

INTERIM STUDY PROPOSAL 2015-031

1  
2 State of Arkansas  
3 90th General Assembly  
4 Regular Session, 2015

**A Bill**

HOUSE BILL 1373

5  
6 By: Representative Fielding  
7 By: Senator B. Pierce

8  
9 Filed with: House Committee on Public Transportation  
10 pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

11  
12 AN ACT TO PROHIBIT THE USE OF HANDHELD WIRELESS  
13 DEVICES WHILE DRIVING A MOTOR VEHICLE; TO MAKE  
14 TECHNICAL CORRECTIONS; AND FOR OTHER PURPOSES.

**Subtitle**

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17 TO PROHIBIT THE USE OF HANDHELD WIRELESS  
18 DEVICES WHILE DRIVING A MOTOR VEHICLE;  
19 AND TO MAKE TECHNICAL CORRECTIONS.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24  
25 SECTION 1. Arkansas Code § 27-51-1602(2)-(3), concerning the  
26 definition of a handheld wireless telephone and a hands-free wireless  
27 telephone or device, are amended to read as follows:

28 (2)(A) "Handheld wireless telephone or device" means a wireless,  
29 ~~interactive~~ communication device with which a user engages in wireless  
30 ~~interactive~~ communication using at least one (1) hand.

31 ~~(B) "Handheld wireless telephone or device" does not~~  
32 ~~include a:~~

- 33 ~~(i) Hands free wireless telephone or device;~~
- 34 ~~(ii) Citizens band radio;~~
- 35 ~~(iii) Citizens band radio hybrid; or~~

1                   ~~(iv) Global positioning or navigation device or~~  
2 ~~system;~~

3                   (3)(A) "Hands-free wireless telephone or device" means a  
4 wireless telephone or other wireless communication device that allows a user  
5 to engage in wireless ~~interactive~~ communication without the use of either  
6 hand with:

7                           ~~(i)(A) An internal feature or function; or~~

8                           ~~(ii)(B) An attachment or additional device.~~

9                           ~~(B) A hands free wireless telephone or device may be a~~  
10 ~~permanent or temporary part of the wireless telephone or other wireless~~  
11 ~~communication device.~~

12                           ~~(C) A hands free wireless telephone or device may require~~  
13 ~~the use of either hand to activate, deactivate, or initiate a function of the~~  
14 ~~wireless telephone or other communication;~~

15  
16                   SECTION 2. Arkansas Code § 27-51-1602(6)-(7), concerning the  
17 definition of a wireless interactive communication and a wireless telephone,  
18 are repealed:

19                           ~~(6) "Wireless interactive communication" means talking, typing,~~  
20 ~~emailing, or accessing information on the Internet with a wireless telephone;~~  
21 ~~and~~

22                           ~~(7)(A) "Wireless telephone" means a wireless interactive~~  
23 ~~communication device.~~

24                           ~~(B) "Wireless telephone" includes a handheld or hands free~~  
25 ~~wireless telephone or device.~~

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27                   SECTION 3. Arkansas Code § 27-51-1603 is amended to read as follows:  
28                   27-51-1603. Restrictions on drivers under 18 years of age.

29                   (a) Except as provided under subsection (b) of this section, a driver  
30 of a motor vehicle who is under eighteen (18) years of age shall not use a  
31 handheld wireless telephone or device or a hands-free wireless telephone or  
32 device, for wireless interactive communication while operating a motor  
33 vehicle.

34                   (b) A driver of a motor vehicle who is under eighteen (18) years of  
35 age may use a handheld wireless telephone or device or hands-free wireless

1 telephone or device for wireless interactive communication while operating a  
2 motor vehicle for an emergency purpose only.

3

4 SECTION 4. Arkansas Code § 27-51-1604 is amended to read as follows:

5 27-51-1604. Restrictions on use of a wireless telephone or device  
6 generally drivers at least 18 but under 21 years of age.

7 ~~(a)(1) Except as otherwise provided in this section, the driver of a~~  
8 ~~motor vehicle who is at least eighteen (18) but under twenty one (21) years~~  
9 ~~of age shall not use a handheld wireless telephone for wireless interactive~~  
10 ~~communication while operating a motor vehicle.~~

11 ~~(2) The driver of a motor vehicle who is at least eighteen (18)~~  
12 ~~but under twenty one (21) years of age may use a hands free wireless~~  
13 ~~telephone or device for wireless interactive communication while operating a~~  
14 ~~motor vehicle.~~

15 ~~(b) A driver of a motor vehicle who is at least eighteen (18) but~~  
16 ~~under twenty one (21) years of age may use a handheld wireless telephone for~~  
17 ~~wireless interactive communication while operating a motor vehicle for an~~  
18 ~~emergency purpose only.~~

19 (a) A driver shall not operate a motor vehicle on the traveled portion  
20 of a public street or roadway while using a handheld telephone or wireless  
21 device.

22 (b) It is not a violation to use a handheld wireless telephone or  
23 device:

24 (1) For an emergency purpose;

25 (2) While temporarily pulled over to the shoulder or safe area  
26 that is not within the flow of traffic or a traveled portion of a public  
27 street or roadway, if the motor vehicle has come to a complete stop.

28 (c) For purposes of this section, "roadway" means that portion of a  
29 highway improved, designed, or ordinarily used for vehicular travel.

30 (d) A person performing his or her official duties as a certified law  
31 enforcement officer, firefighter, emergency medical personnel or other public  
32 safety personnel is exempt from the requirements of this section.

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34 SECTION 5. Arkansas Code § 27-51-1605 is amended to read as follows:

35 27-51-1605. Enforcement.

1 A driver of a motor vehicle ~~is not to~~ may be stopped or detained solely  
2 to determine compliance with this subchapter.

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4 SECTION 6. Arkansas Code § 27-51-1607 is amended to read as follows:  
5 27-51-1607. Penalties.

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

9 ~~(2) A record of each warning citation issued shall be~~  
10 ~~maintained.~~

11 A driver who pleads guilty or nolo contendere or has been found guilty  
12 of a moving traffic violation in this subchapter is subject to the following:

13 (1) First violation, fifty dollar (\$50.00) fine;

14 (2) Second violation within two (2) years, A person a driver who  
15 pleads guilty or nolo contendere to or has been found guilty of violating  
16 this subchapter for a second or subsequent offense is guilty of a violation  
17 under § 5-1-108 and shall be fined fifty dollars (\$50.00) one hundred and  
18 fifty dollar (\$150) fine; and

19 (3) Third or subsequent violation, within two (2) years of most  
20 recent violation, two hundred dollar (\$200) fine and an order of suspension  
21 of driver's license for up to one (1) year.

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23 SECTION 7. Arkansas Code § 27-51-1610, concerning the restrictions on  
24 the use of a handheld wireless telephone while operating a motor vehicle in a  
25 highway work zone, is amended to add an additional subsection to read as  
26 follows:

27 (d) A violation of this section is punishable as a moving traffic  
28 violation in a highway work zone under § 27-50-408.

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33 Referred by the Arkansas House of Representatives

34 Prepared by: VJF