

1 H.62

2 Introduced by Representatives O'Brien of Richmond, Christie of Hartford,
3 Heath of Westford, Keenan of St. Albans City, Manwaring of
4 Wilmington, Pearce of Richford, Ram of Burlington, Till of
5 Jericho, Toll of Danville, Waite-Simpson of Essex, Winters of
6 Williamstown, and Wizowaty of Burlington

7 Referred to Committee on

8 Date:

9 Subject: Motor vehicles; portable electronic devices; handheld use; prohibition

10 Statement of purpose of bill as introduced: This bill proposes to prohibit the
11 handheld use of a portable electronic device to engage in voice
12 communications while operating a moving motor vehicle, and to prohibit the
13 operation of a motor vehicle while wearing earphones over, or earplugs in,
14 both ears.

15 An act relating to prohibiting the handheld use of a portable electronic
16 device while driving

17 It is hereby enacted by the General Assembly of the State of Vermont:

1 ~~Sec. 1. 23 V.S.A. § 1095a is amended to read:~~

2 § 1095a. ~~JUNIOR OPERATOR~~ USE OF PORTABLE ELECTRONIC
3 DEVICES

4 (a) Definition. As used in this section, “hands-free use” means the use of a
5 portable electronic device without either hand and outside the immediate
6 proximity of the user’s ear, by employing an internal function of, or an
7 attachment to, the device.

8 (b) Adult handheld use prohibited; exceptions. Except as provided in this
9 subsection, a person 18 years of age or older shall not use a portable electronic
10 device to engage in voice communications or retrieve messages while
11 operating a moving motor vehicle on a highway unless the person engages in
12 hands-free use. However, this prohibition shall not apply to an emergency 911
13 call placed under emergency circumstances. An operator shall not engage in
14 hands-free use that violates section 1095b of this title.

15 (c) Junior operator use prohibited. A person under 18 years of age shall not
16 use any portable electronic device as defined in subdivision 4(82) of this title
17 while operating a moving motor vehicle on a highway. This prohibition shall
18 not apply if it is necessary to place an emergency 911 call.

1 ~~Sec. 2. 23 V.S.A. § 1095b is added to read:~~

2 ~~§ 1095b. OPERATING WHILE WEARING EARPHONES OR EARPLUGS~~

3 ~~PROHIBITED~~

4 ~~(a) Definition. As used in this section, “earphones” means any headset,~~
5 ~~headphones, or other similar device capable of transmitting sound and that~~
6 ~~covers all or a portion of both ears. “Earphones” does not include speakers or~~
7 ~~other listening devices that are built into protective headgear.~~

8 ~~(b) Prohibition. A person shall not operate a motor vehicle while wearing~~
9 ~~earphones over, or earplugs in, both ears.~~

10 ~~(c) Construction. This section shall not be construed to prohibit the use of~~
11 ~~hearing aids.~~

12 Sec. 3. EDUCATIONAL CAMPAIGN

13 ~~The Commissioner of Motor Vehicles, in consultation with the Secretary of~~
14 ~~Education, shall conduct an education campaign regarding the provisions of~~
15 ~~this act.~~

16 Sec. 4. EFFECTIVE DATE

17 ~~This act shall take effect on July 1, 2013.~~

Sec. 1. 23 V.S.A. § 1095b is amended to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE ~~IN~~

~~WORK ZONE PROHIBITED~~

(a) Definition. As used in this section, “hands-free use” means the use of a

~~portable electronic device without use of either hand and outside the immediate proximity of the user's ear, by employing an internal feature of, or an attachment to, the device.~~

~~(b) Use of handheld portable electronic device in work zone prohibited. A person shall not use a portable electronic device while operating a moving motor vehicle within on a highway work zone in this State. The prohibition of this subsection shall not apply unless the work zone is properly designated with warning devices in accordance with subdivision 4(5) of this title, and shall not apply:~~

~~(1) to hands-free use; or~~

~~(2) when use of a portable electronic device is necessary for a person to communicate with law enforcement or emergency service personnel under emergency circumstances;~~

~~(3) to communications among law enforcement or emergency service personnel in the performance of their official duties; or~~

~~(4) to use of an ignition interlock device, as defined at 23 V.S.A. § 1201.~~

~~(1) to hands-free use; or~~

~~(2) to activation or deactivation of hands-free use as long as the device is in a cradle or otherwise securely mounted in the vehicle;~~

~~(2)~~(3) *when use of a portable electronic device is necessary for a person to communicate with law enforcement or emergency service personnel under emergency circumstances;*

(4) to communications among law enforcement or emergency service personnel in the performance of their official duties; ~~or~~

(5) to use of an ignition interlock device, as defined at 23 V.S.A. § 1200,
;or

(6) to use of a portable electronic device by an operator of a registered farm truck or a farm truck or farm tractor not required to be registered, if:

(A) the farm truck or farm tractor is being used in connection with the operation of a farm; and

(B) the device is used to receive a communication relating to the dispatch of the farm truck or farm tractor to a work location.

(c) Penalty. A person who violates this section commits a traffic violation and shall be subject to a penalty of not less than \$100.00 and not more than \$200.00 ~~upon adjudication of~~ for a first violation, and of not less than \$250.00 and not more than \$500.00 ~~upon adjudication of~~ for a second or subsequent violation within any two-year period.

(d)(1) Operators of commercial motor vehicles shall be governed by the provisions of 23 V.S.A. chapter 39 (Commercial Driver License Act) instead of

the provisions of this chapter with respect to the handheld use of mobile telephones, and texting, while operating a commercial motor vehicle.

(2) A person shall not be issued more than one complaint for any violation of this section, section 1095a of this title (junior operator use of portable electronic devices), or section 1099 of this title (texting prohibited) that arises from the same conduct.

Sec. 2. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Any person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(LL)(i) § 1095. Entertainment picture visible to operator;

(ii) § 1095b. Use of portable electronic device ~~in work zone~~— first offense;

* * *

(4) Five points assessed for:

* * *

(D) § 1095b. Use of portable electronic device ~~in work~~

~~zone~~— second and subsequent offenses;

* * *

Sec. 3. 23 V.S.A. § 1095a is amended to read:

§ 1095a. JUNIOR OPERATOR USE OF PORTABLE ELECTRONIC
DEVICES

A person under 18 years of age shall not use any portable electronic device as defined in subdivision 4(82) of this title while operating a moving motor vehicle on a highway. This prohibition shall not apply ~~if it is necessary to place an emergency 911 call;~~

(1) when use of a portable electronic device is necessary for a person to communicate with law enforcement or emergency service personnel under emergency circumstances; or

(2) to communications among law enforcement or emergency service personnel in the performance of their official duties.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.