

I\_133\_0058-3

133rd General Assembly  
Regular Session  
2019-2020

Sub. H. B. No. 119

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**A BILL**

To amend sections 4511.204, 4511.205, and 4511.991 1  
of the Revised Code to make corrective changes 2  
to the distracted driving and texting-while- 3  
driving law. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4511.204, 4511.205, and 4511.991 5  
of the Revised Code be amended to read as follows: 6

**Sec. 4511.204.** (A) No person shall drive a motor vehicle, 7  
trackless trolley, or streetcar on any street, highway, or 8  
property open to the public for vehicular traffic while using a 9  
handheld electronic wireless communications device to write, 10  
send, or read a text-based communication. 11

(B) Division (A) of this section does not apply to any of 12  
the following: 13

(1) A person using a handheld electronic wireless 14  
communications device in that manner for emergency purposes, 15  
including an emergency contact with a law enforcement agency, 16  
hospital or health care provider, fire department, or other 17



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similar emergency agency or entity;	18
(2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;	19 20 21
(3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;	22 23 24
(4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a telephone call;	25 26 27 28
(5) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle;	29 30 31 32
(6) A person receiving wireless messages via radio waves;	33
(7) A person using a device for navigation purposes;	34
(8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;	35 36 37 38 39
(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;	40 41
(10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.	42 43 44

(C) (1) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (A) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(2) On January 31 of each year, the department of public safety shall issue a report to the general assembly that specifies the number of citations issued for violations of this section during the previous calendar year.

(D) Whoever violates division (A) of this section is guilty of a minor misdemeanor.

(E) This section shall not be construed as invalidating, preempting, or superseding a substantially equivalent municipal ordinance that prescribes penalties for violations of that ordinance that are greater than the penalties prescribed in this section for violations of this section.

(F) A prosecution for ~~a~~ an offense in violation of this section does not preclude a prosecution for ~~a~~ an offense in violation of a substantially equivalent municipal ordinance based on the same conduct. However, ~~if an offender is convicted of or pleads guilty to a violation of this section and is also convicted of or pleads guilty to a violation of a substantially~~

~~equivalent municipal ordinance based on the same conduct,~~ the 75  
two offenses are allied offenses of similar import under section 76  
2941.25 of the Revised Code. 77

(G) As used in this section: 78

(1) "Electronic wireless communications device" includes 79  
any of the following: 80

(a) A wireless telephone; 81

(b) A text-messaging device; 82

(c) A personal digital assistant; 83

(d) A computer, including a laptop computer and a computer 84  
tablet; 85

(e) Any other substantially similar wireless device that 86  
is designed or used to communicate text. 87

(2) "Voice-operated or hands-free device" means a device 88  
that allows the user to vocally compose or send, or to listen to 89  
a text-based communication without the use of either hand except 90  
to activate or deactivate a feature or function. 91

(3) "Write, send, or read a text-based communication" 92  
means to manually write or send, or read a text-based 93  
communication using an electronic wireless communications 94  
device, including manually writing or sending, or reading 95  
communications referred to as text messages, instant messages, 96  
or electronic mail. 97

**Sec. 4511.205.** (A) No holder of a temporary instruction 98  
permit who has not attained the age of eighteen years and no 99  
holder of a probationary driver's license shall drive a motor 100  
vehicle on any street, highway, or property used by the public 101

for purposes of vehicular traffic or parking while using in any 102  
manner an electronic wireless communications device. 103

(B) Division (A) of this section does not apply to either 104  
of the following: 105

(1) A person using an electronic wireless communications 106  
device for emergency purposes, including an emergency contact 107  
with a law enforcement agency, hospital or health care provider, 108  
fire department, or other similar emergency agency or entity; 109

(2) A person using an electronic wireless communications 110  
device whose motor vehicle is in a stationary position and the 111  
motor vehicle is outside a lane of travel; 112

(3) A person using a navigation device in a voice-operated 113  
or hands-free manner who does not manipulate the device while 114  
driving. 115

(C) (1) Except as provided in division (C) (2) of this 116  
section, whoever violates division (A) of this section shall be 117  
fined one hundred fifty dollars. In addition, the court shall 118  
impose a class seven suspension of the offender's driver's 119  
license or permit for a definite period of sixty days. 120

(2) If the person previously has been adjudicated a 121  
delinquent child or a juvenile traffic offender for a violation 122  
of this section, whoever violates this section shall be fined 123  
three hundred dollars. In addition, the court shall impose a 124  
class seven suspension of the person's driver's license or 125  
permit for a definite period of one year. 126

(D) The filing of a sworn complaint against a person for a 127  
juvenile offense in violation of this section does not preclude 128  
the filing of a sworn complaint for a juvenile offense in 129  
violation of a substantially equivalent municipal ordinance for 130

the same conduct. However, ~~if a person is adjudicated a~~ 131  
~~delinquent child or a juvenile traffic offender for a violation~~ 132  
~~of this section and is also adjudicated a delinquent child or a~~ 133  
~~juvenile traffic offender for a violation of a substantially~~ 134  
~~equivalent municipal ordinance for the same conduct,~~ the two 135  
offenses are allied offenses of similar import under section 136  
2941.25 of the Revised Code. 137

(E) As used in this section, "electronic wireless 138  
communications device" includes any of the following: 139

(1) A wireless telephone; 140

(2) A personal digital assistant; 141

(3) A computer, including a laptop computer and a computer 142  
tablet; 143

(4) A text-messaging device; 144

(5) Any other substantially similar electronic wireless 145  
device that is designed or used to communicate via voice, image, 146  
or written word. 147

**Sec. 4511.991.** (A) As used in this section and each 148  
section referenced in division (B) of this section, all of the 149  
following apply: 150

(1) "Distracted" means doing either of the following while 151  
operating a vehicle: 152

(a) Using ~~a handheld~~ an electronic wireless communications 153  
device, as defined in section 4511.204 of the Revised Code, that 154  
is handheld, except when utilizing any of the following: 155

(i) The device's speakerphone function; 156

(ii) A wireless technology standard for exchanging data 157

over short distances; 158

(iii) A "voice-operated or hands-free" ~~device~~ feature that 159  
allows the person to use the ~~electronic wireless communications~~ 160  
device without the use of either hand except to activate, 161  
deactivate, or initiate a feature or function; 162

(iv) Any device that is physically or electronically 163  
integrated into the motor vehicle. 164

(b) Engaging in any activity that is not necessary to the 165  
operation of a vehicle and impairs, or reasonably would be 166  
expected to impair, the ability of the operator to drive the 167  
vehicle safely. 168

(2) "Distracted" does not include operating a motor 169  
vehicle while wearing an earphone or earplug over or in both 170  
ears at the same time. A person who so wears earphones or 171  
earplugs may be charged with a violation of section 4511.84 of 172  
the Revised Code. 173

(3) "Distracted" does not include conducting any activity 174  
while operating a utility service vehicle or a vehicle for or on 175  
behalf of a utility, provided that the driver of the vehicle is 176  
acting in response to an emergency, power outage, or a 177  
circumstance affecting the health or safety of individuals. 178

As used in division (A) (3) of this section: 179

(a) "Utility" means an entity specified in division (A), 180  
(C), (D), (E), or (G) of section 4905.03 of the Revised Code. 181

(b) "Utility service vehicle" means a vehicle owned or 182  
operated by a utility. 183

(B) If an offender violates section 4511.03, 4511.051, 184  
4511.12, 4511.121, 4511.132, 4511.21, 4511.211, 4511.213, 185

4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 186  
4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 187  
4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 188  
4511.431, 4511.44, 4511.441, 4511.451, 4511.46, 4511.47, 189  
4511.54, 4511.55, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 190  
4511.64, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, or 191  
4511.73 of the Revised Code while distracted and the distracting 192  
activity is a contributing factor to the commission of the 193  
violation, the offender is subject to the applicable penalty for 194  
the violation and, notwithstanding section 2929.28 of the 195  
Revised Code, is subject to an additional fine of not more than 196  
one hundred dollars as follows: 197

(1) Subject to the mandatory appearance requirements of 198  
Traffic Rule 13, if a law enforcement officer issues an offender 199  
a ticket, citation, or summons for a violation of any of the 200  
aforementioned sections of the Revised Code that indicates that 201  
the offender was distracted while committing the violation and 202  
that the distracting activity was a contributing factor to the 203  
commission of the violation, the offender may enter a written 204  
plea of guilty and waive the offender's right to contest the 205  
ticket, citation, or summons in a trial provided that the 206  
offender pays the total amount of the fine established for the 207  
violation and pays the additional fine of one hundred dollars. 208

In lieu of payment of the additional fine of one hundred 209  
dollars, the offender instead may elect to attend a distracted 210  
driving safety course, the duration and contents of which shall 211  
be established by the director of public safety. If the offender 212  
attends and successfully completes the course, the offender 213  
shall be issued written evidence that the offender successfully 214  
completed the course. The offender shall be required to pay the 215  
total amount of the fine established for the violation, but 216

shall not be required to pay the additional fine of one hundred 217  
dollars, so long as the offender submits to the court both the 218  
offender's payment in full and such written evidence. 219

(2) If the offender appears in person to contest the 220  
ticket, citation, or summons in a trial and the offender pleads 221  
guilty to or is convicted of the violation, the court, in 222  
addition to all other penalties provided by law, may impose the 223  
applicable penalty for the violation and may impose the 224  
additional fine of not more than one hundred dollars. 225

If the court imposes upon the offender the applicable 226  
penalty for the violation and an additional fine of not more 227  
than one hundred dollars, the court shall inform the offender 228  
that, in lieu of payment of the additional fine of not more than 229  
one hundred dollars, the offender instead may elect to attend 230  
the distracted driving safety course described in division (B) 231  
(1) of this section. If the offender elects the course option 232  
and attends and successfully completes the course, the offender 233  
shall be issued written evidence that the offender successfully 234  
completed the course. The offender shall be required to pay the 235  
total amount of the fine established for the violation, but 236  
shall not be required to pay the additional fine of not more 237  
than one hundred dollars, so long as the offender submits to the 238  
court the offender's payment and such written evidence. 239

**Section 2.** That existing sections 4511.204, 4511.205, and 240  
4511.991 of the Revised Code are hereby repealed. 241