

# HOUSE BILL No. 5049

September 28, 2017, Introduced by Rep. Kesto and referred to the Committee on Transportation and Infrastructure.

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 device that is located in the person's  
4 hand or in the person's lap, including a wireless telephone used in  
5 cellular telephone service or personal communication service, while  
6 operating a motor vehicle that is moving on a highway or street in  
7 this state. As used in this subsection, a wireless 2-way  
8 communication device **INCLUDES A COMPUTER, TABLET DEVICE, CAMERA, OR**  
9 **OTHER INTERNET-BASED COMMUNICATION DEVICE BUT** does not include a  
10 global positioning or navigation system that is affixed to the  
11 motor vehicle. This subsection does not apply to a person operating

1 a commercial vehicle.

2 (2) Except as otherwise provided in this section, a person  
3 shall not read, manually type, or send a text message on a wireless  
4 2-way communication device that is located in the person's hand or  
5 in the person's lap, including a wireless telephone used in  
6 cellular telephone service or personal communication service, while  
7 operating a commercial motor vehicle or a school bus on a highway  
8 or street in this state. As used in this subsection, a wireless 2-  
9 way communication device **INCLUDES A COMPUTER, TABLET DEVICE,**  
10 **CAMERA, OR OTHER INTERNET-BASED COMMUNICATION DEVICE BUT** does not  
11 include a global positioning or navigation system that is affixed  
12 to the commercial motor vehicle or school bus.

13 (3) Except as otherwise provided in this section, a person  
14 shall not use a hand-held mobile telephone to conduct a voice  
15 communication while operating a commercial motor vehicle or a  
16 school bus on a highway, including while temporarily stationary due  
17 to traffic, a traffic control device, or other momentary delays.  
18 This subsection does not apply if the operator of the commercial  
19 vehicle or school bus has moved the vehicle to the side of, or off,  
20 a highway and has stopped in a location where the vehicle can  
21 safely remain stationary. As used in this subsection, "mobile  
22 telephone" does not include a 2-way radio service or citizens band  
23 radio service. As used in this subsection, "use a hand-held mobile  
24 telephone" means 1 or more of the following:

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

27 (b) Dialing or answering a mobile telephone by pressing more

1 than a single button.

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

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

10 (a) Report a traffic accident, medical emergency, or serious  
11 road hazard.

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

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

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

19 (e) Operate or program the operation of an automated motor  
20 vehicle while testing or operating the automated motor vehicle  
21 without a human operator.

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

24 (6) ~~An~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (7) AND**  
25 **(8), AN** individual who violates this section is responsible for a  
26 civil infraction and shall be ordered to pay a civil fine as  
27 follows:

1 (a) For a first violation, \$100.00.

2 (b) For a second or subsequent violation, \$200.00.

3 (7) A PERSON WHO VIOLATES THIS SECTION AND CAUSES THE DEATH OF  
4 ANOTHER PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR  
5 NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR  
6 BOTH.

7 (8) A PERSON WHO VIOLATES THIS SECTION AND CAUSES SERIOUS  
8 IMPAIRMENT OF A BODY FUNCTION TO ANOTHER PERSON IS GUILTY OF A  
9 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR  
10 A FINE OF NOT MORE THAN \$500.00, OR BOTH.

11 (9) ~~(7)~~—This section supersedes all local ordinances  
12 regulating the use of a communications device while operating a  
13 motor vehicle in motion on a highway or street, except that a unit  
14 of local government may adopt an ordinance or enforce an existing  
15 ordinance substantially corresponding to this section.

16 Enacting section 1. This amendatory act takes effect 90 days  
17 after the date it is enacted into law.