

SENATE AMENDMENTS TO SENATE BILL 2

By COMMITTEE ON JUDICIARY

April 19

1 On page 1 of the printed bill, line 3, delete “and amending ORS 811.507” and insert “; amending
2 ORS 811.507; and declaring an emergency”.

3 Delete lines 5 through 28 and delete pages 2 and 3 and insert:

4 “**SECTION 1.** ORS 811.507 is amended to read:

5 “811.507. (1) As used in this section:

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

10 “[*(b) ‘Mobile communication device’ means a text messaging device or a wireless, two-way com-*
11 *munication 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 [*communi-*
25 *cation*] **electronic** device or a function of the device [*or who*].

26 “(4) **It is an affirmative defense to a prosecution of a person under this section that the**
27 **person:**

28 “(a) [*Uses*] **Used** the **mobile electronic** device [*for voice communication*] **to communicate** if the
29 person:

30 “[*(a)*] (A) [*Is*] **Was** summoning **or providing** medical or other emergency help if no other person
31 in the vehicle [*is*] **was** capable of summoning help; **or**

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

34 “[*(c)*] *Is operating an ambulance or emergency vehicle;*]

35 “(B) **Was an individual employed as a commercial motor vehicle driver or a school bus**

1 **driver who uses a mobile electronic device within the scope of the person’s employment if**
2 **the use is permitted under regulations promulgated pursuant to 49 U.S.C. 31136 as in effect**
3 **on January 1, 2017;**

4 “[(d)] **(b) [Is] Was** 18 years of age or older and [is] was using a hands-free accessory;

5 “**(c) Was operating an ambulance or emergency vehicle while acting in the scope of the**
6 **person’s employment;**

7 “**(d) Was a police officer, firefighter or emergency medical services provider and was**
8 **acting in the scope of the person’s employment;**

9 “[e] *Is operating a motor vehicle while providing public safety services or emergency services;*]

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

12 “[g] *Is operating a tow vehicle or roadside assistance vehicle while acting in the scope of the*
13 *person’s employment;*]

14 “[h] *Holds a valid amateur radio operator license issued or any other license issued by the Federal*
15 *Communications Commission and is operating an amateur radio;*]

16 “[i] **(e) [Is] Was** operating a two-way radio device that transmits radio communication trans-
17 mitted by a station operating on an authorized frequency within the citizens’ or family radio service
18 bands in accordance with rules of the Federal Communications Commission[;] **to summon medical**
19 **or other emergency help; or**

20 “**(f) Was using a medical device.**

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

24 “[k] *Is using a function of the mobile communication device that allows for only one-way voice*
25 *communication while the person is;*]

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

27 “[(B)] *Providing transit services; or]*

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

29 “[4] **(5)** The offense described in this section, operating a motor vehicle while using a mobile
30 [communication] **electronic** device, is:

31 “**(a) Except as provided in paragraph (b) of this subsection, for a person’s first con-**
32 **viction, a Class [C] A traffic violation.**

33 “**(b) For a person’s first conviction, if commission of the offense contributes to an acci-**
34 **dent that is required under ORS 811.725 to be reported to the Department of Transportation,**
35 **a Class B misdemeanor.**

36 “**(c) For a person’s second conviction, a Class B misdemeanor.**

37 “**(d) For a person’s third or subsequent conviction, a Class A misdemeanor.**

38 “**(6) In addition to any other sentence that may be imposed, the court shall impose a**
39 **minimum fine of \$2,000 on a person for a third or subsequent conviction of operating a motor**
40 **vehicle while using a mobile electronic device.**

41 “**(7) For purposes of this section, sentences for two or more convictions that are imposed**
42 **in the same sentencing proceeding are considered to be one sentence.**

43 “[5] **(8)** The Department of Transportation shall place signs on state highways to notify drivers
44 that [violation of this section is subject to a maximum fine of \$500] **it is unlawful to operate a motor**
45 **vehicle on the highways of this state while using a mobile electronic device and violators are**

1 **subject to criminal penalties.**

2 **“SECTION 2.** ORS 811.507, as amended by section 1 of this 2017 Act, is amended to read:

3 “811.507. (1) As used in this section:

4 “(a) ‘Hands-free accessory’ means an attachment or built-in feature for or an addition to a mo-
5 bile electronic device that when used gives a person the ability to keep both hands on the steering
6 wheel.

7 “(b)(A) ‘Mobile electronic device’ means an electronic device that is not permanently installed
8 in a motor vehicle.

9 “(B) ‘Mobile electronic device’ includes but is not limited to a device capable of text messaging,
10 voice communication, entertainment, navigation, accessing the Internet or producing electronic mail.

11 “(c) ‘Using a mobile electronic device’ includes but is not limited to using a mobile electronic
12 device for text messaging, voice communication, entertainment, navigation, accessing the Internet
13 or producing electronic mail.

14 “(2) A person commits the offense of operating a motor vehicle while using a mobile electronic
15 device if the person, while operating a motor vehicle on a highway:

16 “(a) Holds a mobile electronic device in the person’s hand; or

17 “(b) Uses a mobile electronic device for any purpose.

18 “(3) This section does not apply to a person who activates or deactivates a mobile communi-
19 cation device or a function of the device.

20 “(4) It is an affirmative defense to a prosecution of a person under this section that the person:

21 “(a) Used the mobile electronic device to communicate if the person:

22 “(A) Was summoning or providing medical or other emergency help if no other person in the
23 vehicle was capable of summoning help; or

24 “(B) Was an individual employed as a commercial motor vehicle driver or a school bus driver
25 who uses a mobile electronic device within the scope of the person’s employment if the use is per-
26 mitted under regulations promulgated pursuant to 49 U.S.C. 31136 as in effect on January 1, 2017;

27 “(b) Was 18 years of age or older and was using a hands-free accessory;

28 “(c) Was operating an ambulance or emergency vehicle while acting in the scope of the person’s
29 employment;

30 “(d) Was a police officer, firefighter or emergency medical services provider and was acting in
31 the scope of the person’s employment;

32 “(e) Was operating a two-way radio device that transmits radio communication transmitted by
33 a station operating on an authorized frequency within the citizens’ or family radio service bands in
34 accordance with rules of the Federal Communications Commission to summon medical or other
35 emergency help; or

36 “(f) Was using a medical device.

37 “(5) The offense described in this section, operating a motor vehicle while using a mobile elec-
38 tronic device, is:

39 “(a) Except as provided in paragraph (b) of this subsection, for a person’s first conviction, a
40 Class A traffic violation.

41 “(b) For a person’s first conviction, if commission of the offense contributes to an accident that
42 is required under ORS 811.725 to be reported to the Department of Transportation, a Class B
43 misdemeanor.

44 “(c) For a person’s second conviction, a Class B misdemeanor.

45 “(d) For a person’s third or subsequent conviction, a Class A misdemeanor.

1 “(6) In addition to any other sentence that may be imposed, the court shall impose a minimum
2 fine of \$2,000 on a person for a third or subsequent conviction of operating a motor vehicle while
3 using a mobile electronic device.

4 “(7) For purposes of this section, sentences for two or more convictions that are imposed in the
5 same sentencing proceeding are considered to be one sentence.

6 “(8)(a) For a person’s first conviction of operating a motor vehicle while using a mobile
7 electronic device, the court may suspend the fine to be imposed under subsection (5)(a) of
8 this section on the condition that the person, within 120 days of sentencing:

9 “(A) Complete at the person’s own expense a distracted driving avoidance course ap-
10 proved by the Department of Transportation under section 4 of this 2017 Act; and

11 “(B) Provide proof of completion to the court.

12 “(b) The court may schedule a hearing to determine whether the person successfully
13 completed the distracted driving avoidance course.

14 “(c) If the person has successfully completed the requirements described in paragraph
15 (a) of this subsection, the court shall enter a sentence of discharge.

16 “(d) If the person has not successfully completed the requirements described in para-
17 graph (a) of this subsection, the court shall:

18 “(A) Grant the person an extension based on good cause shown; or

19 “(B) Impose the fine under subsection (5)(a) of this section.

20 “[8] (9) The Department of Transportation shall place signs on state highways to notify drivers
21 that it is unlawful to operate a motor vehicle on the highways of this state while using a mobile
22 electronic device and violators are subject to criminal penalties.”.

23 “**SECTION 3.** Section 4 of this 2017 Act is added to and made a part of the Oregon Vehicle
24 Code.

25 “**SECTION 4.** (1) The Department of Transportation by rule shall establish standards for
26 a distracted driving avoidance course provided to persons who violate ORS 811.507. The
27 standards must describe the contents and quality of a curriculum for the course, specify
28 requirements for obtaining a certificate or other evidence of having completed the course
29 and otherwise determine the level and depth of knowledge a person must have obtained from
30 the course.

31 “(2) The department shall maintain a list of providers approved to lead the course de-
32 scribed in this section and shall update the list monthly. The department shall prescribe
33 procedures for providing the provider list to local courts.

34 “**SECTION 5.** The amendments to ORS 811.507 by section 1 of this 2017 Act apply to
35 conduct that occurs on or after the effective date of this 2017 Act.

36 “**SECTION 6.** (1) Section 4 of this 2017 Act and the amendments to ORS 811.507 by section
37 2 of this 2017 Act become operative on January 1, 2018.

38 “(2) The Department of Transportation may take any action before the operative date
39 specified in subsection (1) of this section that is necessary to enable the department, on and
40 after the operative date specified in subsection (1) of this section, to exercise the duties,
41 functions and powers conferred on the department by section 4 of this 2017 Act and the
42 amendments to ORS 811.507 by section 2 of this 2017 Act.

43 “**SECTION 7.** This 2017 Act being necessary for the immediate preservation of the public
44 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
45 October 1, 2017.”.

