

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 1965

By: O'Donnell, Rogers,
Perryman, Christian,
Sherrer, Virgin, Brown,
Shelton, Montgomery,
McDaniel (Jeannie) and
Hoskin of the House

6 and

7 Sharp of the Senate
8
9

10 An Act relating to motor vehicles; creating the
11 Trooper Nicholas Dees and Trooper Keith Burch Act of
12 2015; amending 47 O.S. 2011, Section 11-901c, as
13 amended by Section 6, Chapter 207, O.S.L. 2012 (47
14 O.S. Supp. 2014, Section 11-901c), which relates to
15 the unlawful use of a cellular telephone or
16 electronic communication device; modifying scope of
certain prohibited act; clarifying language; defining
terms; providing exceptions; specifying information
that is admissible as evidence; providing method of
enforcement; providing for noncodification; and
providing an effective date.

17 AUTHORS: Remove Sharp as principal Senate author and add the
18 Committee on Public Safety as principal author and retain
Sharp as a coauthor

19 AUTHOR: Add the following House Coauthor: Denney

20 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
21 entire bill and insert

22 "An Act relating to texting while driving; creating
23 the Trooper Nicholas Dees and Trooper Keith Burch Act
of 2015; making it unlawful to operate a motor
vehicle while manually composing, sending or reading
an electronic text message; providing penalty;
24 providing exceptions; providing for codification;

1 providing for noncodification; and providing an
2 effective date.

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4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law not to be
6 codified in the Oklahoma Statutes reads as follows:

7 This act shall be known and may be cited as the "Trooper
8 Nicholas Dees and Trooper Keith Burch Act of 2015".

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 11-901d of Title 47, unless
11 there is created a duplication in numbering, reads as follows:

12 A. It shall be unlawful for any person to operate a motor
13 vehicle on any street or highway within this state while using a
14 hand-held electronic communication device to manually compose, send
15 or read an electronic text message while the motor vehicle is in
16 motion.

17 B. Any person who violates the provisions of subsection A of
18 this section shall, upon conviction, be punished by a fine of not
19 more than One Hundred Dollars (\$100.00).

20 C. The Department of Public Safety shall not record or assess
21 points for violations of this section on any license holder's
22 traffic record maintained by the Department.

23 D. The provisions of subsection A of this section shall not
24 apply if the person is using the cellular telephone or electronic

1 communication device for the sole purpose of communicating with any
2 of the following regarding an imminent emergency situation:

- 3 1. An emergency response operator;
- 4 2. A hospital, physician's office or health clinic;
- 5 3. A provider of ambulance services;
- 6 4. A provider of firefighting services; or
- 7 5. A law enforcement agency.

8 E. Municipalities may enact and municipal police officers may
9 enforce ordinances prohibiting and penalizing conduct under the
10 provisions of this section. The provisions of such ordinances shall
11 be the same as provided for in this section; the enforcement
12 provisions of those ordinances shall not be more stringent than
13 those of this section; and the fine and court costs for municipal
14 ordinance violations shall be the same or a lesser amount as
15 provided for in this section.

16 F. For the purpose of this section:

17 1. "Cellular telephone" means an analog or digital wireless
18 telephone authorized by the Federal Communications Commission to
19 operate in the frequency bandwidth reserved for cellular telephones;

20 2. "Compose", "send" or "read" with respect to a text message
21 means the manual entry, sending or retrieval of a text message to
22 communicate with any person or device;

23 3. "Electronic communication device" means an electronic device
24 that permits the user to manually transmit a communication of

1 written text by means other than through an oral transfer or wire
2 communication. This term does not include a device that is
3 physically or electronically integrated into a motor vehicle or a
4 voice-operated global positioning or navigation system that is
5 affixed to a motor vehicle, or a hands-free device that allows the
6 user to write, send or read a text message without the use of either
7 hand except to activate, deactivate or initiate a feature or
8 function; and

9 4. "Text message" includes a text-based message, instant
10 message, electronic message, photo, video or electronic mail.

11 SECTION 3. This act shall become effective November 1, 2015."

12 Passed the Senate the 8th day of April, 2015.

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Presiding Officer of the Senate

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16 Passed the House of Representatives the ____ day of _____,
17 2015.

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Presiding Officer of the House
of Representatives

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9 An Act relating to motor vehicles; creating the
10 Trooper Nicholas Dees and Trooper Keith Burch Act of
11 2015; amending 47 O.S. 2011, Section 11-901c, as
12 amended by Section 6, Chapter 207, O.S.L. 2012 (47
13 O.S. Supp. 2014, Section 11-901c), which relates to
14 the unlawful use of a cellular telephone or
15 electronic communication device; modifying scope of
16 certain prohibited act; clarifying language; defining
17 terms; providing exceptions; specifying information
18 that is admissible as evidence; providing method of
19 enforcement; providing for noncodification; and
20 providing an effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 4. NEW LAW A new section of law not to be
23 codified in the Oklahoma Statutes reads as follows:

24 This act shall be known and may be cited as the "Trooper
Nicholas Dees and Trooper Keith Burch Act of 2015".

SECTION 5. AMENDATORY 47 O.S. 2011, Section 11-901c, as
amended by Section 6, Chapter 207, O.S.L. 2012 (47 O.S. Supp. 2014,
Section 11-901c), is amended to read as follows:

1 Section 11-901c. A. It shall be unlawful for any person to
2 operate a motor vehicle or a commercial motor vehicle or for a
3 public transit driver to operate a motor vehicle on any street or
4 highway within this state while using a cellular telephone or
5 electronic communication device ~~to write, send, or read a text-based~~
6 or while sending or reading data on such a device for the purpose of
7 nonvoice interpersonal communication including, but not limited to,
8 communication methods known as texting, emailing and instant
9 messaging, while the motor vehicle is in motion. For purposes of
10 this subsection, a motor vehicle that is stationary and is not being
11 operated is not subject to the prohibition as provided for in this
12 subsection.

13 B. Any person who violates the provisions of subsection A of
14 this section shall, upon conviction, be guilty of a misdemeanor
15 punishable by a fine of Two Hundred Fifty Dollars (\$250.00) for a
16 first offense. A second or subsequent conviction for a violation of
17 the provisions of subsection A of this section shall be punishable
18 by a fine of not more than Five Hundred Dollars (\$500.00).

19 C. As used in this section:

- 20 1. "Cellular telephone" means an analog or digital wireless
21 telephone authorized by the Federal Communications Commission to
22 operate in the frequency bandwidth reserved for cellular telephones;
- 23 2. "Communications service" means any service lawfully provided
24 for a charge or compensation by any cable system or by any radio,

1 fiber optic, photo-optical, electromagnetic, photoelectronic,
2 satellite, microwave, data transmission, Internet-based or wireless
3 distribution network, system or facility including, but not limited
4 to, any electronic data, video, audio, Internet access, microwave
5 and radio communications, transmissions, signals and services and
6 any such communications, transmissions, signals and services
7 directly or indirectly by or through any of those networks, systems
8 or facilities;

9 3. "Electronic communication device" means ~~an~~ any electronic
10 device, used or capable of being used in a handheld manner, that
11 ~~permits the user~~ is designed or intended to manually receive or
12 ~~transmit a communication of written text by means other than through~~
13 ~~an oral transfer or wire communication~~ or character-based messages,
14 access or store data, or connect to the Internet or any
15 communications service that allows text communications. This term
16 does not include a voice-activated global positioning or navigation
17 system that is affixed to a motor vehicle;

18 ~~3.~~ 4. "Public transit driver" means:

- 19 a. any operator of a public transit vehicle owned and
20 operated by the State of Oklahoma, any public trust
21 authority, county, municipality, town or city within
22 this state,
23 b. any operator of a school bus or multi-passenger motor
24 vehicle owned and approved to operate by the State

1 Department of Education or any school district within
2 this state, or

3 c. any operator, conductor or driver of a locomotive
4 engine, railway car or train of cars; and

5 ~~4.~~ 5. "Write, send, or read a text-based communication", also
6 known as texting, means manually entering alphanumeric text into,
7 sending text, or reading text from, an electronic device, and
8 includes, but is not limited to, short message service (SMS), e-
9 mailing, instant messaging (IM), a command or request to access a
10 World Wide Web page, or engaging in any other form of electronic
11 text retrieval or entry, for present or future communication. ~~As~~
12 ~~used in this paragraph, texting does not include:~~

13 ~~a. using~~

14 D. The provisions of this section shall not apply to a motor
15 vehicle operator who is:

16 1. Performing official duties as an operator of an authorized
17 emergency vehicle as defined in Section 1-103 of this title;

18 2. Reporting an emergency, or criminal or suspicious activity
19 to law enforcement authorities;

20 3. Receiving messages that are:

21 a. related to the operation or navigation of the motor
22 vehicle,

23 b. safety-related information including emergency,
24 traffic or weather alerts,

1 c. data used primarily by the motor vehicle, or

2 d. radio broadcasts;

3 4. Using voice commands to select or enter a telephone number,
4 an extension number, or voicemail retrieval codes and commands into
5 an electronic device for the purpose of initiating or receiving a
6 phone call,

7 ~~b. inputting;~~

8 5. Inputting, selecting, or reading information on a global
9 positioning system or navigation system,

10 ~~e. using;~~

11 6. Conducting wireless interpersonal communication that does
12 not require manual entry of multiple letters, numbers or symbols,
13 except to activate, deactivate or initiate a feature or function;

14 7. Conducting wireless interpersonal communication that does
15 not require reading text messages, except to activate, deactivate or
16 initiate a feature or function; or

17 8. Using a device capable of performing multiple functions for
18 a purpose that is not otherwise prohibited in this ~~part~~ section,
19 including, but not limited to, fleet management systems, dispatching
20 devices, smart phones, citizens band radios, and music players.

21 ~~D.~~ E. This act shall not apply to railroads and railroad
22 operating employees regulated by the Federal Railroad
23 Administration.

1 F. The billing records for a cellular device or electronic
2 communication device when properly obtained by law enforcement
3 authorities or the testimony of or written statements from
4 appropriate authorities receiving such messages may be admissible as
5 evidence in any proceeding to determine whether a violation of this
6 section has been committed.

7 G. Except when the person is the holder of a commercial driver
8 license and is operating a commercial motor vehicle or the person is
9 serving in the capacity of a public transit driver and is operating
10 a motor vehicle, the enforcement of this section by state or local
11 law enforcement agencies must be accomplished only as a secondary
12 action when an operator of a motor vehicle has been detained for a
13 suspected violation of another traffic law provided for in this
14 title.

15 H. Violation of this section shall not serve as the basis for
16 denying otherwise applicable motor vehicle insurance coverage.

17 SECTION 6. This act shall become effective November 1, 2015.

