

**Amendment - 1st Reading-white - Requested by: John Esp - (S) Highways and Transportation**

- 2025  
69th Legislature 2025

Drafter: Maxwell Parson,

SB0359.001.005

1

SENATE BILL NO. 359

2

INTRODUCED BY S. NOVAK, M. LEE, D. HARVEY, L. SMITH, S. DEMAROIS, J. LYNCH

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING DISTRACTED DRIVING RELATING TO MOBILE  
5 DEVICES; REQUIRING THE USE OF HANDS-FREE DEVICES WHILE OPERATING A MOTOR VEHICLE;  
6 PROHIBITING THE USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE;  
7 PROVIDING EXCEPTIONS; PROVIDING PENALTIES; PROVIDING DEFINITIONS; AND AMENDING  
8 SECTION 61-11-203, MCA."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11

12 NEW SECTION. Section 1. Distracted driving -- hands-free device. (1) Unless a motor vehicle is  
13 ~~stopped, standing, or~~ parked, a person may not operate a motor vehicle on a street or highway if the person  
14 does any of the following:

15 (a) physically holds or supports with any part of the person's body either of the following:

16 (i) a portable wireless communication device, except that a person may use a portable wireless  
17 communication device with an earpiece, a headphone device, or a device worn on a wrist to conduct a voice-  
18 based communication if the wrist device is operated without the use of hands; or

19 (ii) a stand-alone electronic device;

20 (b) writes, sends, watches, or reads any text-based or video-based communication, including a  
21 text message, instant message, email, video, or any internet data, on a portable wireless communication device  
22 or a stand-alone electronic device;

23 (c) watches a video or movie on a portable wireless communication device or a stand-alone  
24 electronic device, unless the person is watching data related to the navigation of the vehicle; or

25 (d) records, posts, sends, or broadcasts video, including a videoconference on a portable wireless  
26 communication device or a stand-alone electronic device, except for electronic devices used for the sole  
27 purpose of continuously recording or broadcasting video within or outside of the motor vehicle.

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1 (2) Subsection (1) does not apply to:

2 (a) the use of voice-based communications, including through the use of a portable wireless  
3 communication device or a stand-alone electronic device, to direct the writing, sending, reading, or other  
4 communicating of any text-based communication; or

5 (b) the use of a portable wireless communication device or a stand-alone device when used in a  
6 hands-free manner for:

7 (i) navigation of the motor vehicle;

8 (ii) use of a global positioning system; or

9 (iii) obtaining motor vehicle information or information related to driving a motor vehicle.

10 (3) This section does not prohibit:

11 (a) the operation of a motor vehicle while using a device, including a device that is accessible  
12 through an interface that is embedded in a motor vehicle and allows communication without the use of either of  
13 the driver's hands, except to activate or deactivate a function of the device; or

14 (b) the use of technology that is physically integrated into the vehicle.

15 (4) This section does not apply to:

16 (a) an operator of an authorized emergency, law enforcement, or probation vehicle who uses a  
17 portable wireless communication device while acting in an official capacity;

18 (b) an operator who is licensed by the federal communications commission while that person is  
19 operating a radio frequency device other than a portable wireless communication device;

20 (c) an operator who uses a two-way radio or private land mobile radio system, within the meaning  
21 of 47 CFR 90, while in the performance and scope of the operator's work-related duties and who is operating a  
22 fleet vehicle or who possesses a commercial driver license; or

23 (d) an operator who uses a portable wireless communication device either:

24 (i) to report illegal activity or summon emergency help; or

25 (ii) to relay information, provided the device is permanently or temporarily affixed to the motor  
26 vehicle, in the course of the operator's occupational duties between the operator and either:

27 (A) a dispatcher; or

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- 1 (B) a digital network or software application service.
- 2 (5) A person who violates this section is subject to a civil penalty as follows:
- 3 (a) a fine of not less than \$75 or more than \$149 for a first violation; and
- 4 (b) a fine of not less than \$150 or more than \$250 for a second or subsequent violation.
- 5 (6) A peace officer who stops a motor vehicle for an alleged violation of this section may not take
- 6 possession of or otherwise inspect a portable wireless communication device in the possession of the operator
- 7 unless otherwise authorized by law.
- 8 (7) The regulation and use of portable wireless communication devices while operating a motor
- 9 vehicle are of statewide concern.
- 10 (8) For the purposes of this section, the following definitions apply:
- 11 (a) "Internet data" includes but is not limited to any conceivable application in which information is
- 12 conveyed by the internet that requires the visual or tactile attention of the user. The term includes social media
- 13 in any form.
- 14 (b) (i) "Portable wireless communication device" means a cellular telephone, a portable telephone,
- 15 a text-messaging device, a personal digital assistant, a stand-alone computer, a global positioning system
- 16 receiver, or a substantially similar portable wireless device that is used to initiate or receive communication,
- 17 information, or data.
- 18 (ii) The term does not include a radio, a citizens band radio, a citizens band radio hybrid, a
- 19 commercial two-way radio communication device or its functional equivalent, a subscription-based emergency
- 20 communication device, a prescribed medical device, an amateur or ham radio device or in-vehicle security, or a
- 21 navigation or remote diagnostics system.
- 22 (c) "Stand-alone electronic device" means a portable device other than a portable wireless
- 23 communication device that stores audio or video data files to be retrieved on demand by a user.

24

25 **Section 2.** Section 61-11-203, MCA, is amended to read:

26 **"61-11-203. Definitions -- habitual traffic offenders -- point schedule.** (1) As used in this part, the

27 following definitions apply:

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1 (a) "Conviction" has the meaning provided in 61-5-213 resulting from a violation of traffic  
2 regulations on highways in this state or a traffic statute or traffic regulation in another jurisdiction.

3 (b) "Habitual traffic offender" means any person who within a 3-year period accumulates 30 or  
4 more conviction points according to the schedule specified in subsection (2).

5 (c) "License" means any type of license or permit to operate a motor vehicle.

6 (d) "Moving violation" means a violation of a traffic regulation of this state or another jurisdiction by  
7 a person while operating a motor vehicle or in actual physical control of a motor vehicle upon a highway.

8 (e) "Traffic regulation" includes any provision governing motor vehicle operation, equipment,  
9 safety, or driver licensing. A traffic regulation does not include provisions governing vehicle registration or local  
10 parking.

11 (2) Subject to subsection (3), when the department receives a report of conviction, the department  
12 shall assign points based on the point schedule to determine whether an individual is a habitual traffic offender,  
13 as follows:

14 (a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;

15 (b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle,  
16 or negligent vehicular assault, 12 points;

17 (c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in  
18 the commission of which a motor vehicle is used, 12 points;

19 (d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind, 10  
20 points;

21 (e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points;

22 (f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any  
23 person to stop at the scene of the accident and give the required information and assistance, 8 points;

24 (g) willful failure of the driver involved in an accident resulting in property damage of \$1,000 to stop  
25 at the scene of the accident and give the required information or failure to otherwise report an accident in  
26 violation of Title 61, chapter 7, 4 points;

27 (h) reckless driving, 5 points;

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- 1 (i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;
- 2 (j) any of the mandatory motor vehicle liability protection offenses, 5 points;
- 3 (k) operating a motor vehicle without a license to do so, 2 points. However, this subsection (2)(k)
- 4 does not apply to operating a motor vehicle within a period of 180 days from the date the license expired.
- 5 (l) speeding, except as provided in 61-8-725(2)(a), and distracted driving as described in [section
- 6 1], 3 points;
- 7 (m) all other moving violations, 2 points.
- 8 (3) If there are two or more convictions involving a single occurrence, only the number of points for
- 9 the specific conviction carrying the highest points is chargeable against that defendant."

10

11 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an

12 integral part of Title 61, and the provisions of Title 61 apply to [section 1].

13 - END -