

SENATE BILL No. 122

By Senator Holscher

1-30

1 AN ACT concerning traffic regulations; prohibiting the use of an
2 electronic communications device while operating a motor vehicle;
3 providing a penalty for unlawful use of an electronic communications
4 device.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. As used in sections 1 and 2, and amendments thereto:

8 (a) "Commercial motor vehicle" means a motor vehicle or
9 combination of motor vehicles used in commerce to transport passengers
10 or property if the vehicle:

11 (1) Has a gross combination weight rating or gross combination
12 weight of 26,001 or more pounds, whichever is greater, inclusive of a
13 towed unit which has a gross vehicle weight rating or gross vehicle weight
14 of more than 10,000 pounds, whichever is greater;

15 (2) has a gross vehicle weight rating or gross vehicle weight of
16 26,001 or more pounds, whichever is greater;

17 (3) is designed to transport 16 or more passengers, including the
18 driver; or

19 (4) is transporting hazardous materials and is required to be placarded
20 under the hazardous materials transportation act pursuant to 46 U.S.C. §
21 1801 et seq.

22 (b) (1) "Electronic communication device" means a portable device
23 that is used to initiate, receive, store, or view communication, information,
24 images or data electronically. "Electronic communication device"
25 includes, but is not limited to:

26 (A) Broadband personal communication devices;

27 (B) cellular telephones;

28 (C) computers to include tablets, laptops, notebook computers and
29 electronic or video game systems;

30 (D) devices capable of transmitting, retrieving or displaying a video,
31 movie, broadcast television image or visual image and any substantially
32 similar device that is used to initiate or receive communication or store
33 and review information, videos, images or data;

34 (E) electronic devices with mobile data access;

35 (F) pagers;

36 (G) personal digital assistants;

- 1 (H) portable telephones; and
2 (I) text-messaging devices.
3 (2) "Electronic communication device" does not include:
4 (A) amateur or ham radio devices;
5 (B) citizens band radios;
6 (C) commercial two-way radio communication devices or their
7 functional equivalent;
8 (D) global positioning system receivers, security, navigation,
9 communication or remote diagnostics systems permanently affixed to the
10 vehicle;
11 (E) prescribed medical devices;
12 (F) radios; and
13 (G) subscription-based emergency communication devices.
14 (c) "Emergency service personnel" means a person employed by an
15 entity authorized to operate an authorized emergency vehicle pursuant to
16 K.S.A. 8-1404, and amendmnets thereto.
17 (d) "Noncommercial motor vehicle" means a motor vehicle or
18 combination of motor vehicles not defined by the term commercial motor
19 vehicle in this section.
20 (e) "Operating" means the actual physical control of a motor vehicle.
21 (f) "Operator" means a person who is in actual physical control of a
22 motor vehicle.
23 (g) "Voice-operated or hands-free feature or function" means a feature
24 or function, whether internally installed or externally attached or
25 connected to an electronic communication device, that allows a person to
26 use an electronic communication device without the use of either hand,
27 except to activate, deactivate or initiate the feature or function with a
28 single touch or single swipe.
29 This section shall be a part of and supplemental to the uniform act
30 regulating traffic on highways.
31 Sec. 2. (a) Except as otherwise provided in this section, no person
32 while operating a motor vehicle on any highway or property open to the
33 public for vehicular traffic in this state shall:
34 (1) Physically hold or support, with any part of the person's body, an
35 electronic communication device;
36 (2) write, send or read any text-based communication, including but
37 not limited to, a text message, instant message, email or social media
38 interaction on an electronic communication device;
39 (3) make any communication on an electronic communication device,
40 including a phone call, voice message or one-way voice communication;
41 (4) engage in any form of electronic data retrieval or electronic data
42 communication on an electronic communication device;
43 (5) manually enter letters, numbers or symbols into any website,

- 1 search engine or application on an electronic communication device;
- 2 (6) watch a video or movie on an electronic communication device
3 other than watching data related to the navigation of the vehicle; or
- 4 (7) record, post, send or broadcast video, including a video
5 conference, on an electronic communication device.
- 6 (b) The operator of a school bus shall not use or operate an electronic
7 communication device while the school bus is in motion unless the device
8 is being used in a similar manner as a two-way radio to allow live
9 communication between the operator and school officials or public safety
10 officials. The operator of a school bus shall not use or operate an electronic
11 communication device or a two-way radio while loading or unloading
12 passengers.
- 13 (c) This section shall not apply to:
- 14 (1) A law enforcement officer or emergency service personnel acting
15 within the course and scope of the law enforcement officer's or emergency
16 service personnel's official duties;
- 17 (2) operators using an electronic communication device for the sole
18 purpose of reporting an emergency situation and continuing
19 communication with emergency personnel during the emergency situation;
- 20 (3) operators of noncommercial motor vehicles using an electronic
21 communication device solely through a voice-operated or hands-free
22 feature or function;
- 23 (4) operators of commercial motor vehicles using a voice-operated or
24 hands-free feature or function, as long as the operator remains seated and
25 is restrained by a seat belt as required by law;
- 26 (5) operators of commercial motor vehicles reading a message
27 displayed on a permanently installed communication device designed for a
28 commercial motor vehicle with a screen that does not exceed 10 inches tall
29 by 10 inches wide in size;
- 30 (6) operators using electronic communication devices while the
31 vehicle is lawfully stopped or parked;
- 32 (7) commercial motor vehicles that are responding to a request for
33 roadside assistance, when such response is conducted by an automobile
34 club as defined in K.S.A. 40-2502, and amendments thereto, or a towing
35 company;
- 36 (8) the use of an electronic communication device to relay
37 information between a transit or for-hire vehicle operator and that
38 operator's dispatcher, provided the device is mounted or affixed to the
39 vehicle;
- 40 (9) the use of an electronic communication device to access or view a
41 map for navigational purposes;
- 42 (10) the use of an electronic communication device to access or listen
43 to an audio broadcast or digital audio recording;

1 (11) the use of an electronic communication device to relay
2 information through a transportation network company's digital network to
3 a transportation network company driver, provided the device is mounted
4 or affixed to the vehicle; or

5 (12) the use of an electronic device for the sole purpose of continually
6 monitoring operator behavior by recording or broadcasting video within or
7 outside the vehicle.

8 (d) A law enforcement officer who stops a noncommercial motor
9 vehicle for a violation of this section shall inform the operator of the
10 operator's right to decline a search of their electronic communication
11 device. No warrant shall be issued to confiscate or access an electronic
12 communication device based on a violation of this section unless the
13 violation results in great bodily harm or death.

14 (e) A violation of this section shall not be used to establish probable
15 cause for any other violation.

16 (f) No person shall be stopped, inspected or detained solely for a
17 violation of this section.

18 (g) From and after the effective date of this act and prior to January 1,
19 2026, a law enforcement officer shall issue a warning to anyone operating
20 a noncommercial motor vehicle violating the provisions of this section.

21 (h) (1) (A) Except as provided in subparagraph (B) and (C) and
22 paragraph (2), a violation of this section is a traffic infraction and shall be
23 subject to a fine of \$150.

24 (B) For a second violation of this section within two years after a
25 prior conviction of this section, such person, upon conviction, shall be
26 fined \$250 for the second violation.

27 (C) For a third and each succeeding violation of this section within
28 two years after two prior convictions of this section, such person, upon
29 conviction, shall be fined \$500 for the third and each succeeding violation.

30 (2) A violation of this section that occurs in a school zone at a time
31 when a reduced speed limit is enforced as established by K.S.A. 8-1560(a)
32 or 8-1560e, and amendments thereto, or in a road construction zone, as
33 defined in K.S.A. 8-1458a, and amendments thereto, while workers are
34 present, the court shall impose a fine of \$500.

35 (3) In addition to the penalties described in paragraph (1), a violation
36 of this section that is the proximate cause of damage to property in excess
37 of \$5,000 shall be a class B nonperson misdemeanor.

38 (4) In addition to the penalties described in paragraph (1), a violation
39 of this section that is the proximate cause of great bodily harm to another
40 person shall be a class A person misdemeanor.

41 (5) In addition to the penalties described in paragraph (1), a violation
42 of this section that is the proximate cause of the death of another person
43 shall be a severity level 6, person felony.

- 1 (i) This section shall be a part of and supplemental to the uniform act
- 2 regulating traffic on highways.
- 3 Sec. 3. This act shall take effect and be in force from and after its
- 4 publication in the statute book.