

SENATE BILL NO. 239

March 23, 2023, Introduced by Senators BELLINO, WOJNO, HERTEL, MCMORROW, CAMILLERI, POLEHANKI, CHANG and BAYER and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 602b (MCL 257.602b), as amended by 2016 PA 332.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 602b. (1) Except as otherwise provided in this section, a
2 ~~person~~ **an individual** shall not read, manually type, or send a text
3 ~~message on a wireless 2-way communication~~ **hold or use a mobile**
4 **electronic** device that is located in the person's hand or in the
5 ~~person's lap, including a wireless telephone used in cellular~~

1 ~~telephone service or personal communication service, while~~
2 ~~operating a motor vehicle, that is moving on a highway or street in~~
3 ~~this state. As used in this subsection, a wireless 2-way~~
4 ~~communication device does not include a global positioning or~~
5 ~~navigation system that is affixed to the motor vehicle. This~~
6 ~~subsection does not apply to a person operating **including, but not**~~
7 ~~**limited to,** a commercial vehicle **or school bus.**~~

8 ~~(2) Except as otherwise provided in this section, a person~~
9 ~~shall not read, manually type, or send a text message on a wireless~~
10 ~~2-way communication device that is located in the person's hand or~~
11 ~~in the person's lap, including a wireless telephone used in~~
12 ~~cellular telephone service or personal communication service, while~~
13 ~~operating a commercial motor vehicle or a school bus on a highway~~
14 ~~or street in this state. As used in this subsection, a wireless 2-~~
15 ~~way communication device does not include a global positioning or~~
16 ~~navigation system that is affixed to the commercial motor vehicle~~
17 ~~or school bus.~~

18 ~~(3) Except as otherwise provided in this section, a person~~
19 ~~shall not use a hand-held mobile telephone to conduct a voice~~
20 ~~communication while operating a commercial motor vehicle or a~~
21 ~~school bus on a highway, including while temporarily stationary due~~
22 ~~to traffic, a traffic control device, or other momentary delays.~~
23 ~~This subsection does not apply if the operator of the commercial~~
24 ~~vehicle or school bus has moved the vehicle to the side of, or off,~~
25 ~~a highway and has stopped in a location where the vehicle can~~
26 ~~safely remain stationary. As used in this subsection, "mobile~~
27 ~~telephone" does not include a 2-way radio service or citizens band~~
28 ~~radio service. As used in this subsection, "use a hand-held mobile~~
29 ~~telephone" means 1 or more of the following:~~

1 ~~(a) Using at least 1 hand to hold a mobile telephone to~~
2 ~~conduct a voice communication.~~

3 ~~(b) Dialing or answering a mobile telephone by pressing more~~
4 ~~than a single button.~~

5 ~~(c) Reaching for a mobile telephone in a manner that requires~~
6 ~~a driver to maneuver so that he or she is no longer in a seated~~
7 ~~driving position, restrained by a seat belt that is installed as~~
8 ~~required by 49 CFR 393.93 and adjusted in accordance with the~~
9 ~~vehicle manufacturer's instructions.~~

10 ~~(4) Subsections (1), (2), and (3) do not apply to an~~
11 ~~individual who is using a device described in subsection (1) or (3)~~
12 ~~to do any of the following:~~

13 ~~(a) Report a traffic accident, medical emergency, or serious~~
14 ~~road hazard.~~

15 ~~(b) Report a situation in which the person believes his or her~~
16 ~~personal safety is in jeopardy.~~

17 ~~(c) Report or avert the perpetration or potential perpetration~~
18 ~~of a criminal act against the individual or another person.~~

19 ~~(d) Carry out official duties as a police officer, law~~
20 ~~enforcement official, member of a paid or volunteer fire~~
21 ~~department, or operator of an emergency vehicle.~~

22 ~~(e) Operate or program the operation of an automated motor~~
23 ~~vehicle while testing or operating the automated motor vehicle~~
24 ~~without a human operator.~~

25 ~~(5) Subsection (1) does not apply to a person using an on-~~
26 ~~demand automated motor vehicle network.~~

27 **(2) Subsection (1) does not apply to any of the following**
28 **situations:**

29 **(a) The use of a mobile electronic device by a law enforcement**

1 officer, firefighter, emergency medical technician, paramedic,
2 operator of an authorized emergency vehicle, or similarly engaged
3 paid or volunteer public safety first responder during the
4 performance of that individual's official duties, or a public
5 utility employee or contractor acting within the scope of that
6 individual's employment when responding to a public utility
7 emergency.

8 (b) The use of a mobile electronic device for emergency
9 purposes, including calling or texting a 9-1-1 system, or making an
10 emergency call to a law enforcement agency, health care provider,
11 fire department, or other emergency services agency or entity to
12 report to appropriate authorities any of the following:

13 (i) A fire, traffic accident, serious road hazard, or medical
14 or hazardous materials emergency.

15 (ii) An operator of another motor vehicle who is driving in a
16 reckless or otherwise unsafe manner or who appears to be driving
17 under the influence of alcohol or drugs.

18 (iii) A crime being committed.

19 (c) The use of a global positioning or navigation feature of a
20 mobile electronic device if information is not entered by hand into
21 the global positioning or navigation system feature of the mobile
22 electronic device.

23 (d) The use of a mobile electronic device in a voice-operated
24 or hands-free mode if the operator of the motor vehicle does not
25 use the operator's hands to operate the device, except for either
26 of the following:

27 (i) Using a single button press, tap, or swipe to activate or
28 deactivate a feature or function of the mobile electronic device or
29 to select a telephone number or name.

1 (ii) Using a mobile electronic device that is integrated into a
2 motor vehicle and utilizes the user interfaces that are permanently
3 installed into the motor vehicle.

4 (e) The use of a mobile electronic device used for the sole
5 purpose of continuously recording or broadcasting video inside or
6 outside of a motor vehicle.

7 (3) ~~(6) An~~ **Except as provided in subsection (4),** an individual
8 who violates this section is responsible for a civil infraction and
9 ~~shall~~ **must** be ordered to ~~pay a civil fine as follows:~~ **do the**
10 **following:**

11 (a) For a first violation, **pay a \$100.00 civil fine or perform**
12 **16 hours of community service, or both.**

13 (b) For a second or subsequent violation, ~~\$200.00.~~ **pay a**
14 **\$250.00 civil fine or perform 24 hours of community service, or**
15 **both.**

16 (4) If an individual is involved in an accident when the
17 individual violates this section, any civil fine ordered must be
18 double the amount that would otherwise be ordered under subsection
19 (3), and a police officer investigating the accident shall indicate
20 in a written accident report that the individual was using a mobile
21 electronic device at the time of the accident.

22 (5) ~~(7)~~ This section supersedes all local ordinances
23 regulating the use of a ~~communications~~ **mobile electronic** device
24 while operating a motor vehicle in motion on a highway or street,
25 except that a unit of local government may adopt an ordinance or
26 enforce an existing ordinance substantially corresponding to this
27 section.

28 (6) A court may order the secretary of state to suspend an
29 individual's driver license under section 319 for not more than 90

1 days if the individual is responsible for 3 or more civil
2 infractions under this section within a 3-year period.

3 (7) A police officer enforcing this section may treat a
4 violation of this section as the primary or sole reason for issuing
5 a citation to a driver. A police officer shall not search a motor
6 vehicle or the driver or passenger in the motor vehicle solely
7 because of a violation of this section.

8 (8) This section does not apply to any of the following:

9 (a) A level 3, 4, or 5 automated driving system, as described
10 in "J3016: Taxonomy and Definitions for Terms Related to Driving
11 Automation Systems for On-Road Motor Vehicles", April 2021 edition,
12 published by SAE International, or an automated vehicle equipped
13 with an automated driving system as described in this subdivision,
14 during testing or operation with the automated driving system
15 engaged.

16 (b) Viewing or using in a hands-free manner a device mounted
17 in a vehicle for displaying information related to testing or
18 operating an automated driving system or automated technology.

19 (c) Operating, or programming the operation of, an automated
20 motor vehicle while testing or operating the automated motor
21 vehicle without a human operator while the automated driving system
22 is engaged.

23 (9) As used in this section:

24 (a) "Hold" means to physically support with any part of the
25 hands, arms, or shoulders.

26 (b) "Mobile electronic device" means an electronic device that
27 is not permanently installed in a motor vehicle, including, but not
28 limited to, a device capable of text messaging, voice
29 communication, entertainment, navigation, accessing the internet,

1 or producing email. Mobile electronic device does not include
2 either of the following:

3 (i) A radio designed for the Citizens Band Service or the
4 Amateur Radio Service of the Federal Communications Commission or a
5 commercial 2-way radio communications device or equipment
6 permanently installed in a motor vehicle.

7 (ii) A medical device that is designed to be worn, including,
8 but not limited to, an insulin pump.

9 (c) "Operate" means to drive or assume physical control of a
10 motor vehicle on a public way, street, road, or highway, including
11 operation while temporarily stationary because of traffic, road
12 conditions, a traffic light, or a stop sign. Operate does not
13 include a motor vehicle that is lawfully parked.

14 (d) "Social networking site" means any web-based service that
15 allows individuals to construct a profile within a founded system
16 and communicate with other users of the site for social or
17 amusement purposes.

18 (e) "Use a mobile electronic device" means using a mobile
19 electronic device to do any task, including, but not limited to,
20 any of the following:

21 (i) Sending or receiving a telephone call.

22 (ii) Sending, receiving, or reading a text message.

23 (iii) Viewing, recording, or transmitting a video.

24 (iv) Accessing, reading, or posting to a social networking
25 site.

26 Enacting section 1. This amendatory act takes effect 180 days
27 after the date it is enacted into law.

28 Enacting section 2. This amendatory act does not take effect
29 unless all of the following bills of the 102nd Legislature are

1 enacted into law:

2 (a) Senate Bill No. 240.

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4 (b) Senate Bill No. 241.

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