

Senate Bill No. 260

(By Senators Beach, Klempa, Unger, Foster, Edgell, Miller and
Snyder)

[Introduced January 25, 2011; referred to the Committee on
Transportation and Infrastructure; and then to the Committee on
the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §17C-14-15, relating
to establishing the offense of unlawful use of a wireless
communication device while operating a motor vehicle on a
street or highway; providing exceptions and conditions for
certain lawful uses; definitions; and misdemeanor criminal
penalties upon conviction.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new section, designated §17C-14-15, to read as
follows:

ARTICLE 14. MISCELLANEOUS RULES

§17C-14-15. Unlawful Use of a Wireless Device.

1 (a) It is unlawful for any driver while operating a motor
2 vehicle on the roads or highways of this state to manually type or
3 enter multiple letters, numbers, symbols or other text in a
4 wireless communication device, or send or read data in the device,
5 for the purpose of nonvoice interpersonal communication, including
6 texting, emailing and instant messaging.

7 (b) For the purposes of this section, texting means manually
8 entering alphanumeric text into or reading text from an electronic
9 device.

10 (1) Texting includes but is not limited to short message
11 service, e-mailing, instant messaging, a command or request to
12 enter a world-wide web page, or engaging in any other form of
13 electronic text retrieval or entry for present or future
14 communication.

15 (2) Texting does not include:

16 (A) Reading, selecting or entering a telephone number, an
17 extension number, or voicemail retrieval codes and commands into an
18 electronic device for the purpose of initiating or receiving a
19 telephone call or using voice commands to initiate or receive a
20 telephone call;

21 (B) Inputting, selecting or reading information on a global
22 positioning system or navigation system; or

23 (C) Using a device capable of performing multiple functions
24 such as fleet management systems, dispatching devices, smart

1 phones, citizen band radios or music players for a purpose that is
2 otherwise not prohibited in this section.

3 (c) For the purposes of this section, electronic devices
4 include but are not limited to, a cellular telephone, personal
5 digital assistant, pager, computer, or any device used to input,
6 write, send, receive or read text.

7 (d) This section does not apply to a driver who is:

8 (1) A law-enforcement, fire service, or emergency medical
9 services professional performing official duties;

10 (2) Reporting an emergency or criminal or suspicious activity
11 to law-enforcement authorities; or

12 (3) Not operating a motor vehicle on the travel portion of a
13 public street or highway.

14 (e) This section does not supercede the provisions restricting
15 texting and cell phone use for drivers under the age of eighteen
16 possessing a level one or level two graduated driver's license or
17 any more restrictive provisions for drivers of commercial motor
18 vehicles prescribed by the provisions of chapter seventeen-e of
19 this code or federal law or rule.

20 (f) Unless a greater penalty is prescribed by this code or
21 federal law or rule pertaining to a class of driver, any driver who
22 violates this section shall upon conviction be subject to a fine of
23 \$25. No court costs or other fees shall be assessed for a
24 violation of this section and notwithstanding any other section of

1 this code to the contrary, no points may be entered on any driving
2 record administered by the Division of Motor Vehicles as a result
3 of violation of this section.

NOTE: The purpose of this bill is to establish the offense of unlawful use of a wireless communication device for the purposes of texting while operating a motor vehicle on a street or highway. The bill provides for a \$25 fine for anyone convicted of a violation of this section.

§17C-14-15 is new; therefore, strike-throughs and underscoring have been omitted.