

HOUSE BILL NO. 5538

February 25, 2020, Introduced by Reps. Slagh, LaGrand, Brann, Rendon, Hertel, Yaroach, Chirkun, Meerman, LaFave, Markkanen, Lower, Whitsett and Stone and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 602b and 602c (MCL 257.602b and 257.602c),
section 602b as amended by 2016 PA 332 and section 602c as added by
2012 PA 592, and by adding section 602d.

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



1 hand or in the person's lap, including a wireless telephone used in
2 cellular telephone service or personal communication service, while
3 operating a motor vehicle that is moving on a highway or street in
4 this state. As used in this subsection, a wireless 2-way
5 communication device does not include a global positioning or
6 navigation system that is affixed to the motor vehicle. This
7 subsection does not apply to a person operating a commercial
8 vehicle.

9 (2) Except as otherwise provided in this section, a person
10 shall not read, manually type, or send a text message on a wireless
11 2-way communication device that is located in the person's hand or
12 in the person's lap, including a wireless telephone used in
13 cellular telephone service or personal communication service, while
14 operating a commercial motor vehicle or a school bus on a highway
15 or street in this state. As used in this subsection, a wireless 2-
16 way communication device does not include a global positioning or
17 navigation system that is affixed to the commercial motor vehicle
18 or school bus.

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



1 telephone" means 1 or more of the following:

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

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

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

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

14 (a) Report a traffic accident, medical emergency, or serious
15 road hazard.

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

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

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

23 (e) Operate or program the operation of an automated motor
24 vehicle while testing or operating the automated motor vehicle
25 without a human operator.

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

28 (6) ~~An~~ **Except as provided under section 602d**, an individual
29 who violates this section is responsible for a civil infraction and

1 shall be ordered to pay a civil fine as follows:

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

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

4 (7) This section supersedes all local ordinances regulating
5 the use of a communications device while operating a motor vehicle
6 in motion on a highway or street, except that a unit of local
7 government may adopt an ordinance or enforce an existing ordinance
8 substantially corresponding to this section.

9 Sec. 602c. (1) Except as provided in this section, an
10 individual issued a level 1 or level 2 graduated license under
11 section 310e shall not use a cellular telephone while operating a
12 motor vehicle upon a highway or street. For purposes of this
13 subsection **only**, "use" means to initiate a call; answer a call; or
14 listen to or engage in verbal communication through the cellular
15 telephone.

16 (2) Subsection (1) does not apply to an individual who is
17 using a cellular telephone to do any of the following:

18 (a) Report a traffic accident, medical emergency, or serious
19 road hazard.

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

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

24 (3) Subsection (1) does not apply to an individual using a
25 voice-operated system that is integrated into the motor vehicle.

26 (4) ~~An~~ **Except as provided under section 602d, an** individual
27 who violates this section is responsible for a civil infraction.

28 (5) This section supersedes all local ordinances regulating
29 the use of a cellular telephone by an individual issued a level 1

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

5 (6) This section shall be known and may be cited as "Kelsey's
6 Law".

7 **Sec. 602d. (1) Except as provided under subsection (2), a**
8 **person who operates a motor vehicle on a highway or street in this**
9 **state and causes an injury to another individual because the person**
10 **was holding or using a wireless telephone while operating the motor**
11 **vehicle is guilty of a misdemeanor punishable by imprisonment for**
12 **not more than 1 year or a fine of not more than \$1,000.00, or both.**

13 (2) A person who operates a motor vehicle on a highway or
14 street in this state and causes the death of another individual
15 because the person was holding or using a wireless telephone while
16 operating the motor vehicle is guilty of a felony punishable by
17 imprisonment for not more than 15 years or a fine of not more than
18 \$1,000.00, or both.

