

Senate proposal of amendment to House proposal of amendment

S. 326

An act relating to miscellaneous amendments to laws relating to motor vehicles.

The Senate concurs in the House proposal of amendment with further proposals of amendment thereto as follows:

First: By striking out Sec. 16, 23 V.S.A. § 4125, in its entirety and inserting in lieu thereof a new Sec. 16 to read as follows:

Sec. 16. 23 V.S.A. § 4125 is amended to read:

§ 4125. TEXTING VIOLATIONS; HANDHELD MOBILE TELEPHONE VIOLATIONS

(a) Definitions. As used in this section:

(1) “driving” “Driving” means operating a commercial motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. “Driving” does not include operating a commercial motor vehicle with or without the motor running when the operator has moved the vehicle to the side of or off a highway and has halted in a location where the vehicle can safely remain stationary.

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

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

(4) “Securely mounted” means the portable electronic device is placed in an accessory specifically designed or built to support the hands-free use of a portable electronic device that is not affixed to the windshield in violation of section 1125 of this title and either:

(A) is utilized in accordance with manufacturer specifications; or

(B) causes the portable electronic device to remain completely stationary under typical driving conditions.

(5) “Texting” means the reading or manual composing or sending of electronic communications, including text messages, instant messages, or email, using a portable electronic device.

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

(b) General prohibition on texting.

(1) No operator shall engage in texting while driving a commercial motor vehicle on a public highway in Vermont or in a location that is either temporarily or permanently open to the public or the general circulation of vehicles.

(2) Texting while driving is permissible by operators of a commercial motor vehicle when necessary to communicate with law enforcement officials or other emergency services.

(3) No ~~person may~~ individual shall be issued traffic complaints alleging a violation of this section and a violation of section 1099 of this title from the same incident.

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(e) The prohibitions set forth in this section do not apply to:

(A) hands-free use;

(B) the activation or deactivation of hands-free use;

(C) the use of a global positioning or navigation system that is installed by the manufacturer of the commercial motor vehicle or securely mounted in the vehicle; or

(D) instances where the operator has moved the vehicle to the side of or off the public highway and has stopped the vehicle, with or without the motor running, in a location where the vehicle can safely and lawfully remain stationary.

Second: By striking out Sec. 29, 23 V.S.A. § 1260, in its entirety and inserting in lieu thereof a new Sec. 29 to read as follows:

Sec. 29. 23 V.S.A. § 1260 is added to read:

§ 1260. MOTORCYCLE EXHAUST; EXCESSIVE NOISE;
PROHIBITIONS

(a) A motorcycle operated on a highway shall be equipped with an exhaust system that includes a muffler or other mechanical device designed to reduce the noise emitted by the motorcycle.

(b) A motorcycle shall be in violation of this section if the motorcycle's exhaust system:

(1) has missing or removed internal baffles;

(2) has a cutout or bypass;

(3) has been modified to bypass the muffler system;

(4) is not equipped with a muffler that meets the requirements of 40 C.F.R. § 205.169; or

(5) is a straight-pipe or similar type of exhaust system that does not include any mechanical features to reduce the noise emitted by the motorcycle.

(c)(1) A motorcycle that violates the requirements of this section shall not pass an inspection required under section 1222 of this chapter.

(2) Notwithstanding subdivision (1) of this subsection, if the orientation or location of a motorcycle's muffler prevents an inspection mechanic from reasonably determining if the muffler has a label certifying compliance with 40 C.F.R. § 205.169, the inspection mechanic shall presume that the muffler meets the requirements of 40 C.F.R. § 205.169.

(d) The provisions of this section shall not apply when a motorcycle is operated in a race, contest, or demonstration of speed or skill at an authorized public exhibition held in accordance with applicable State and municipal laws.