

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

SENATE BILL 534

5 By: Senator B. Johnson  
6 By: Representative Christiansen  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING DISTRACTED DRIVING  
10 TO COMPLY WITH DISTRACTED DRIVING REQUIREMENTS UNDER  
11 FEDERAL LAW; TO AMEND THE MANDATORY SEAT BELT USE  
12 LAW; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
13  
14  
15

## Subtitle

16 TO AMEND THE LAW CONCERNING DISTRACTED  
17 DRIVING TO COMPLY WITH DISTRACTED DRIVING  
18 REQUIREMENTS UNDER FEDERAL LAW; TO AMEND  
19 THE MANDATORY SEAT BELT USE LAW; AND TO  
20 DECLARE AN EMERGENCY.  
21  
22  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code § 27-23-103(38), concerning the definition of  
27 "texting", is amended to read as follows:

28 (38)(A) "Texting" means manually entering alphanumeric text  
29 into, or reading text from, an electronic device.

30 (B) "Texting" includes without limitation using a short  
31 message service, ~~e-mailing~~ emailing, instant messaging, entering a command or  
32 request to access an ~~Internet~~ internet page, pressing more than a single  
33 button to initiate or terminate a voice communication using a mobile  
34 telephone, or engaging in any other form of electronic text retrieval or  
35 entry for present or future communication.

36 (C) "Texting" does not include:



1 (i) Pressing a single button to initiate or  
2 terminate a voice communication using a mobile telephone;

3 (ii) Inputting, selecting, or reading information on  
4 a global positioning system or navigation system; or

5 (iii) Using a device capable of performing multiple  
6 functions, including without limitation a fleet management system, a  
7 dispatching device, a smart phone, a citizens band radio, and a music player,  
8 for a purpose that is not otherwise prohibited in 49 C.F.R. parts 383 or 392,  
9 ~~as in effect on January 1, 2013;~~

10  
11 SECTION 2. Arkansas Code § 27-23-130(d), concerning prohibition  
12 against texting, is amended to read as follows:

13 (d) A person who is convicted of violating this section shall be:

14 (1) Guilty of ~~commits~~ a violation; and

15 (2) Fined not less than twenty-five dollars (\$25.00).

16  
17 SECTION 3. Arkansas Code § 27-51-1503 is amended to read as follows:  
18 27-51-1503. Definitions.

19 As used in this subchapter:

20 (1) "Access, read, or post to a social networking site" means  
21 using a wireless telecommunications device to interact with a web-based  
22 service that allows a person to:

23 (A) Construct a profile within a bounded system;

24 (B) Articulate a list of other members with whom the  
25 person shares a connection; and

26 (C) Communicate with other members of the site;

27 (2)(A) "Operate a motor vehicle" or "operating a motor vehicle"  
28 means operating a motor vehicle on a public road, street, or highway.

29 (B) "Operate a motor vehicle" or "operating a motor  
30 vehicle" does not include driving or operating a motor vehicle that has  
31 pulled over to the side of or off of a public road, street, or highway and  
32 stopped by the driver in a location where the motor vehicle may safely remain  
33 stationary;

34 (3) "Texting" means reading from or manually entering data into  
35 a wireless telecommunications device, including doing so for the purpose of  
36 SMS texting, emailing, instant messaging, or engaging in any other form of

1 electronic data retrieval or electronic data communication; and

2 (4)(A) "Wireless telecommunications device" means a cellular  
3 telephone, a text-messaging device, a personal digital assistant, a stand-  
4 alone computer, or a substantially similar wireless device that is readily  
5 removable from the vehicle and is used to write, send, or read text or data  
6 through manual input.

7 (B) "Wireless telecommunications device" does not include  
8 a:

- 9 (i) Citizens band radio;
- 10 (ii) Citizens band radio hybrid;
- 11 (iii) Commercial two-way radio communication device;
- 12 (iv) Two-way radio transmitter or receiver used by a  
13 licensee of the Federal Communications Commission in the Amateur Radio  
14 Service; or

15 (v) Hands-free wireless ~~telephone or~~  
16 telecommunications device; and

17 ~~(3) "Write, send, or read a text-based communication" means~~  
18 ~~using a wireless telecommunications device to manually communicate with a~~  
19 ~~person by using a text-based communication commonly referred to as a text~~  
20 ~~message, instant message, or electronic mail.~~

21  
22 SECTION 4. Arkansas Code § 27-51-1504 is amended to read as follows:  
23 27-51-1504. Use of wireless telecommunications device when driving.

24 (a)(1) Except as otherwise provided in subsection (b) of this section,  
25 a driver of a motor vehicle shall not operate a motor vehicle while using a  
26 wireless telecommunications device to:

27 (A) ~~Write, send, or read a text-based communication~~ Engage  
28 in texting; or

29 (B) Access, read, or post to a social networking site.

30 (2) A driver of a motor vehicle is not in violation of  
31 subdivision (a)(1) of this section if he or she reads, selects, or enters a  
32 telephone number or name in a wireless telecommunications device for the  
33 purpose of making a telephone call.

34 (b) A person is exempt from the requirements of this section if he or  
35 she is:

- 36 (1) Performing official duties as a certified law enforcement

1 officer, firefighter, ambulance driver, or emergency medical technician;

2 (2) Operating a motor vehicle while using a wireless  
3 telecommunications device to:

4 (A) Report illegal activity;

5 (B) Summon medical or other emergency assistance; or

6 (C) Prevent injury to a person or property;

7 ~~(D) Relay information between a transit or for hire  
8 operator dispatcher, if the wireless telecommunications device is permanently  
9 affixed to the motor vehicle; or~~

10 ~~(E) Navigate using a global positioning system; or~~

11 (3) A physician or healthcare provider using a wireless  
12 telecommunications device for emergency medical purposes ~~to communicate with  
13 a hospital, health clinic, or the office of the physician, or to provide for  
14 the health care or medical emergency of a person.~~

15  
16 SECTION 5. Arkansas Code § 27-51-1505 is amended to read as follows:  
17 27-51-1505. Preemption.

18 This subchapter supersedes and preempts all county or municipal  
19 ordinances regarding the use of a ~~handheld wireless telephone~~ wireless  
20 telecommunication device ~~for wireless interactive communication~~ texting while  
21 operating a motor vehicle.

22  
23 SECTION 6. Arkansas Code § 27-51-1506(a), concerning penalties under  
24 “Paul’s Law: To Prohibit Drivers From Using a Wireless Communications Device  
25 While Operating a Motor Vehicle”, is amended to read as follows:

26 (a)(1) A violation of this subchapter is punishable by a fine of not  
27 less than twenty-five dollars (\$25.00) nor more than two hundred fifty  
28 dollars (\$250) for the first offense.

29 (2) Each subsequent violation of this subchapter is punishable  
30 by a fine of not less than fifty dollars (\$50.00) nor more than five hundred  
31 dollars (\$500).

32  
33 SECTION 7. Arkansas Code §§ 27-51-1602-27-51-1609 are amended to read  
34 as follows:

35 ~~27-51-1602. Definitions.~~  
36 ~~As used in this subchapter:~~

1                   ~~(1) “Emergency purpose” means the reason for contacting any of~~  
2 ~~the following to report an emergency:~~

3                   ~~(A) Law enforcement personnel;~~

4                   ~~(B) Fire department personnel;~~

5                   ~~(C) Public safety personnel;~~

6                   ~~(D) Emergency medical personnel; or~~

7                   ~~(E) A 911 public safety communications center;~~

8                   ~~(2)(A) “Handheld wireless telephone” means a wireless~~  
9 ~~interactive communication device with which a user engages in wireless~~  
10 ~~interactive communication using at least one (1) hand.~~

11                   ~~(B) “Handheld wireless telephone” does not include a:~~

12                   ~~(i) Hands-free wireless telephone or device;~~

13                   ~~(ii) Citizens band radio;~~

14                   ~~(iii) Citizens band radio hybrid; or~~

15                   ~~(iv) Global positioning or navigation device or~~  
16 ~~system;~~

17                   ~~(3)(A) “Hands-free wireless telephone or device” means a~~  
18 ~~wireless telephone or other wireless communication device that allows a user~~  
19 ~~to engage in wireless interactive communication without the use of either~~  
20 ~~hand with:~~

21                   ~~(i) An internal feature or function; or~~

22                   ~~(ii) An attachment or additional device.~~

23                   ~~(B) A hands-free wireless telephone or device may be a~~  
24 ~~permanent or temporary part of the wireless telephone or other wireless~~  
25 ~~communication device.~~

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

29                   ~~(4) “Highway work zone” means any area upon or adjacent to a~~  
30 ~~highway, road, or street of this state where construction, reconstruction,~~  
31 ~~maintenance, or any other type of work is being performed or is in progress;~~

32                   ~~(5) “Highway worker” means an employee of any of the following~~  
33 ~~who is present in a highway work zone:~~

34                   ~~(A) The Arkansas Department of Transportation;~~

35                   ~~(B) A county;~~

36                   ~~(C) A municipality; or~~

1                   ~~(D) A contractor or subcontractor of the State Highway~~  
2 ~~Commission or a county or municipality that is performing duties related to~~  
3 ~~the highway work zone;~~

4                   ~~(6) "Wireless interactive communication" means talking, typing,~~  
5 ~~emailing, or accessing information on the internet with a wireless telephone;~~  
6 ~~and~~

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

9                   ~~(B) "Wireless telephone" includes a handheld wireless~~  
10 ~~telephone and a hands-free wireless telephone or device.~~

11  
12                   ~~27-51-1603. Restrictions on drivers under 18 years of age.~~

13                   ~~(a) Except as provided under subsection (b) of this section, a driver~~  
14 ~~of a motor vehicle who is under eighteen (18) years of age shall not use a~~  
15 ~~wireless telephone for wireless interactive communication while operating a~~  
16 ~~motor vehicle.~~

17                   ~~(b) A driver of a motor vehicle who is under eighteen (18) years of~~  
18 ~~age may use a wireless telephone for wireless interactive communication while~~  
19 ~~operating a motor vehicle for an emergency purpose only.~~

20  
21                   ~~27-51-1604. Restrictions on drivers at least 18 but under 21 years of~~  
22 ~~age.~~

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

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

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

35  
36                   ~~27-51-1605. Enforcement.~~

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

3  
4 ~~27-51-1606. Preemption.~~

5 ~~This subchapter supersedes and preempts all county or municipal~~  
6 ~~ordinances regarding wireless telephone use by drivers of motor vehicles.~~

7  
8 ~~27-51-1607. Penalties.~~

9 ~~(a)(1) A violation of this subchapter is punishable by a fine of not~~  
10 ~~more than two hundred fifty dollars (\$250) for the first offense.~~

11 ~~(2) Each subsequent violation of this subchapter is punishable~~  
12 ~~by a fine of not more than five hundred dollars (\$500).~~

13 ~~(b) If a person pleads guilty or nolo contendere to or the finder of~~  
14 ~~fact determines that the person was involved in a collision or accident while~~  
15 ~~in violation of this subchapter, a court shall in addition to any other~~  
16 ~~sentence, assess an additional fine of double the amount of the standard fine~~  
17 ~~imposed under subdivisions (a)(1) and (2) of this section.~~

18  
19 ~~27-51-1609. Restrictions in school zones.~~

20 ~~(a) Except as provided under subsection (b) of this section, a driver~~  
21 ~~of a motor vehicle shall not use a handheld wireless telephone while~~  
22 ~~operating a motor vehicle when passing a school building or school zone~~  
23 ~~during school hours when children are present and outside the building.~~

24 ~~(b) A driver of a motor vehicle who is passing a school building or~~  
25 ~~school zone during school hours when children are present and outside the~~  
26 ~~building may use a handheld wireless telephone while operating a motor~~  
27 ~~vehicle for an emergency purpose.~~

28 ~~(c) This section does not apply to law enforcement officers.~~

29  
30 ~~27-51-1610. Restrictions in highway work zones.~~

31 ~~(a) Except as provided under subsection (b) of this section, the~~  
32 ~~driver of a motor vehicle shall not use a handheld wireless telephone while~~  
33 ~~operating a motor vehicle in a highway work zone when a highway worker is~~  
34 ~~present.~~

35 ~~(b) The driver of a motor vehicle who is in a highway work zone when a~~  
36 ~~highway worker is present may use a handheld wireless telephone while~~

operating a motor vehicle for an emergency purpose.

~~(c) This section does not apply to law enforcement officers.~~

27-51-1602. Definitions.

As used in this subchapter:

(1) "Emergency" means a situation in which a person is in need of assistance from any of the following:

(A) Law enforcement personnel;

(B) Fire department personnel;

(C) Public safety personnel;

(D) Emergency medical personnel; or

(E) A 911 public safety communications center;

(2) "Texting" means reading from or manually entering data into a wireless telecommunications device, including doing so for the purpose for short message service texting, emailing, instant messaging, or engaging in another form of electronic data retrieval or electronic data communication;

(3) "Wireless interactive communication" means talking, typing, texting, emailing, or accessing information on the internet via Wi-Fi, cellular data, or similar means; and

(4)(A) "Wireless telecommunications device" means a handheld cellular telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, or a substantially similar wireless device that is readily removable from a vehicle and is used to talk or type, send, or read text or data through manual input.

(B) "Wireless telecommunications device" does not include a:

(i) Citizens band radio;

(ii) Citizens band radio hybrid;

(iii) Commercial two-way radio communication device;

(iv) Two-way radio transmitter or receiver used by a licensee of the Federal Communications Commission in the Amateur Radio Service;

(v) Hands-free wireless telephone or device; or

(vi) Global positioning or navigation device system.

27-51-1603. Restrictions on drivers under 18 years of age.



1 (a) Except as provided under subsection (b) of this section, a driver  
2 of a motor vehicle who is under eighteen (18) years of age shall not use a  
3 wireless telecommunications device or a hands-free wireless telephone or  
4 device for wireless interactive communication while operating a motor  
5 vehicle.

6 (b) A driver of a motor vehicle who is under eighteen (18) years of  
7 age may use a wireless telecommunications device or a hands-free wireless  
8 telephone or device while operating a motor vehicle only in an emergency.

9  
10 27-51-1604. Restrictions on drivers at least 18 years of age but under  
11 21 years of age.

12 (a)(1) Except as provided under subsection (b) of this section, a  
13 driver of a motor vehicle who is at least eighteen (18) years of age but  
14 under twenty-one (21) years of age shall not use a wireless  
15 telecommunications device for wireless interactive communication while  
16 operating a motor vehicle.

17 (2) A driver of a motor vehicle who is at least eighteen (18)  
18 years of age but under twenty-one (21) years of age may use a hands-free  
19 wireless telephone or device for wireless interactive communication while  
20 operating a motor vehicle.

21 (b) A driver of a motor vehicle who is at least eighteen (18) years of  
22 age but under twenty-one (21) years of age may use a wireless  
23 telecommunications device for wireless interactive communication while  
24 operating a motor vehicle only in an emergency.

25  
26 27-51-1605. Restrictions in school zones.

27 (a) Except as provided under subsection (b) of this section, a driver  
28 of a motor vehicle shall not use a wireless telecommunications device while  
29 operating a motor vehicle when passing a school building or school zone  
30 during school hours when children are present and outside the building.

31 (b) A driver of a motor vehicle who is passing a school building or  
32 school zone during school hours when children are present and outside the  
33 building may use a wireless telecommunications device while operating a motor  
34 vehicle only in an emergency.

35 (c) This section does not apply to a law enforcement officer engaged  
36 in the performance of his or her official duties.

1  
2 27-51-1606. Restrictions in highway work zones.

3 (a) Except as provided under subsection (b) of this section, a driver  
4 of a motor vehicle shall not use a wireless telecommunications device while  
5 operating a motor vehicle in a highway work zone when a highway worker is  
6 present.

7 (b) A driver of a motor vehicle who is in a highway work zone when a  
8 highway worker is present may use a wireless telecommunications device while  
9 operating a motor vehicle only in an emergency.

10 (c) This section does not apply to a law enforcement officer engaged  
11 in the performance of his or her official duties.

12 (d) As used in this section:

13 (1) "Highway work zone" means any area upon or adjacent to a  
14 highway, road, or street of this state where construction, reconstruction,  
15 maintenance, or any other type of work is being performed or is in progress;  
16 and

17 (2) "Highway worker" means an employee of any of the following  
18 who is present in a highway work zone:

19 (A) The Arkansas Department of Transportation;

20 (B) A county;

21 (C) A municipality; or

22 (D) A contractor or subcontractor of the State Highway  
23 Commission or a county or municipality that is performing duties related to  
24 the highway work zone.

25  
26 27-51-1607. Penalties.

27 (a)(1) A violation of this subchapter is punishable by a fine of not  
28 less than twenty-five dollars (\$25.00) nor more than two hundred fifty  
29 dollars (\$250) for the first offense.

30 (2) Each subsequent violation of this subchapter is punishable  
31 by a fine of not less than fifty dollars (\$50.00) nor more than five hundred  
32 dollars (\$500).

33 (b) If a person pleads guilty or nolo contendere to a violation of  
34 this subchapter or the finder of fact determines that the person was involved  
35 in a collision or accident while in violation of this subchapter, a court  
36 shall, in addition to any other sentence, assess an additional fine of double

1 the amount of the standard fine imposed under subdivisions (a)(1) and (2) of  
2 this section.

3  
4 SECTION 8. Arkansas Code Title 27, Chapter 37, Subchapter 7, is  
5 amended to add an additional section to read as follows:

6 27-37-704. Enforcement.

7 A driver of a motor vehicle is not to be stopped or detained by law  
8 enforcement solely to determine compliance with this subchapter.

9  
10 SECTION 9. EMERGENCY CLAUSE. It is found and determined by the  
11 General Assembly of the State of Arkansas that the deficiencies in Paul’s  
12 Law: To Prohibit Drivers From Using a Wireless Communications Device While  
13 Operating a Motor Vehicle and Fewer Distractions Mean Safer Driving Act  
14 disqualify the state from receiving a Comprehensive Distracted Driving Grant;  
15 that this act allows the state to qualify for a Comprehensive Distracted  
16 Driving Grant; that Arkansas law is required to be in compliance with federal  
17 law by July 1, 2019 for the state to qualify for Comprehensive Distracted  
18 Driving Grant funds distributed in 2020. Therefore, an emergency is declared  
19 to exist, and this act being immediately necessary for the preservation of  
20 the public peace, health, and safety shall become effective on:

21 (1) The date of its approval by the Governor;

22 (2) If the bill is neither approved nor vetoed by the Governor,  
23 the expiration of the period of time during which the Governor may veto the  
24 bill; or

25 (3) If the bill is vetoed by the Governor and the veto is  
26 overridden, the date the last house overrides the veto.