

FINAL BILL REPORT

SSB 5289

PARTIAL VETO C 334 L 17 Synopsis as Enacted

Brief Description: Modifying the infraction of and penalties for distracted driving.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Rivers, Liias, Miloscia, Carlyle and Kuderer).

Senate Committee on Transportation House Committee on Transportation

Background: It is a traffic infraction for any driver over 18 years of age who is operating a moving motor vehicle (1) to hold a wireless communications device to their ear, or (2) to send, read, or write a text message; unless the person is using a hands-free device. The two different infractions have some of the same exemptions, which include when a driver is:

- operating an authorized emergency vehicle; or
- reporting illegal activity, summoning medical or emergency help, or using the device to prevent injury to a person or property.

A violation of the provisions listed above have an associated base penalty of \$48 and additional statutory assessments of \$88 for a total penalty of \$136. The infraction does not become part of the driver's record and is not available to insurance companies or employers.

Any driver holding an instruction permit or any intermediate driver's license, drivers that are at least 16 years of age and under 18 years of age, operating a moving motor vehicle while using a wireless communications device for any purpose other than to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property, is guilty of a traffic infraction. A violation of this provision has an associated base penalty of \$48 and additional legislative assessments of \$88 for a total penalty of \$136.

The state law related to drivers holding a wireless communication device to their ear supersedes any local laws regulating the use of wireless devices in motor vehicles.

A Health Impact Review of this legislation was requested and is available at the Washington State Board of Health's website,

<http://sboh.wa.gov/Portals/7/Doc/HealthImpactReviews/HIR-2017-13-SB5289.pdf>.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary: Beginning July 23, 2017, a person who uses a personal electronic device while driving a motor vehicle on a public highway is guilty of a traffic infraction. The first violation of the infraction carries a base penalty of \$48 and a total penalty of \$136. Second and subsequent violations of this infraction double the base penalty to \$96, resulting in a total penalty of approximately \$235.

Uses means:

- holding a personal electronic device in either hand;
- using your hand or finger to compose, send, read, view, access, browse, transmit, save, or retrieve email, text messages, instant messages, photographs, or other electronic data; and
- watching video on a personal electronic device.

However, the minimal use of a finger to activate, deactivate, or initiate a function of a device is not precluded.

A personal electronic device means any portable electronic device that is capable of wireless communication or electronic data retrieval, but does not include two-way radio, citizen band radio, or amateur radio equipment.

Driving means operating a motor vehicle on a public highway, and includes when the vehicle is temporarily stopped because of traffic or a stop light or stop sign. Driving does not include when the vehicle has pulled over and stopped on the side of an active roadway and can remain stationary safely.

The following actions are exempted from the infraction:

- a driver who is summoning emergency services;
- a driver operating an authorized emergency vehicle;
- a transit system employee using a system for time-sensitive relay communication with transit dispatch services; and
- a commercial motor vehicle driver who uses a device within the scope of an individual's employment as allowed by federal law.

The state law related to drivers using a personal electronic device supersedes any local laws regulating the use of wireless devices in motor vehicles.

The existing statutes related to cell phone and texting infractions and the applicable exemptions covering to drivers over 18 years of age are repealed as of July 23, 2017.

It is a traffic infraction to drive dangerously distracted. Dangerously distracted means a person who engages in any activity not related to the actual operation of a motor vehicle in a manner that interferes with the safe operation of such motor vehicle on any highway. The new infraction may only be enforced as a secondary action when the driver has been detained for a suspected violation of a separate traffic infraction. The base penalty for the infraction is \$30, with a total penalty of approximately \$100. The \$30 base penalty must be deposited into the Distracted Driving Prevention account and may only be appropriated for programs dedicated to reducing distracted driving and improving driver education on distracted driving.

Votes on Final Passage:

Senate	36	13	
House	63	35	(House amended)
Senate			(Senate refused to concur)
House	61	36	(House receded/amended)
Senate	39	10	(Senate concurred)

Effective: July 23, 2017

Partial Veto Summary: The effective date of January 1, 2019, was vetoed.