

HOUSE BILL No. 2441

By Committee on Appropriations

1-13

9 AN ACT relating to crimes and punishment; prohibiting text messaging
10 while operating a moving motor vehicle; amending K.S.A. 21-3404 and
11 repealing the existing section.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) As used in this section:

15 (1) "Handheld wireless communication device" means a handheld
16 device used for the transfer of information without the use of electrical
17 conductors or wires and includes a:

- 18 (A) Wireless telephone;
- 19 (B) personal digital assistant;
- 20 (C) pager;
- 21 (D) text messaging device; or
- 22 (E) laptop computer.

23 (2) "Text messaging" means a communication in the form of elec-
24 tronic text or one or more electronic images sent by a person from a
25 telephone or computer to another person's telephone or computer by
26 addressing the communication to the person's telephone number.

27 (3) "Conviction" means a final conviction without regard to whether
28 the sentence was suspended or probation granted after such conviction.
29 Forfeiture of bail, bond or collateral deposited to secure a defendant's
30 appearance in court, which forfeiture has not been vacated, shall be equiv-
31 alent to a conviction.

32 (b) Except as provided in subsection (c), it shall be unlawful for a
33 person to use a handheld wireless communication device for text mes-
34 saging or electronic mail communication while driving a moving motor
35 vehicle on a highway in this state.

36 (c) The provisions of subsection (b) shall not prohibit a person from
37 using a handheld wireless communication device while driving a moving
38 motor vehicle:

- 39 (1) During a medical emergency;
- 40 (2) when reporting a safety hazard or requesting assistance relating
41 to a safety hazard;
- 42 (3) when reporting criminal activity or requesting assistance relating
43 to criminal activity;

- 1 (4) when providing roadside or medical assistance; or
2 (5) when used by a law enforcement officer or emergency service
3 personnel acting within the course and scope of the law enforcement
4 officer's or emergency service personnel's employment.
- 5 (d) (1) A person convicted of violating subsection (b), upon a first
6 conviction, shall be guilty of a class C misdemeanor.
- 7 (2) A person convicted of violating subsection (b), upon a second or
8 subsequent conviction, shall be guilty of a class B misdemeanor.
- 9 (3) A person convicted of violating subsection (b) and such person
10 has inflicted serious bodily injury upon another person as a result of such
11 violation, upon conviction, shall be guilty of a class A misdemeanor.
- 12 (e) Upon conviction of a violation of subsection (b), the court, in
13 addition to any other penalty or disposition ordered pursuant to law, may
14 suspend the person's driving privileges for 90 days.
- 15 (f) The provisions of this section shall be applicable and uniform
16 throughout the state and no city, county, subdivision or local authority
17 shall enact or enforce any law, ordinance, rule, regulation or resolution
18 in conflict with, in addition to, or supplemental to, the provisions of this
19 section.
- 20 (g) This section shall be part of and supplemental to the uniform act
21 regulating traffic on highways.
- 22 New Sec. 2. Involuntary manslaughter while driving and texting is
23 the unintentional killing of a human being committed in the commission
24 of, or attempt to commit, or flight from an act described in section 1, and
25 amendments thereto.
- 26 Involuntary manslaughter while driving and texting is a severity level
27 4, person felony.
- 28 Sec. 3. K.S.A. 21-3404 is hereby amended to read as follows: 21-
29 3404. Involuntary manslaughter is the unintentional killing of a human
30 being committed:
- 31 (a) Recklessly;
- 32 (b) in the commission of, or attempt to commit, or flight from any
33 felony, other than an inherently dangerous felony as defined in K.S.A.
34 21-3436, and amendments thereto, that is enacted for the protection of
35 human life or safety or a misdemeanor that is enacted for the protection
36 of human life or safety, including acts described in K.S.A. 8-1566 and
37 subsection (a) of 8-1568, and amendments thereto, but excluding the acts
38 described in K.S.A. 8-1567, and amendments thereto *or section 1, and*
39 *amendments thereto*; or
- 40 (c) during the commission of a lawful act in an unlawful manner.
41 Involuntary manslaughter is a severity level 5, person felony.
- 42 Sec. 4. K.S.A. 21-3404 is hereby repealed.
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1 Sec. 5. This act shall take effect and be in force from and after its
2 publication in the statute book.