

HOUSE BILL NO. 4277

February 23, 2021, Introduced by Reps. Manoogian, Bellino, Mueller, LaGrand, Witwer, Tyrone Carter, Tate, Sabo, Hertel and Haadsma and referred to the Committee on Judiciary.

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 shall not ~~read, manually type, or send a text message on a~~
3 ~~wireless 2-way communication~~ **use a mobile electronic** device that is
4 ~~located in the person's hand or in the person's lap, including a~~
5 ~~wireless telephone used in cellular telephone service or personal~~

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

7 (2) Subsection (1) does not apply to any of the following
8 situations:

9 (a) A law enforcement officer, firefighter, emergency medical
10 technician, paramedic, operator of an authorized emergency vehicle,
11 or similarly engaged paid or volunteer public safety first
12 responder during the performance of that person's official duties,
13 and a public utility employee or contractor acting within the scope
14 of that person's employment when responding to a public utility
15 emergency.

16 (b) The use of a mobile electronic device for emergency
17 purposes, including a text messaging device to contact a 9-1-1
18 system, or an emergency call to a law enforcement agency, health
19 care provider, fire department, or other emergency services agency
20 or entity to report to appropriate authorities a fire, traffic
21 accident, serious road hazard, or medical or hazardous materials
22 emergency; to report the operator of another motor vehicle who is
23 driving in a reckless or otherwise unsafe manner or who appears to
24 be driving under the influence of alcohol or drugs; or to report a
25 crime.

26 (c) The use of a global positioning or navigation system
27 feature of a mobile electronic device if information is not entered
28 by hand into the global positioning or navigation system feature of
29 the mobile electronic device.

1 (d) Reading, selecting, or entering a telephone number or name
2 in a mobile electronic device for the purpose of making or
3 receiving a telephone call or if a person otherwise activates or
4 deactivates a feature or function of a mobile electronic device.

5 (e) The use of a mobile electronic device in a voice-operated
6 or hands-free mode if the operator of the motor vehicle does not
7 use his or her hands to operate the device, except to activate or
8 deactivate a feature or function of the mobile electronic device or
9 the use of a mobile electronic device that is integrated into a
10 motor vehicle and utilizes the user interfaces that are permanently
11 installed into the motor vehicle.

12 (3) A person shall not operate a motor vehicle or school bus
13 while wearing headphones or earphones in both ears simultaneously
14 for the purposes of listening to music, video, or other sound
15 broadcasts.

16 (4) A person shall not operate a motor vehicle or school bus
17 while accessing, reading, or posting to a social networking site.

18 (5) A person shall not operate a motor vehicle or school bus
19 while viewing, recording, or transmitting a video on a mobile
20 electronic device.

21 (6) ~~(2)~~ Except as otherwise provided in this section, a person
22 shall not read, manually type, or send a text message on a wireless
23 2-way communication device that is located in the person's hand or
24 in the person's lap, including a wireless telephone used in
25 cellular telephone service or personal communication service, while
26 operating a commercial motor vehicle ~~or a school bus~~ on a highway
27 or street in this state. As used in this subsection, ~~a wireless~~
28 "wireless 2-way communication device" means a mobile telephone as
29 that term is defined in 49 CFR 390.5. Wireless 2-way communication

1 device does not include a global positioning or navigation system
2 that is affixed to the commercial motor vehicle. ~~or school bus.~~

3 (7) ~~(3)~~ Except as otherwise provided in this section, a person
4 shall not use a hand-held mobile telephone to conduct a voice
5 communication while operating a commercial motor vehicle ~~or a~~
6 ~~school bus~~ on a highway, including while temporarily stationary due
7 to traffic, a traffic control device, or other momentary delays.
8 This subsection does not apply if the operator of the commercial
9 vehicle ~~or school bus~~ has moved the vehicle to the side of, or off,
10 a highway and has stopped in a location where the vehicle can
11 safely remain stationary. As used in this subsection, "mobile
12 telephone" **means that term as defined in 49 CFR 390.5. Mobile**
13 **telephone** does not include a 2-way radio service or citizens band
14 radio service. As used in this subsection, "use a hand-held mobile
15 telephone" means 1 or more of the following:

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

18 (b) Dialing or answering a mobile telephone by pressing more
19 than a single button.

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

25 (8) ~~(4)~~ Subsections ~~(1), (2), (6)~~ and ~~(3) (7)~~ do not apply to
26 an individual who is using a device described in subsection ~~(1) (6)~~
27 or ~~(3) (7)~~ to do any of the following:

28 (a) Report a traffic accident, medical emergency, or serious
29 road hazard.

1 (b) Report a situation in which the person believes his or her
2 personal safety is in jeopardy.

3 (c) Report or avert the perpetration or potential perpetration
4 of a criminal act against the individual or another person.

5 (d) Carry out official duties as a police officer, law
6 enforcement official, member of a paid or volunteer fire
7 department, or operator of an emergency vehicle.

8 (e) Operate or program the operation of an automated motor
9 vehicle while testing or operating the automated motor vehicle
10 without a human operator **while the automated driving system is**
11 **engaged.**

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

14 **(9) ~~(6) An~~ Except as provided in subsection (10), an**
15 individual who violates this section is responsible for a civil
16 infraction and ~~shall~~**must** be ordered to pay a civil fine, **community**
17 **service, or both,** as follows:

18 (a) For a first violation, \$100.00 **or 16 hours of community**
19 **service.**

20 (b) For a second or subsequent violation, ~~\$200.00.~~**\$250.00 or**
21 **24 hours of community service, or both.**

22 **(10) If an individual is involved in an accident at the time**
23 **the individual violates this section, the civil fine ordered must**
24 **be double the amount under subsection (9) and a law enforcement**
25 **officer investigating the accident shall indicate in a written**
26 **accident report that the individual was using a mobile electronic**
27 **device at the time of the accident.**

28 **(11) ~~(7)~~ This section supersedes all local ordinances**
29 **regulating the use of a ~~communications~~ mobile electronic device**

1 while operating a motor vehicle in motion on a highway or street,
2 except that a unit of local government may adopt an ordinance or
3 enforce an existing ordinance substantially corresponding to this
4 section.

5 (12) A court may suspend an individual's driver license for
6 not more than 90 days if the individual is responsible for 3 or
7 more civil infractions under this section within a 3-year period.

8 (13) A law enforcement officer enforcing this section may
9 treat a violation of this section as the primary or sole reason for
10 issuing a citation to a driver. A law enforcement officer shall not
11 search a motor vehicle or the driver or passenger in the motor
12 vehicle solely because of a violation of this section.

13 (14) Except as otherwise provided in this section, as used in
14 this section:

15 (a) "Mobile electronic device" means any handheld or portable
16 electronic device capable of providing wireless data or voice
17 communication between 2 or more individuals or amusement, including
18 a cellular telephone; broadband personal communication device; 2-
19 way messaging device; text messaging device; pager; electronic
20 device that can receive or transmit text or character-based images,
21 access or store data, or connect to the internet; personal digital
22 assistant; laptop computer; computer tablet; stand-alone computer;
23 portable computing device; mobile device with a touchscreen display
24 that is designed to be worn; electronic game; equipment that is
25 capable of playing a video, taking photographs, capturing images,
26 or recording or transmitting video; and any similar device that is
27 readily removable from a vehicle and is used to write, send, or
28 read text or data or capture images or video through manual input.
29 Mobile electronic device does not include a radio designed for the

1 Citizens Band Service or the Amateur Radio Service of the Federal
2 Communications Commission or a commercial 2-way radio
3 communications device or equipment permanently installed in a motor
4 vehicle.

5 (b) "Operate" means to drive or assume physical control of a
6 motor vehicle on a public way, street, road, or highway, including
7 operation while temporarily stationary because of traffic, road
8 conditions, a traffic light, or a stop sign. Operate does not
9 include a motor vehicle that is lawfully parked or an automated
10 vehicle with an SAE level 4 or 5 automated driving system that
11 performs dynamic driving tasks in automated mode as referenced in
12 the Society of Automotive Engineers, Inc. International Standard
13 J3016, 2014 edition.

14 (c) "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 Enacting section 1. This amendatory act takes effect 90 days
19 after the date it is enacted into law.

20 Enacting section 2. This amendatory act does not take effect
21 unless both of the following bills of the 101st Legislature are
22 enacted into law:

23 (a) Senate Bill No. ____ or House Bill No. 4278 (request no.
24 02124'21).

25 (b) Senate Bill No. ____ or House Bill No. 4279 (request no.
26 02125'21).