

1 TO THE HONORABLE SENATE:

2 The Committee on Transportation to which was referred House Bill No. 62
3 entitled “An act relating to prohibiting the handheld use of a portable
4 electronic device while driving” respectfully reports that it has considered the
5 same and recommends that the Senate propose to the House that the bill be
6 amended by striking out all after the enacting clause and inserting in lieu
7 thereof the following:

8 Sec. 1. 23 V.S.A. § 4(82) is amended to read:

9 (82) “Portable electronic device” means a portable electronic or
10 computing device, including a cellular telephone, personal digital assistant
11 (PDA), or laptop computer. “Portable electronic device” does not include a
12 two-way or Citizens Band radio, or equipment used by a licensed Amateur
13 Radio operator in accordance with 47 C.F.R. part 97.

14 Sec. 2. 23 V.S.A. § 1095b is amended to read:

15 § 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE ~~IN~~

16 ~~WORK ZONE~~ PROHIBITED

17 (a) Definition. As used in this section, “hands-free use” means the use of a
18 portable electronic device without use of either hand ~~and outside the immediate~~
19 ~~proximity of the user’s ear~~, by employing an internal feature of, or an
20 attachment to, the device.

1 (b) Use of handheld portable electronic device ~~in work zone~~ prohibited.

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

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

8 (2) to activation or deactivation of hands-free use, as long as the device
9 is in a cradle or otherwise securely mounted in the vehicle and the cradle or
10 other accessory for secure mounting is not affixed to the windshield in
11 violation of 23 V.S.A. § 1125;

12 ~~(2)(3)~~ when use of a portable electronic device is necessary for a person
13 to communicate with law enforcement or emergency service personnel under
14 emergency circumstances; or

15 (4) to use of an ignition interlock device, as defined in section 1200 of
16 this title.

17 (c) ~~Penalty~~ Penalties.

18 (1) A person who violates this section commits a traffic violation and
19 shall be subject to a ~~penalty~~ fine of not less than \$100.00 and not more than
20 \$200.00 ~~upon adjudication of~~ for a first violation, and of not less than \$250.00

1 and not more than \$500.00 ~~upon adjudication of~~ for a second or subsequent
2 violation within any two-year period.

3 (2) A person convicted of violating this section while operating within a
4 properly designated work zone in which construction, maintenance, or utility
5 personnel are present shall have two points assessed against his or her driving
6 record for a first conviction and five points assessed for a second or subsequent
7 conviction.

8 (3) A person convicted of violating this section outside a work zone
9 shall not have points assessed against his or her driving record for a first
10 conviction, and shall have two points assessed for a second or subsequent
11 conviction within a two-year period.

12 (d)(1) Operators of commercial motor vehicles shall be governed by the
13 provisions of chapter 39 of this title (Commercial Driver License Act) instead
14 of the provisions of this chapter with respect to the handheld use of mobile
15 telephones and texting while operating a commercial motor vehicle.

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

1 Sec. 3. 23 V.S.A. § 2502 is amended to read:

2 § 2502. POINT ASSESSMENT; SCHEDULE

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

7 (1) Two points assessed for:

8 * * *

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

11 (ii) § 1095b(c)(2). Use of portable electronic device
12 in work zone—first offense;

13 (iii) § 1095b(c)(3). Use of portable electronic device
14 outside work zone—second or
15 subsequent offense within a
16 two-year period;

17 * * *

18 (4) Five points assessed for:

19 * * *

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Senator _____

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FOR THE COMMITTEE