DISTRACTED	74,105	290	38,185
ELECTRONIC COMM. DEVICE	787	5	382
OTHER ELECTRONIC DEVICE	99		70
OTHER INSIDE THE VEHICLE	1,850	2	1,097
OTHER OUTSIDE THE VEHICLE	2,952	10	1,519
UNKNOWN	32,151	559	27,816
TOTAL	111,944	866	69,069

2009			
DRIVER DISTRACTION			
DISTRACTION	# Drivers	# Fat	# Inj
NOT DISTRACTED	89,267	467	41,811
ELECTRONIC COMM. DEVICE	932	9	446
OTHER ELECTRONIC DEVICE	107		47
OTHER INSIDE THE VEHICLE	1,865	12	1,026
OTHER OUTSIDE THE VEHICLE	1,556	1	704
UNKNOWN	17,639	441	13,567
TOTAL	111,366	930	57,601

2010			
DRIVER DISTRACTION			
DISTRACTION	# Drivers	# Fat	# Inj
NOT DISTRACTED	86,187	415	38,443
ELECTRONIC COMM. DEVICE	967	5	448
OTHER ELECTRONIC DEVICE	149	1	68
OTHER INSIDE THE VEHICLE	2,025	8	1,041
OTHER OUTSIDE THE VEHICLE	1,678	3	707
UNKNOWN	17,374	420	10,786
TOTAL	108,380	852	51,493

2011			
DRIVER DISTRACTION			
DISTRACTION	# Drivers	# Fat	# Inj
NOT DISTRACTED	86,262	417	37,960
ELECTRONIC COMM. DEVICE	771	9	369
OTHER ELECTRONIC DEVICE	120		55
OTHER INSIDE THE VEHICLE	2,052	8	1,024
OTHER OUTSIDE THE VEHICLE	1,785	2	765
UNKNOWN	14,342	380	9,313
TOTAL	105,332	816	49,486



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

**Distracted Driving:
Penalties for hand-held and text messaging
violations**

Penalties for violations of hand-held bans

California

Vehicle Code Section 12810.3

The base fine for a first violation is \$20; subsequent violations are \$50.

Connecticut

Section 14-296aa

Any person who violates section 1 of this act shall be fined not more than one hundred dollars, except that the fine shall be suspended for a first time violator who provides proof of acquisition of a hands-free accessory subsequent to the violation but prior to the imposition of a fine.

Delaware

Title 21 §4176C

(d) Whoever violates this section shall for the 1st offense be subject to a civil penalty of \$50. For each subsequent offense the person shall be subject to a civil penalty of not less than \$100 nor more than \$200.

Oregon

153.018 Schedule of penalties.

Class D traffic violation. maximum fine of \$90

Maryland

Transportation 21-1124.2.

The act may be enforced only as a secondary violation; penalties of \$40 for a first offense and \$100 for a second offense.

New York

Vehicle and Traffic Law Section 1225c.

Violators may be issued a ticket for a traffic infraction, resulting in a fine of up to \$100

New Jersey

39:4-97.3

A person who violates this section shall be fined no less than \$100 or more than \$250.

Washington

RCWA 46.63.110

No penalty may exceed two hundred and fifty dollars for each offense of a traffic infraction.

West Virginia

§17C-14-15

(e) Any person who violates the provisions of subsection (a) of this section is guilty of a traffic offense and, upon conviction thereof, shall for a first offense be fined \$100; for a second offense be fined \$200; and for a third or subsequent offense be fined \$300. No court costs or other fees shall be assessed for a violation of subsection (a) of this section.

Washington D.C.

DC ST § 50-1731.06

\$100 fine.

Penalties for violations of texting bans

Alabama

Section 111.05

- (1) Twenty-five dollars (\$25) for a first violation.
- (2) Fifty dollars (\$50) for a second violation.
- (3) Seventy-five dollars (\$75) for a third or subsequent violation.

Alaska

Sec. 28.35.161

A person who violates (a) of this section is guilty of (1) a class A misdemeanor. Violators could face arrest and up to a \$10,000 fine.

Arkansas

27-51-1501.

A person who pleads guilty or nolo contendere to, or has been found guilty of, violating this section commits a violation.

On the first offense, violators will receive a warning citation, and any violations after that, the driver will be fined \$50.

California

Vehicle Code Section 12810.3 of, and Section 23123.5

The base fine for a first violation is \$20; subsequent violations are \$50. However, the total cost of the citation will be significantly higher than the base fine with the

addition of local court costs and program fees. The exact penalty varies from county to county.

Colorado

42-4-239

Class A traffic offense, and the court or the department of revenue shall assess a fine of \$50.

Connecticut

Public Act No. 05-159

Any person who violates section 1 of this act shall be fined not more than one hundred dollars,

Delaware

Title 21 §4176C

(d) Whoever violates this section shall for the 1st offense be subject to a civil penalty of \$50. For each subsequent offense the person shall be subject to a civil penalty of not less than \$100 nor more than \$200.

Georgia

40-6-241.1.

Any conviction for a violation of the provisions of this Code section shall be a misdemeanor punishable by a fine of \$150.00.

Idaho

49-1401A

Every person who violates this section shall be guilty of an infraction. A conviction under this section shall not result in violation point counts as prescribed in section 49-326, Idaho Code. In addition, a conviction under this section shall not be deemed to be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

Illinois

625 ILCS 5/12-610.2

(c) A violation of this Section is an offense against traffic regulations governing the movement of vehicles. No penalty mentioned in statute.

Indiana

IC 9-21-8-59

No penalty mentioned in statute.

Iowa

321.276 and Section 805.8A, subsection 14

A violation of this section is \$30.

Kansas

8-2118

Unlawful text messaging is \$60.

Kentucky

KRS 189.990

On or after January 1, 2011, any person who violates Section 2 or 3 of this Act shall be fined twenty-five dollars (\$25) for the first offense and fifty dollars (\$50) for each subsequent offense.

Louisiana

\$300.5

The first violation of the provisions of this Section shall be punishable by a fine of not more than **one hundred seventy-five dollars**. Each subsequent violation shall be punishable by a fine of not more than five hundred dollars.

Maryland

Article - Transportation
21-1124.1.

It is a misdemeanor for any person to violate any of the provisions of the Maryland Vehicle Law. Any person convicted of a misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is subject to a fine of not more than \$500.

Maine

29-A MRSA Section 2119

A person who violates this section commits a traffic infraction for which a fine of not less than \$100 may be adjudged.

Massachusetts

Section 13 of chapter 90

(b) A violation of this section shall be punishable by a fine of \$100 for a first offense, by a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense.

Michigan

MCL 257.1 to 257.923

(3) An individual who violates this section is responsible for a civil infraction and shall be ordered to pay a civil fine as follows:

(a) For a first violation, \$100.00.

(b) For a second or subsequent violation, \$200.00.

Minnesota

M.S.A. 169.475.

No penalty mentioned in statute.

Nebraska

§60-601

Any person who violates this section shall be guilty of a traffic infraction. Any person who is found guilty of a traffic infraction under this section shall be assessed points on his or her motor vehicle operator's license pursuant to section 60-4,182 and shall be fined:

(a) Two hundred dollars for the first offense;

(b) Three hundred dollars for a second offense; and

(c) Five hundred dollars for a third and subsequent offense.

New Jersey

39:4-97.3

A person who violates this section shall be fined no less than \$100 or more than \$250.

New Hampshire

265:105-a

The fine for a violation of this section shall be \$100.

New York

Vehicle and Traffic Law Section 1225-d.

A violation of this section shall be a traffic infraction and shall be punishable by a fine of not more than one hundred fifty dollars.

North Carolina

Section 20-137.4A

A violation of this section shall be an infraction and shall be punishable by a fine of one hundred dollars (\$100.00) and the cost of court. No drivers license points or insurance surcharge shall be assessed as a result of a violation of this section.

North Dakota

N.D.C.C. Section 39-08

No penalty mentioned in statute.

Ohio

Sec. 4511.204.

(D) Whoever violates division (A) of this section is guilty of a minor misdemeanor.

(E) This section shall not be construed as invalidating, preempting, or superseding a substantially equivalent

municipal ordinance that prescribes penalties for violations of that ordinance that are greater than the penalties prescribed in this section for violations of this section.

Oregon

ORS 811.507.

The offense described in this section, operating a motor vehicle while using a mobile communication device, is a Class D traffic violation, which carries a maximum fine of \$90.

Pennsylvania

Section 2. Title 75 Section 3316.

(d) Penalty.--A person who violates subsection (a) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$50.

Rhode Island

31-22-30.

(e) Any person who violates any of the provisions of this section shall, upon conviction, be subject to a fine of eighty-five dollars (\$85.00); for a second conviction shall be subject to a fine of one hundred dollars (\$100.00); and for a third or subsequent conviction a person shall be subject to a fine of one hundred twenty-five dollars (\$125). All violations arising out of this section shall be heard in the Rhode Island Traffic Tribunal.

Tennessee

Section 55-8-19_.

A violation of any provision of this section is a Class C misdemeanor, subject only to imposition of a fine, not to exceed fifty dollars (\$50.00), and court costs, not to exceed ten dollars (\$10.00), including, but not limited to, any statutory fees of officers.

Utah

41-6a-1716

Violation is a class C misdemeanor. The punishment for Class C misdemeanors is up to 90 days in jail and a fine of up to \$750.

Vermont

Sec. 2. 23 V.S.A. § 1099

c) A person who violates this section commits a traffic violation as defined in section 2302 of this title and shall be subject to a penalty of \$100.00 upon adjudication of a first violation and \$250.00 upon adjudication of a second or subsequent violation within any two-year period.

*Points also assessed.

Virginia

Section 46.2-1078.1.

A violation of any provision of this section shall constitute a traffic infraction punishable, for a first offense, by a fine of \$20 and, for a second or subsequent offense, by a fine of \$50.

Washington

RCWA 46.63.110

No penalty may exceed two hundred and fifty dollars for each offense of a traffic infraction.

West Virginia

§17C-14-15.

(e) Any person who violates the provisions of subsection (a) of this section is guilty of a traffic offense and, upon conviction thereof, shall for a first offense be fined \$100; for a second offense be fined \$200; and for a third or subsequent offense be fined \$300. No court costs or other fees shall be assessed for a violation of subsection (a) of this section.

Wisconsin

346.95 (2) Any person violating s. 346.89 (1) or (3)(a) or 346.94 (2), (4), or (7) may be required to forfeit not less than \$20 nor more than \$400.

Wyoming

§ 31-5-237

Any person who operates a motor vehicle in violation of this section is guilty of a misdemeanor punishable by a fine of not more than seventy-five dollars (\$75.00).

District of Columbia

DC ST § 50-1731.06

\$100 fine.

1 INTERIM STUDY PROPOSAL 2011-220

2
3 REQUESTING THAT THE INTERIM HOUSE COMMITTEE ON PUBLIC
4 TRANSPORTATION STUDY THE LAWS RELATED TO PENALTIES FOR TEXTING
5 WHILE DRIVING TO ENSURE THAT THE PENALTY IS A SUFFICIENT
6 DETERRENT TO MOTORISTS TO STOP THEM FROM TEXTING AND DRIVING AND
7 STUDY POSSIBLE CHANGES TO THE CURRENT PENALTIES.
8

9 WHEREAS, there are several laws that prohibit noncommercial drivers of
10 motor vehicles from typing, text messaging, emailing, or accessing
11 information on the Internet with a handheld telephone; and
12

13 WHEREAS, under Paul's Law, Arkansas Code § 27-51-1506, the penalties
14 for a noncommercial driver for typing, text messaging, emailing, or accessing
15 information on the Internet with a handheld telephone is a violation with an
16 unspecified fine; and
17

18 WHEREAS, under the Fewer Distractions Mean Safer Driving Act, Arkansas
19 Code § 27-51-1607(a), the penalties for the first offense for the applicable
20 noncommercial driver offenders who type, text message, email, or access
21 information on the Internet with a wireless telephone while driving in
22 violation of this subchapter result in a warning with no penalty or court
23 appearance; and
24

25 WHEREAS, under the Fewer Distractions Mean Safer Driving Act, Arkansas
26 Code § 27-51-1607(b), the penalties for the second or subsequent offense for
27 the applicable noncommercial offenders who type, text message, email, or
28 access information on the Internet with a wireless telephone while driving in
29 violation of this subchapter result in a fine of fifty dollars (\$50.00); and
30

31 WHEREAS, under laws applying to minors applying for restricted
32 licenses, learner's licenses, and intermediate licenses, Arkansas Code § 27-
33 16-701(d)(7) and § 27-16-804, drivers under eighteen (18) years of age are
34 prohibited from using a cellular telephone or other interactive wireless
35 communication device while operating a motor vehicle except for an emergency

1 purpose and there does not appear to be an independent penalty for violating
2 this law; and

3

4 WHEREAS, in response to the increasing number of motor vehicle
5 fatalities that have been caused by distracted drivers who were typing, text
6 messaging, emailing, or accessing information on the Internet with a wireless
7 telephone, there has been a recent nationwide public outcry for increased
8 penalties for this type of distracted driver,

9

10 NOW THEREFORE,

11 BE IT PROPOSED BY THE INTERIM HOUSE COMMITTEE ON PUBLIC TRANSPORTATION OF THE
12 EIGHTY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

13

14 THAT the Interim House Committee on Public Transportation study the
15 laws related to penalties for texting while driving to ensure that the
16 penalty is a sufficient deterrent to motorists to stop them from texting
17 while driving.

18

19 BE IT FURTHER PROPOSED, that the committee study whether to change the
20 penalties to add substantially more fines, community service, and a driver's
21 license suspension penalty for offenses related to texting while driving.

22

23

24 Respectfully submitted,

25

26

27

28 Representative David Fielding

29 District 5

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31 By: JSE/CEH

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