

SUBSTITUTE FOR
HOUSE BILL NO. 4277

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~~**an individual** shall not ~~read, manually type, or send a text~~
3 ~~message on a wireless 2-way communication~~**use a mobile electronic**
4 ~~device that is located in the person's hand or in the person's lap,~~
5 ~~including a wireless telephone used in cellular telephone service~~
6 ~~or personal communication service,~~ while operating a motor vehicle
7 **or a school bus.** ~~that is moving on a highway or street in this~~
8 ~~state. As used in this subsection, a wireless 2-way communication~~
9 ~~device does not include a global positioning or navigation system~~

1 ~~that is affixed to the motor vehicle. This subsection does not~~
2 ~~apply to a person operating a commercial vehicle. This subsection~~
3 does not apply beginning 5 years after the effective date of the
4 amendatory act that added subsection (2).

5 (2) Subsection (1) does not apply to any of the following
6 situations:

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

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

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

28 (d) Selecting a telephone number or name in a mobile
29 electronic device for the purpose of making or receiving a

1 telephone call or if an individual otherwise activates or
2 deactivates a feature or function of a mobile electronic device.

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

10 (3) An individual shall not operate a motor vehicle or school
11 bus while accessing, reading, or posting to a social networking
12 site.

13 (4) An individual shall not operate a motor vehicle or school
14 bus while viewing, recording, or transmitting a video on a mobile
15 electronic device. This subsection does not apply to a mobile
16 electronic device used for the sole purpose of continuously
17 recording or broadcasting video inside or outside of a motor
18 vehicle or school bus.

19 (5) ~~(2)~~ Except as otherwise provided in this section, ~~a person~~
20 **an individual** shall not read, manually type, or send a text message
21 on a wireless 2-way communication device that is located in the
22 ~~person's individual's~~ hand or in the ~~person's individual's~~ lap,
23 including a wireless telephone used in cellular telephone service
24 or personal communication service, while operating a commercial
25 motor vehicle ~~or a school bus~~ on a highway or street in this state.
26 As used in this subsection, ~~a wireless~~ **"wireless 2-way**
27 **communication device"** means a mobile telephone as that term is
28 defined in 49 CFR 390.5. Wireless 2-way communication device does
29 not include a global positioning or navigation system that is

1 affixed to the commercial motor vehicle. ~~or school bus.~~

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

12 **Mobile telephone** does not include a 2-way radio service or citizens
 13 band radio service. As used in this subsection, "use a hand-held
 14 mobile telephone" means 1 or more of the following:

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

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

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

24 (7) ~~(4)~~ Subsections ~~(1), (2), (5)~~ and ~~(3) (6)~~ do not apply to
 25 an individual who is using a device described in subsection ~~(1) (5)~~
 26 or ~~(3) (6)~~ to do any of the following:

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

29 (b) Report a situation in which the ~~person~~ **individual** believes

1 his or her personal safety is in jeopardy.

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

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 (8) ~~(6) An~~ **Except as provided in subsection (9), an** individual
15 who violates this section is responsible for a civil infraction and
16 ~~shall~~**must** be ordered to ~~pay a civil fine as follows:~~**do the**
17 **following:**

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

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

23 (9) **If an individual is involved in an accident at the time**
24 **the individual violates this section, the civil fine ordered must**
25 **be double the amount under subsection (8) and a law enforcement**
26 **officer investigating the accident shall indicate in a written**
27 **accident report that the individual was using a mobile electronic**
28 **device at the time of the accident.**

29 (10) ~~(7)~~**This section supersedes all local ordinances**

1 regulating the use of a ~~communications~~**mobile electronic** device
2 while operating a motor vehicle in motion on a highway or street,
3 except that a unit of local government may adopt an ordinance or
4 enforce an existing ordinance substantially corresponding to this
5 section.

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

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

14 (13) This section does not apply to either of the following:

15 (a) A level 3, 4, or 5 automated driving system, as described
16 in "J3016: Taxonomy and Definitions for Terms Related to Driving
17 Automation Systems for On-Road Motor Vehicles", April 2021 edition,
18 published by SAE International, or an automated vehicle equipped
19 with an automated driving system as described in this subdivision
20 during testing or operation with the automated driving system
21 engaged.

22 (b) Viewing or using in a hands-free manner a device mounted
23 in a vehicle for displaying information related to testing or
24 operating an automated driving system or automated technology.

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

27 (a) "Mobile electronic device" means any handheld or portable
28 electronic device capable of providing wireless data or voice
29 communication between 2 or more individuals or amusement, including

1 a cellular telephone; broadband personal communication device; 2-
2 way messaging device; text messaging device; pager; electronic
3 device that can receive or transmit text or character-based images,
4 access or store data, or connect to the internet; personal digital
5 assistant; laptop computer; computer tablet; stand-alone computer;
6 portable computing device; mobile device with a touchscreen display
7 that is designed to be worn; electronic game; equipment that is
8 capable of playing a video, taking photographs, capturing images,
9 or recording or transmitting video; and any similar device that is
10 readily removable from a vehicle and is used to write, send, or
11 read text or data or capture images or video through manual input.
12 Mobile electronic device does not include a radio designed for the
13 Citizens Band Service or the Amateur Radio Service of the Federal
14 Communications Commission or a commercial 2-way radio
15 communications device or equipment permanently installed in a motor
16 vehicle. Mobile electronic device does not include a medical device
17 that is designed to be worn, including, but not limited to, an
18 insulin pump.

19 (b) "Operate" means to drive or assume physical control of a
20 motor vehicle on a public way, street, road, or highway, including
21 operation while temporarily stationary because of traffic, road
22 conditions, a traffic light, or a stop sign. Operate does not
23 include a motor vehicle that is lawfully parked.

24 (c) "Social networking site" means any web-based service that
25 allows individuals to construct a profile within a founded system
26 and communicate with other users of the site for social or
27 amusement purposes.

28 Enacting section 1. This amendatory act takes effect 180 days
29 after the date it is enacted into law.

1 Enacting section 2. This amendatory act does not take effect
2 unless all of the following bills of the 101st Legislature are
3 enacted into law:

4 (a) House Bill No. 4278.

5 (b) House Bill No. 4279.