
SUBSTITUTE SENATE BILL 5656

State of Washington

64th Legislature

2015 Regular Session

By Senate Transportation (originally sponsored by Senators Rivers, Chase, Fain, and Keiser; by request of Washington Traffic Safety Commission)

READ FIRST TIME 02/27/15.

1 AN ACT Relating to enhancing public safety by reducing distracted
2 driving incidents caused by the use of personal wireless
3 communications devices; amending RCW 46.61.668, 46.20.055, 46.20.075,
4 46.25.010, and 46.20.130; creating a new section; repealing RCW
5 46.61.667; prescribing penalties; and providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature recognizes that cell
8 phones can be a benefit to an individual's convenience and efficiency
9 but are a dangerous distraction when driving a vehicle. The
10 legislature further recognizes that under the federal funding
11 authorization, moving ahead for progress in the 21st century act,
12 funds have been set aside to combat the emerging national problem of
13 distracted driving, and that distracted driving is one of the top
14 three causes of fatal teen collisions. The legislature further
15 recognizes that for Washington state to enhance public safety and
16 qualify for these federal funds, the existing cell phone laws must be
17 amended to meet the new requirements. As such, it is the intent of
18 the legislature that our state's existing cell phone laws are brought
19 in line with federal grant criteria to ensure that the maximum amount
20 of federal funds are made available to these important safety
21 programs.

1 **Sec. 2.** RCW 46.61.668 and 2013 c 224 s 16 are each amended to
2 read as follows:

3 ~~(1)(a) ((Except as provided in subsection (2)(a) of this~~
4 ~~section,))~~ A person operating a ((moving noncommercial)) motor
5 vehicle on a public highway (i) while holding a personal wireless
6 communications device in his or her hand or hands or (ii) who((, by
7 ~~means of an electronic))~~ uses a personal wireless communications
8 device((, sends, reads, or writes a text message)) to read or
9 manually enter data including, but not limited to, short message
10 service texting, emailing, instant messaging, or engaging in any
11 other form of electronic data retrieval or electronic data
12 communication, is guilty of a traffic infraction. This subsection
13 (1)(a) does not prohibit the use of a hands-free personal wireless
14 communications device that is equipped with an attachment or
15 addition, whether or not permanently part of such device, or that is
16 physically or electronically integrated into a motor vehicle by which
17 a user engages in communication without the use of either hand;
18 however, this does not preclude the use of either hand to activate,
19 deactivate, or initiate a function of the device.

20 ~~(b) ((Except as provided in subsection (2)(b) of this section, a~~
21 ~~person driving a commercial motor vehicle, as defined in RCW~~
22 ~~46.25.010, including while temporarily stationary because of traffic,~~
23 ~~a traffic control device, or other momentary delays, who, by means of~~
24 ~~an electronic wireless communications device, sends, reads, or writes~~
25 ~~a text message, is guilty of a traffic infraction. For purposes of~~
26 ~~this subsection, "driving" does not include operating a commercial~~
27 ~~motor vehicle with or without the motor running when the driver has~~
28 ~~moved the vehicle to the side of, or off, a highway and has stopped~~
29 ~~in a location where the vehicle can safely remain stationary.~~

30 ~~(c) A person does not send, read, or write a text message when he~~
31 ~~or she reads, selects, or enters a phone number or name in a wireless~~
32 ~~communications device for the purpose of making a phone call))~~ The
33 holder of an intermediate license under RCW 46.20.075 or driver's
34 instruction permit under RCW 46.20.055 may not use a personal
35 wireless communications device in any manner while operating a motor
36 vehicle.

37 ~~(2)((a))~~ Subsection ~~(1)((a))~~ of this section does not apply
38 to ~~((a person operating))~~:

39 ~~((i) An authorized emergency vehicle;~~

1 ~~(ii) A voice-operated global positioning or navigation system~~
2 ~~that is affixed to the vehicle and that allows the user to send or~~
3 ~~receive messages without diverting visual attention from the road or~~
4 ~~engaging the use of either hand; or~~

5 ~~(iii) A moving motor vehicle while using an electronic wireless~~
6 ~~communications device to:~~

7 ~~(A) Report illegal activity;~~

8 ~~(B) Summon medical or other emergency help;~~

9 ~~(C) Prevent injury to a person or property; or~~

10 ~~(D) Relay information that is time sensitive between a transit or~~
11 ~~for-hire operator and that operator's dispatcher, in which the device~~
12 ~~is permanently affixed to the vehicle.~~

13 ~~(b) Subsection (1)(b) of this section does not apply to a person~~
14 ~~operating a commercial motor vehicle when necessary to communicate~~
15 ~~with law enforcement officials or other emergency services.~~

16 ~~(3) Infractions under subsection (1)(a) of this section shall not~~
17 ~~become part of the driver's record under RCW 46.52.101 and~~
18 ~~46.52.120. Additionally, a finding that a person has committed a~~
19 ~~traffic infraction under subsection (1)(a) of this section shall not~~
20 ~~be made available to insurance companies or employers)) (a) A driver~~
21 ~~who uses a personal wireless communications device to contact~~
22 ~~emergency services; or~~

23 ~~(b) Emergency services personnel who use a personal wireless~~
24 ~~communications device while (i) operating an emergency services~~
25 ~~vehicle and (ii) engaged in the performance of their duties as~~
26 ~~emergency services personnel.~~

27 ~~(3) For purposes of this section: (a) "Operating a motor vehicle"~~
28 ~~includes the operation of a motor vehicle while it is moving and~~
29 ~~while it is temporarily stationary because of traffic, a traffic~~
30 ~~light, or a stop sign, and does not include when the vehicle has~~
31 ~~pulled over to the side of, or off, the roadway and has stopped in a~~
32 ~~location where it can safely remain stationary; and (b) "personal~~
33 ~~wireless communications device" includes a device through which~~
34 ~~personal wireless services, as defined in 47 U.S.C. Sec.~~
35 ~~332(c)(7)(C)(i), are transmitted, and does not include a global~~
36 ~~navigation satellite system receiver used for positioning, emergency~~
37 ~~notification, or navigation purposes.~~

38 ~~(4) A person found to have committed more than one violation of~~
39 ~~this section within a five-year period must be assessed a monetary~~
40 ~~penalty equal to twice the penalty assessed under RCW~~

1 46.63.110. Fifty percent of the moneys collected under this
2 subsection must be deposited into the highway safety fund under RCW
3 46.68.060.

4 (5) The state preempts the field of regulating the use of
5 personal wireless communications devices in motor vehicles, and this
6 section supersedes any local laws, ordinances, orders, rules, or
7 regulations enacted by any political subdivision or municipality to
8 regulate the use of personal wireless communications devices by the
9 operator of a motor vehicle.

10 **Sec. 3.** RCW 46.20.055 and 2012 c 80 s 5 are each amended to read
11 as follows:

12 (1) **Driver's instruction permit.** The department may issue a
13 driver's instruction permit with or without a photograph to an
14 applicant who has successfully passed all parts of the examination
15 other than the driving test, provided the information required by RCW
16 46.20.091, paid an application fee of twenty-five dollars, and meets
17 the following requirements:

- 18 (a) Is at least fifteen and one-half years of age; or
19 (b) Is at least fifteen years of age and:
20 (i) Has submitted a proper application; and
21 (ii) Is enrolled in a traffic safety education program offered,
22 approved, and accredited by the superintendent of public instruction
23 or offered by a driver training school licensed and inspected by the
24 department of licensing under chapter 46.82 RCW, that includes
25 practice driving.

26 (2) **Waiver of written examination for instruction permit.** The
27 department may waive the written examination, if, at the time of
28 application, an applicant is enrolled in:

- 29 (a) A traffic safety education course as defined by RCW
30 28A.220.020(2); or
31 (b) A course of instruction offered by a licensed driver training
32 school as defined by RCW 46.82.280.

33 The department may require proof of registration in such a course
34 as it deems necessary.

35 (3) **Effect of instruction permit.** A person holding a driver's
36 instruction permit may drive a motor vehicle, other than a
37 motorcycle, upon the public highways if:

- 38 (a) The person has immediate possession of the permit; and

1 (b) (~~The person is not using a wireless communications device,~~
2 ~~unless the person is using the device to report illegal activity,~~
3 ~~summon medical or other emergency help, or prevent injury to a person~~
4 ~~or property; and~~

5 ~~(e)~~) An approved instructor, or a licensed driver with at least
6 five years of driving experience, occupies the seat beside the
7 driver.

8 (4) **Term of instruction permit.** A driver's instruction permit is
9 valid for one year from the date of issue.

10 (a) The department may issue one additional one-year permit.

11 (b) The department may issue a third driver's permit if it finds
12 after an investigation that the permittee is diligently seeking to
13 improve driving proficiency.

14 (c) A person applying for an additional instruction permit must
15 submit the application to the department in person and pay an
16 application fee of twenty-five dollars for each issuance.

17 **Sec. 4.** RCW 46.20.075 and 2011 c 60 s 44 are each amended to
18 read as follows:

19 (1) An intermediate license authorizes the holder to drive a
20 motor vehicle under the conditions specified in this section. An
21 applicant for an intermediate license must be at least sixteen years
22 of age and:

23 (a) Have possessed a valid instruction permit for a period of not
24 less than six months;

25 (b) Have passed a driver licensing examination administered by
26 the department;

27 (c) Have passed a course of driver's education in accordance with
28 the standards established in RCW 46.20.100;

29 (d) Present certification by his or her parent, guardian, or
30 employer to the department stating (i) that the applicant has had at
31 least fifty hours of driving experience, ten of which were at night,
32 during which the driver was supervised by a person at least twenty-
33 one years of age who has had a valid driver's license for at least
34 three years, and (ii) that the applicant has not been issued a notice
35 of traffic infraction or cited for a traffic violation that is
36 pending at the time of the application for the intermediate license;

37 (e) Not have been convicted of or found to have committed a
38 traffic violation within the last six months before the application
39 for the intermediate license; and

1 (f) Not have been adjudicated for an offense involving the use of
2 alcohol or drugs during the period the applicant held an instruction
3 permit.

4 (2) For the first six months after the issuance of an
5 intermediate license or until the holder reaches eighteen years of
6 age, whichever occurs first, the holder of the license may not
7 operate a motor vehicle that is carrying any passengers under the age
8 of twenty who are not members of the holder's immediate family as
9 defined in RCW 42.17A.005. For the remaining period of the
10 intermediate license, the holder may not operate a motor vehicle that
11 is carrying more than three passengers who are under the age of
12 twenty who are not members of the holder's immediate family.

13 (3) The holder of an intermediate license may not operate a motor
14 vehicle between the hours of 1 a.m. and 5 a.m. except when the holder
15 is accompanied by a parent, guardian, or a licensed driver who is at
16 least twenty-five years of age.

17 ~~(4) ((The holder of an intermediate license may not operate a~~
18 ~~moving motor vehicle while using a wireless communications device~~
19 ~~unless the holder is using the device to report illegal activity,~~
20 ~~summon medical or other emergency help, or prevent injury to a person~~
21 ~~or property.~~

22 ~~(5))~~ It is a traffic infraction for the holder of an
23 intermediate license to operate a motor vehicle in violation of the
24 restrictions imposed under this section.

25 ~~((6) Except for a violation of subsection (4) of this section,))~~
26 (5) Enforcement of this section by law enforcement officers may be
27 accomplished only as a secondary action when a driver of a motor
28 vehicle has been detained for a suspected violation of this title or
29 an equivalent local ordinance or some other offense.

30 ~~((7))~~ (6) An intermediate licensee may drive at any hour
31 without restrictions on the number of passengers in the vehicle if
32 necessary for agricultural purposes.

33 ~~((8))~~ (7) An intermediate licensee may drive at any hour
34 without restrictions on the number of passengers in the vehicle if,
35 for the twelve-month period following the issuance of the
36 intermediate license, he or she:

37 (a) Has not been involved in an accident involving only one motor
38 vehicle;

1 (b) Has not been involved in an accident where he or she was
2 cited in connection with the accident or was found to have caused the
3 accident;

4 (c) Has not been involved in an accident where no one was cited
5 or was found to have caused the accident; and

6 (d) Has not been convicted of or found to have committed a
7 traffic offense described in chapter 46.61 RCW or violated
8 restrictions placed on an intermediate licensee under this section.

9 **Sec. 5.** RCW 46.25.010 and 2013 c 224 s 3 are each amended to
10 read as follows:

11 The definitions set forth in this section apply throughout this
12 chapter.

13 (1) "Alcohol" means any substance containing any form of alcohol,
14 including but not limited to ethanol, methanol, propanol, and
15 isopropanol.

16 (2) "Alcohol concentration" means:

17 (a) The number of grams of alcohol per one hundred milliliters of
18 blood; or

19 (b) The number of grams of alcohol per two hundred ten liters of
20 breath.

21 (3) "Commercial driver's license" (CDL) means a license issued to
22 an individual under chapter 46.20 RCW that has been endorsed in
23 accordance with the requirements of this chapter to authorize the
24 individual to drive a class of commercial motor vehicle.

25 (4) The "commercial driver's license information system" (CDLIS)
26 is the information system established pursuant to 49 U.S.C. Sec.
27 31309 to serve as a clearinghouse for locating information related to
28 the licensing and identification of commercial motor vehicle drivers.

29 (5) "Commercial learner's permit" (CLP) means a permit issued
30 under RCW 46.25.052 for the purposes of behind-the-wheel training.

31 (6) "Commercial motor vehicle" means a motor vehicle or
32 combination of motor vehicles used in commerce to transport
33 passengers or property if the motor vehicle:

34 (a) Has a gross combination weight rating or gross combination
35 weight of 11,794 kilograms or more (26,001 pounds or more), whichever
36 is greater, inclusive of (~~(a-[any])~~) any towed unit (~~([for-units])~~) or
37 units with a gross vehicle weight rating or gross vehicle weight of
38 more than 4,536 kilograms (10,000 pounds or more), whichever is
39 greater; or

1 (b) Has a gross vehicle weight rating or gross vehicle weight of
2 11,794 kilograms or more (26,001 pounds or more), whichever is
3 greater; or

4 (c) Is designed to transport sixteen or more passengers,
5 including the driver; or

6 (d) Is of any size and is used in the transportation of hazardous
7 materials as defined in this section; or

8 (e) Is a school bus regardless of weight or size.

9 (7) "Conviction" means an unvacated adjudication of guilt, or a
10 determination that a person has violated or failed to comply with the
11 law in a court of original jurisdiction or by an authorized
12 administrative tribunal, an unvacated forfeiture of bail or
13 collateral deposited to secure the person's appearance in court, a
14 plea of guilty or nolo contendere accepted by the court, the payment
15 of a fine or court cost, entry into a deferred prosecution program
16 under chapter 10.05 RCW, or violation of a condition of release
17 without bail, regardless of whether or not the penalty is rebated,
18 suspended, or probated.

19 (8) "Disqualification" means a prohibition against driving a
20 commercial motor vehicle.

21 (9) "Drive" means to drive, operate, or be in physical control of
22 a motor vehicle in any place open to the general public for purposes
23 of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and
24 46.25.120, "drive" includes operation or physical control of a motor
25 vehicle anywhere in the state.

26 (10) "Drugs" are those substances as defined by RCW 69.04.009,
27 including, but not limited to, those substances defined by 49 C.F.R.
28 Sec. 40.3.

29 (11) "Employer" means any person, including the United States, a
30 state, or a political subdivision of a state, who owns or leases a
31 commercial motor vehicle, or assigns a person to drive a commercial
32 motor vehicle.

33 (12) "Gross vehicle weight rating" (GVWR) means the value
34 specified by the manufacturer as the maximum loaded weight of a
35 single vehicle. The GVWR of a combination or articulated vehicle,
36 commonly referred to as the "gross combined weight rating" or GCWR,
37 is the GVWR of the power unit plus the GVWR of the towed unit or
38 units. If the GVWR of any unit cannot be determined, the actual gross
39 weight will be used. If a vehicle with a GVWR of less than 11,794
40 kilograms (26,001 pounds or less) has been structurally modified to

1 carry a heavier load, then the actual gross weight capacity of the
2 modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will
3 be used as the GVWR.

4 (13) "Hazardous materials" means any material that has been
5 designated as hazardous under 49 U.S.C. Sec. 5103 and is required to
6 be placarded under subpart F of 49 C.F.R. Part 172 or any quantity of
7 a material listed as a select agent or toxin in 42 C.F.R. Part 73.

8 (14) "Motor vehicle" means a vehicle, machine, tractor, trailer,
9 or semitrailer propelled or drawn by mechanical power used on
10 highways, or any other vehicle required to be registered under the
11 laws of this state, but does not include a vehicle, machine, tractor,
12 trailer, or semitrailer operated exclusively on a rail.

13 (15) "Out-of-service order" means a declaration by an authorized
14 enforcement officer of a federal, state, Canadian, Mexican, or local
15 jurisdiction that a driver, a commercial motor vehicle, or a motor
16 carrier operation is out-of-service pursuant to 49 C.F.R. Secs.
17 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North
18 American uniform out-of-service criteria.

19 (16) "Positive alcohol confirmation test" means an alcohol
20 confirmation test that:

21 (a) Has been conducted by a breath alcohol technician under 49
22 C.F.R. Part 40; and

23 (b) Indicates an alcohol concentration of 0.04 or more.

24 A report that a person has refused an alcohol test, under
25 circumstances that constitute the refusal of an alcohol test under 49
26 C.F.R. Part 40, will be considered equivalent to a report of a
27 positive alcohol confirmation test for the purposes of this chapter.

28 (17) "School bus" means a commercial motor vehicle used to
29 transport preprimary, primary, or secondary school students from home
30 to school, from school to home, or to and from school-sponsored
31 events. School bus does not include a bus used as a common carrier.

32 (18) "Serious traffic violation" means:

33 (a) Excessive speeding, defined as fifteen miles per hour or more
34 in excess of the posted limit;

35 (b) Reckless driving, as defined under state or local law;

36 (c) Driving while (~~using~~) holding a (~~hand-held~~) personal
37 wireless communications device (~~{hand-held mobile telephone}~~),
38 defined as a violation of RCW (~~(46.61.667(1)(b))~~) 46.61.668(1)(a)(i)
39 or an equivalent administrative rule or local law, ordinance, rule,
40 or resolution;

1 (d) Texting, defined as a violation of RCW 46.61.668(1)(a)(ii) or
2 an equivalent administrative rule or local law, ordinance, rule, or
3 resolution;

4 (e) A violation of a state or local law relating to motor vehicle
5 traffic control, other than a parking violation, arising in
6 connection with an accident or collision resulting in death to any
7 person;

8 (f) Driving a commercial motor vehicle without obtaining a
9 commercial driver's license;

10 (g) Driving a commercial motor vehicle without a commercial
11 driver's license in the driver's possession; however, any individual
12 who provides proof to the court by the date the individual must
13 appear in court or pay any fine for such a violation, that the
14 individual held a valid CDL on the date the citation was issued, is
15 not guilty of a "serious traffic violation";

16 (h) Driving a commercial motor vehicle without the proper class
17 of commercial driver's license endorsement or endorsements for the
18 specific vehicle group being operated or for the passenger or type of
19 cargo being transported; and

20 (i) Any other violation of a state or local law relating to motor
21 vehicle traffic control, other than a parking violation, that the
22 department determines by rule to be serious.

23 (19) "State" means a state of the United States and the District
24 of Columbia.

25 (20) "Substance abuse professional" means an alcohol and drug
26 specialist meeting the credentials, knowledge, training, and
27 continuing education requirements of 49 C.F.R. Sec. 40.281.

28 (21) "Tank vehicle" means any commercial motor vehicle that is
29 designed to transport any liquid or gaseous materials within a tank
30 or tanks having an individual rated capacity of more than one hundred
31 nineteen gallons and an aggregate rated capacity of one thousand
32 gallons or more that is either permanently or temporarily attached to
33 the vehicle or the chassis. A commercial motor vehicle transporting
34 an empty storage container tank, not designed for transportation,
35 with a rated capacity of one thousand gallons or more that is
36 temporarily attached to a flatbed trailer is not considered a tank
37 vehicle.

38 (22) "Type of driving" means one of the following:

39 (a) "Nonexcepted interstate," which means the CDL or CLP holder
40 or applicant operates or expects to operate in interstate commerce,

1 is both subject to and meets the qualification requirements under 49
2 C.F.R. Part 391 as it existed on July 8, 2014, or such subsequent
3 date as may be provided by the department by rule, consistent with
4 the purposes of this section, and is required to obtain a medical
5 examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on
6 July 8, 2014, or such subsequent date as may be provided by the
7 department by rule, consistent with the purposes of this section;

8 (b) "Excepted interstate," which means the CDL or CLP holder or
9 applicant operates or expects to operate in interstate commerce, but
10 engages exclusively in transportation or operations excepted under 49
11 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on
12 July 8, 2014, or such subsequent date as may be provided by the
13 department by rule, consistent with the purposes of this section,
14 from all or parts of the qualification requirements of 49 C.F.R. Part
15 391 as it existed on July 8, 2014, or such subsequent date as may be
16 provided by the department by rule, consistent with the purposes of
17 this section, and is therefore not required to obtain a medical
18 examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on
19 July 8, 2014, or such subsequent date as may be provided by the
20 department by rule, consistent with the purposes of this section;

21 (c) "Nonexcepted intrastate," which means the CDL or CLP holder
22 or applicant operates only in intrastate commerce and is therefore
23 subject to state driver qualification requirements; or

24 (d) "Excepted intrastate," which means the CDL or CLP holder or
25 applicant operates in intrastate commerce, but engages exclusively in
26 transportation or operations excepted from all or parts of the state
27 driver qualification requirements.

28 (23) "United States" means the fifty states and the District of
29 Columbia.

30 (24) "Verified positive drug test" means a drug test result or
31 validity testing result from a laboratory certified under the
32 authority of the federal department of health and human services
33 that:

34 (a) Indicates a drug concentration at or above the cutoff
35 concentration established under 49 C.F.R. Sec. 40.87; and

36 (b) Has undergone review and final determination by a medical
37 review officer.

38 A report that a person has refused a drug test, under
39 circumstances that constitute the refusal of a federal department of
40 transportation drug test under 49 C.F.R. Part 40, will be considered

1 equivalent to a report of a verified positive drug test for the
2 purposes of this chapter.

3 **Sec. 6.** RCW 46.20.130 and 2006 c 190 s 1 are each amended to
4 read as follows:

5 (1) The director shall prescribe the content of the driver
6 licensing examination and the manner of conducting the examination,
7 which shall include, but is not limited to:

8 (a) A test of the applicant's eyesight and ability to see,
9 understand, and follow highway signs regulating, warning, and
10 directing traffic;

11 (b) A test of the applicant's knowledge of traffic laws and
12 ability to understand and follow the directives of lawful authority,
13 orally or graphically, that regulate, warn, and direct traffic in
14 accordance with the traffic laws of this state. The director shall
15 incorporate questions on distracted driving in this portion of the
16 examination;

17 (c) An actual demonstration of the applicant's ability to operate
18 a motor vehicle without jeopardizing the safety of persons or
19 property. If the applicant is deaf or hearing impaired, the applicant
20 may be accompanied by an interpreter to assist the applicant during
21 the demonstration. The interpreter will be of the applicant's
22 choosing from a list provided by the department of licensing; and

23 (d) Such further examination as the director deems necessary:

24 (i) To determine whether any facts exist that would bar the
25 issuance of a vehicle operator's license under chapters 46.20, 46.21,
26 and 46.29 RCW; and

27 (ii) To determine the applicant's fitness to operate a motor
28 vehicle safely on the highways.

29 (2) If the applicant desires to drive a motorcycle or a motor-
30 driven cycle, he or she must qualify for a motorcycle endorsement
31 under RCW 46.20.500 through 46.20.515.

32 NEW SECTION. **Sec. 7.** RCW 46.61.667 (Using a wireless
33 communications device or hand-held mobile telephone while driving)
34 and 2013 c 224 s 15, 2010 c 223 s 3, & 2007 c 417 s 2 are each
35 repealed.

1 NEW SECTION. **Sec. 8.** This act takes effect August 1, 2015.

--- END ---