

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 5

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO DISTRACTED DRIVING; AMENDING SECTION 49-1401A, IDAHO CODE, TO
2 PROVIDE FOR HANDS-FREE USE OF CERTAIN DEVICES; AND DECLARING AN EMER-
3 GENCY.
4

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 49-1401A, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 49-1401A. DISTRACTED DRIVING. (1) As used in this section:

9 (a) "Mobile electronic device" means a cellular telephone; broadband
10 personal communication device; two-way messaging device; text mes-
11 saging device; pager; personal digital assistant; laptop computer;
12 computer tablet; stand-alone computer; portable computing device;
13 mobile device with a touchscreen display that is designed to be worn;
14 electronic games; equipment that is capable of playing a video or
15 recording or transmitting video; or any similar electronic device that
16 is used to initiate, receive, or display communication or information.
17 "Mobile electronic device" does not include a radio designed for the
18 citizens band radio service or the amateur radio service of the federal
19 communications commission or a commercial two-way radio communica-
20 tions device, an information or communication system installed within
21 a vehicle, a subscription-based emergency communication device, or a
22 prescribed medical device.

23 (b) "Operate" means to drive or assume physical control of a motor ve-
24 hicle upon a public way, street, road, or highway, including while tem-
25 porarily stationary because of traffic, a traffic control device, or
26 other momentary delays. "Operate" does not include a motor vehicle that
27 is lawfully parked or that has pulled to the side of or off the road at
28 a location where it is legal to do so and where the vehicle remains sta-
29 tionary.

30 (2) Except as provided in this subsection, a person shall not operate a
31 motor vehicle while using a mobile electronic device. The provisions of this
32 subsection shall not apply to:

33 (a) A law enforcement officer, firefighter, emergency medical techni-
34 cian, paramedic, operator of an authorized emergency vehicle, or sim-
35 ilarly engaged paid or volunteer public safety first responder during
36 the performance of that person's official duties, and a public or con-
37 sumer-owned utility employee or contractor acting within the scope of
38 that person's employment when responding to a utility emergency;

39 (b) The use of a mobile electronic device for emergency purposes, in-
40 cluding a text messaging device to contact a 911 system; an emergency
41 call to a law enforcement agency, health care provider, fire depart-
42 ment, or other emergency services agency or entity; reporting a fire,

1 traffic accident, serious road hazard, or medical or hazardous mate-
2 rials emergency to appropriate authorities; reporting the operator of
3 another motor vehicle who is driving in a reckless or otherwise unsafe
4 manner or who appears to be driving under the influence of alcohol or
5 drugs; or reporting a crime;

6 (c) The hands-free use of a global positioning or navigation system
7 feature of a mobile electronic device, provided that the operator of the
8 vehicle is not manually entering information into the global position-
9 ing or navigation system feature of the device;

10 (d) The selection of a telephone number or name for the purpose of mak-
11 ing or receiving a telephone call, provided that the action is performed
12 through one-touch access or by voice command;

13 (e) The use of a mobile electronic device in a voice-operated or hands-
14 free mode if the operator of the motor vehicle does not use his hands
15 to operate the device, except through one-touch activation or deactiva-
16 tion of a feature or function of the device;

17 (f) The use of a mobile electronic device by a governmental or commer-
18 cial user during the performance of that person's official duties, as
19 long as the mobile electronic device is being used in a similar manner as
20 a commercial two-way radio communication device; or

21 (g) The use of a mobile electronic device in a farming or ranching op-
22 eration to assist in the movement of farm tractors, farm equipment, and
23 implements of husbandry from one farm operation to another.

24 (3) No person shall operate a motor vehicle while watching motion upon
25 the screen of a mobile electronic device, other than motion related to the
26 functioning or navigation of the vehicle.

27 (4) A violation of this section shall be a moving violation and shall
28 be an infraction punishable by a fine of seventy-five dollars (\$75.00) for
29 a first offense and one hundred fifty dollars (\$150) for a second offense
30 within a three (3) year period. For each subsequent offense within a three
31 (3) year period, the offender shall be punished by a fine of three hundred
32 dollars (\$300).

33 (5) A court may suspend a person's driver's license for up to ninety
34 (90) days if the person has three (3) or more convictions for violations of
35 this section within a three (3) year period.

36 (6) Nothing contained in this section shall be construed to authorize
37 seizure of a mobile electronic device by any law enforcement agency.

38 (7) A conviction under this section for a first offense shall not result
39 in violation point counts as prescribed in section 49-326, Idaho Code.

40 (8) A conviction under this section for a first offense that does not
41 involve an accident may not be used to make an adverse eligibility decision
42 by an insurer or for the purpose of establishing rates of motor vehicle in-
43 surance charged by an insurer.

44 (9) A law enforcement officer enforcing the provisions of this section
45 is hereby authorized to utilize a violation of this section as the primary or
46 sole reason for initiating a traffic stop or issuing a citation to a driver.

47 (10) The state preempts the field of regulating the use of mobile elec-
48 tronic devices in motor vehicles while driving, and this section supersedes
49 any local laws, ordinances, orders, rules, or regulations enacted by any po-

1 litical subdivision or municipality to regulate the use of a mobile elec-
2 tronic device by the operator of a motor vehicle.

3 (11) This section shall be effective July 1, 2020, provided that only
4 warnings and no infractions shall be issued under this section prior to Jan-
5 uary 1, 2021.

6 SECTION 2. An emergency existing therefor, which emergency is hereby
7 declared to exist, this act shall be in full force and effect on and after its
8 passage and approval.