

# House Bill 2597

Sponsored by Representatives OLSON, LININGER, Senator BURDICK; Representatives BARKER, ESQUIVEL, RAYFIELD, WILSON (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Renames offense of operating motor vehicle while using mobile communication device as offense of operating motor vehicle while using mobile electronic device. Defines "mobile electronic device." Provides for suspension of execution of fine for first offense if person completes distracted driving avoidance course.

Increases penalty for offense. Further increases penalty if offense contributes to accident or is second or subsequent offense. Punishes by maximum fine of \$2,000.

## A BILL FOR AN ACT

1  
2 Relating to the offense of operating a motor vehicle while using a mobile electronic device; creating  
3 new provisions; and amending ORS 811.507.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 811.507 is amended to read:

6 811.507. (1) As used in this section:

7 (a) "Hands-free accessory" means an attachment or built-in feature for or an addition to a mo-  
8 bile [*communication*] **electronic** device, whether or not permanently installed in a motor vehicle,  
9 that when used allows a person to [*maintain*] **keep** both hands on the steering wheel.

10 [(b) "*Mobile communication device*" means a text messaging device or a wireless, two-way commu-  
11 nication device designed to receive and transmit voice or text communication.]

12 (b)(A) "**Mobile electronic device**" means an **electronic device that is not permanently in-**  
13 **stalled in a motor vehicle.**

14 (B) "**Mobile electronic device**" includes but is not limited to a device capable of text  
15 **messaging, voice communication, entertainment, navigation, accessing the Internet or**  
16 **producing electronic mail.**

17 (c) "**Using a mobile electronic device**" includes but is not limited to using a mobile elec-  
18 **tronic device for text messaging, voice communication, entertainment, navigation, accessing**  
19 **the Internet or producing electronic mail.**

20 (2) A person commits the offense of operating a motor vehicle while using a mobile [*communi-*  
21 *cation*] **electronic** device if the person, while operating a motor vehicle on a highway[,]:

22 (a) **Holds a mobile electronic device in the person's hand; or**

23 (b) Uses a mobile [*communication*] **electronic** device **for any purpose.**

24 (3) This section does not apply to a person who: [*activates or deactivates a mobile communication*  
25 *device or a function of the device or who*]

26 (a) Uses the **mobile electronic** device [*for voice communication*] **to communicate** if the person:

27 [(a)] (A) Is summoning medical or other emergency help if no other person in the vehicle is ca-  
28 pable of summoning help; **or**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1       **[(b) Is using a mobile communication device for the purpose of farming or agricultural**  
 2 **operations;]**

3       **[(c) (B) Is operating an ambulance or emergency vehicle while acting in the scope of the**  
 4 **person’s employment; or**

5       **[(d) (b) Is 18 years of age or older and is using a hands-free accessory[;].**

6       **[(e) Is operating a motor vehicle while providing public safety services or emergency services;]**

7       **[(f) Is operating a motor vehicle while acting in the scope of the person’s employment as a public**  
 8 **safety officer, as defined in ORS 348.270;]**

9       **[(g) Is operating a tow vehicle or roadside assistance vehicle while acting in the scope of the**  
 10 **person’s employment;]**

11       **[(h) Holds a valid amateur radio operator license issued or any other license issued by the Federal**  
 12 **Communications Commission and is operating an amateur radio;]**

13       **[(i) Is operating a two-way radio device that transmits radio communication transmitted by a sta-**  
 14 **tion operating on an authorized frequency within the citizens’ or family radio service bands in ac-**  
 15 **cordance with rules of the Federal Communications Commission;]**

16       **[(j) Is operating a vehicle owned or contracted by a utility for the purpose of installing, repairing,**  
 17 **maintaining, operating or upgrading utility service, including but not limited to natural gas, electricity,**  
 18 **water or telecommunications, while acting in the scope of the person’s employment; or]**

19       **[(k) Is using a function of the mobile communication device that allows for only one-way voice**  
 20 **communication while the person is:]**

21       **[(A) Operating a motor vehicle in the scope of the person’s employment;]**

22       **[(B) Providing transit services; or]**

23       **[(C) Participating in public safety or emergency service activities.]**

24       **(4) The offense described in this section, operating a motor vehicle while using a mobile [com-**  
 25 **munication] electronic device, is:**

26       **(a) For a person’s first offense, a Class [C] B traffic violation unless commission of the**  
 27 **offense contributes to an accident.**

28       **(b) For a person’s second or subsequent offense within a 10-year period, a Class A traffic**  
 29 **violation.**

30       **(c) If commission of the offense contributes to an accident, a Class A traffic violation.**

31       **(5)(a) For a first offense of operating a motor vehicle while using a mobile electronic**  
 32 **device, the court may conditionally suspend the execution of the fine to be imposed under**  
 33 **subsection (4)(a) of this section if the defendant appears personally and agrees to complete**  
 34 **at the defendant’s own expense, within 120 days of the date of sentencing, a distracted driv-**  
 35 **ing avoidance course approved by the Department of Transportation under section 3 of this**  
 36 **2017 Act.**

37       **(b) If the court conditionally suspends execution of all or part of the fine under para-**  
 38 **graph (a) of this subsection, the court shall set a hearing date not less than 120 days from**  
 39 **the date of sentencing. At the hearing the court may:**

40       **(A) If the person has successfully completed the requirements described in paragraph (a)**  
 41 **of this subsection, suspend execution of the fine imposed under subsection (4)(a) of this**  
 42 **section; or**

43       **(B) If the person has not successfully completed the requirements described in paragraph**  
 44 **(a) of this subsection, grant the person an extension based on good cause shown.**

45       **[(5)] (6) The Department of Transportation shall place signs on state highways to notify drivers**

1 that violation of this section is subject to a maximum fine of [~~\$500~~] **\$2,000**.

2 **SECTION 2. Sections 3 and 4 of this 2017 Act are added to and made a part of the Oregon**  
3 **Vehicle Code.**

4 **SECTION 3. (1) The Department of Transportation by rule shall establish standards for**  
5 **distracted driving avoidance courses provided to persons who violate ORS 811.507. The stan-**  
6 **dards must describe the contents and quality of a curriculum for the course, specify re-**  
7 **quirements for obtaining a certificate or other evidence of having completed the course and**  
8 **otherwise determine the level and depth of knowledge a person must have obtained from the**  
9 **course.**

10 **(2) The department shall maintain a list of providers approved to lead the course de-**  
11 **scribed in this section and update the list monthly. The department shall prescribe proce-**  
12 **dures for providing the provider list to the local courts.**

13 **SECTION 4. (1) Notwithstanding ORS 811.507 (5), at any time after the conviction im-**  
14 **posed under ORS 811.507, a defendant who has fully complied with and performed the condi-**  
15 **tions established by the court under ORS 811.507 may apply by motion to the court that**  
16 **sentenced the defendant for an order suspending all or part of a fine to be imposed under**  
17 **ORS 811.507 (4)(a).**

18 **(2) If the court finds that the defendant fully complied with and performed the court's**  
19 **conditions, the court may on its own motion enter an order suspending, without a hearing,**  
20 **all or part of a fine to be imposed under ORS 811.507 (4)(a).**

21 **SECTION 5. The amendments to ORS 811.507 by section 1 of this 2017 Act apply to con-**  
22 **duct that occurs on or after the effective date of this 2017 Act.**

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