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ANNOTATED:

YELLOW = TECHNICAL CORRECTION

GREEN, PINK, AND BLUE = MOVEMENT OF VERBATIM LANGUAGE

H.38

Introduced by Representative Shaw of Pittsford

Referred to Committee on

Date:

Subject: Motor vehicles; distracted driving; cellphones; handheld portable
electronic devices

Statement of purpose of bill as introduced: This bill proposes to define what it
means to use a handheld portable electronic device in non-hands-free mode
while operating a motor vehicle.

An act relating to the use of a portable electronic device in non-hands-free
mode while operating a motor vehicle

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

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

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE

PROHIBITED

(a) **Definition Definitions.** As used in this section, ~~“hands free:~~

1 (1) “Hands-free use” means the use of a portable electronic device
2 without use of either hand by employing an internal feature of, or an
3 attachment to, the device.

4 (2) “Non-hands-free use” means the use of a portable electronic device
5 in any way that is not a hands-free use, including an operator of a motor
6 vehicle holding a portable electronic device in the operator’s hand or hands
7 while operating a motor vehicle.

8 (3) “Operating” means operating a motor vehicle on a public highway,
9 including while temporarily stationary because of traffic, a traffic control
10 device, or other temporary delays. “Operating” does not include operating a
11 motor vehicle with or without the motor running when the operator has moved
12 the vehicle to the side of or off the public highway and has halted in a location
13 where the vehicle can safely and lawfully remain stationary.

14 (4) “Public highway” means a State or municipal highway as defined in
15 19 V.S.A. § 1(12).

16 (5) “Securely mounted” means the portable electronic device is placed
17 in an accessory or location in the vehicle, other than the operator’s hand or
18 hands, where the device will remain stationary under typical driving
19 conditions.

20 (b) Use of handheld portable electronic device in a non-hands-free use is
21 prohibited.

1 (1) An individual shall not use a portable electronic device in a non-
2 hands-free use while operating a moving motor vehicle in a place open
3 temporarily or permanently to public or general circulation of vehicles.

4 (2) In addition, an individual shall not use a portable electronic device in
5 a non-hands-free use while operating a motor vehicle on a public highway in
6 Vermont, including while the vehicle is stationary, unless otherwise provided
7 in this section. ~~As used in this subdivision (b)(2):~~

8 ~~(A) “Public highway” means a State or municipal highway as defined~~
9 ~~in 19 V.S.A. § 1(12).~~

10 ~~(B) “Operating” means operating a motor vehicle on a public~~
11 ~~highway, including while temporarily stationary because of traffic, a traffic~~
12 ~~control device, or other temporary delays. “Operating” does not include~~
13 ~~operating a motor vehicle with or without the motor running when the operator~~
14 ~~has moved the vehicle to the side of or off the public highway and has halted in~~
15 ~~a location where the vehicle can safely and lawfully remain stationary.~~

16 (3) The prohibitions of this subsection shall not apply:

17 (A) ~~To~~ to hands-free use;

18 (B) ~~To~~ to activation or deactivation of hands-free use, ~~as long as~~
19 provided the handheld portable electronic device is securely mounted in a way
20 that does not require that the handheld portable electronic device be held in the
21 hand or hands of the operator of the motor vehicle and provided any accessory

1 for securely mounting the device is not affixed to the windshield in violation of
2 section 1125 of this title;

3 (C) ~~When~~ when use of a portable electronic device is necessary for
4 an individual to communicate with law enforcement or emergency service
5 personnel under emergency circumstances;

6 (D) ~~To~~ to use of an ignition interlock device, as defined in section
7 1200 of this title; or

8 (E) ~~To~~ to use of a global positioning or navigation system if it is
9 installed by the manufacturer or securely mounted in the vehicle in a manner
10 that does not violate section 1125 of this title. As used in this subdivision

11 ~~(b)(3)(E), “securely mounted” means the device is placed in an accessory or~~
12 ~~location in the vehicle, other than the operator’s hands, where the device will~~
13 ~~remain stationary under typical driving conditions.~~

14 * * *

15 Sec. 2. EFFECTIVE DATE

16 This act shall take effect on July 1, 2023.