

COMMITTEE ON TRANSPORTATION
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2531
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 28-672, Arizona Revised Statutes, is amended to
3 read:

4 28-672. Causing serious physical injury or death by a moving
5 violation; time limitation; penalties; violation;
6 classification; definition

7 A. A person is guilty of causing serious physical injury or death by
8 a moving violation if the person violates any one of the following and the
9 violation results in an accident causing serious physical injury or death
10 to another person:

- 11 1. Section 28-645, subsection A, paragraph 3, subdivision (a).
- 12 2. Section 28-729.
- 13 3. Section 28-771.
- 14 4. Section 28-772.
- 15 5. Section 28-773.
- 16 6. Section 28-792.
- 17 7. Section 28-794.
- 18 8. Section 28-797, subsection F, G, H or I.
- 19 9. Section 28-855, subsection B.
- 20 10. Section 28-857, subsection A.
- 21 11. SECTION 28-914.

22 B. A person who violates this section shall attend and successfully
23 complete traffic survival school educational sessions that are designed to
24 improve the safety and habits of drivers and that are approved by the
25 department. In addition, the court may order the person to perform
26 community restitution.

27 C. The court shall report a conviction for a violation of this
28 section to the department and:

1 1. For a first violation of this section, may direct the department
2 to suspend the person's driving privilege for not more than one hundred
3 eighty days if the violation results in serious physical injury and not
4 more than one year if the violation results in death.

5 2. For a second or subsequent violation of this section within a
6 period of thirty-six months, shall direct the department to suspend the
7 person's driving privilege for one hundred eighty days if the violation
8 results in serious physical injury and one year if the violation results in
9 death.

10 D. If a person's driving privilege is suspended pursuant to any
11 other statute because of an incident involving a violation of this section,
12 the suspension period prescribed in subsection C of this section shall run
13 consecutively with the other suspension period.

14 E. If a person fails to successfully complete traffic survival
15 school educational sessions or perform community restitution pursuant to
16 this section, the court shall notify the department and the department
17 shall promptly suspend the driver license or permit of the driver or the
18 privilege of a nonresident to drive a motor vehicle in this state until the
19 order is satisfied.

20 F. If the person who suffers serious physical injury as a result of
21 a violation of this section appears before the court in which the action is
22 pending at any time before trial and acknowledges receipt of satisfaction
23 for the injury, on payment of the costs incurred, the court shall order
24 that the prosecution be dismissed and the defendant be discharged. The
25 reasons for the order shall be set forth and entered of record, and the
26 order shall be a bar to another prosecution for the same offense.

27 G. Restitution awarded pursuant to section 13-603 as a result of a
28 violation of this section shall not exceed ~~one hundred thousand dollars~~
29 \$100,000.

30 H. A prosecution for a violation of this section must be commenced
31 within two years after actual discovery of the offense by the state or the
32 political subdivision having jurisdiction or discovery by the state or the
33 political subdivision that should have occurred with the exercise of
34 reasonable diligence, whichever first occurs.

35 I. A person who violates this section is guilty of a class 1
36 misdemeanor.

1 J. For the purposes of this section, "serious physical injury" has
2 the same meaning prescribed in section 13-105.

3 Sec. 2. Title 28, chapter 3, article 15, Arizona Revised Statutes,
4 is amended by adding section 28-914, to read:

5 28-914. Use of portable wireless communication device while
6 driving; prohibition; civil penalty; state
7 preemption; definitions

8 A. UNLESS A MOTOR VEHICLE IS PARKED OR STOPPED PURSUANT TO SECTION
9 28-645, SUBSECTION A, PARAGRAPH 3 OR SECTION 28-851, A PERSON MAY NOT
10 OPERATE A MOTOR VEHICLE ON A STREET OR HIGHWAY IF THE PERSON DOES EITHER OF
11 THE FOLLOWING:

12 1. PHYSICALLY HOLDS OR SUPPORTS WITH ANY PART OF THE PERSON'S BODY
13 EITHER OF THE FOLLOWING:

14 (a) A PORTABLE WIRELESS COMMUNICATION DEVICE, EXCEPT THAT A PERSON
15 MAY USE A PORTABLE WIRELESS COMMUNICATION DEVICE WITH AN EARPIECE,
16 HEADPHONE DEVICE OR DEVICE WORN ON A WRIST TO CONDUCT A VOICE-BASED
17 COMMUNICATION.

18 (b) A STAND-ALONE ELECTRONIC DEVICE.

19 2. WRITES, SENDS OR READS ANY TEXT-BASED COMMUNICATION, INCLUDING A
20 TEXT MESSAGE, INSTANT MESSAGE, E-MAIL OR INTERNET DATA, ON A PORTABLE
21 WIRELESS COMMUNICATION DEVICE OR STAND-ALONE ELECTRONIC DEVICE. THIS
22 PARAGRAPH DOES NOT APPLY TO EITHER OF THE FOLLOWING:

23 (a) A VOICE-BASED COMMUNICATION THAT IS AUTOMATICALLY CONVERTED BY A
24 PORTABLE WIRELESS COMMUNICATION DEVICE OR STAND-ALONE DEVICE TO BE SENT AS
25 A MESSAGE IN A WRITTEN FORM.

26 (b) THE USE OF A PORTABLE WIRELESS COMMUNICATION DEVICE OR
27 STAND-ALONE DEVICE WHEN USED IN A HANDS-FREE MANNER FOR:

28 (i) NAVIGATION OF THE MOTOR VEHICLE.

29 (ii) USE OF A GLOBAL POSITIONING SYSTEM.

30 (iii) OBTAINING MOTOR VEHICLE INFORMATION OR INFORMATION RELATED TO
31 DRIVING A MOTOR VEHICLE.

32 B. THIS SECTION DOES NOT PROHIBIT THE OPERATION OF A MOTOR VEHICLE
33 WHILE USING A DEVICE OR SYSTEM THAT IS EMBEDDED IN A MOTOR VEHICLE AND THAT
34 ALLOWS COMMUNICATION WITHOUT THE USE OF EITHER OF THE DRIVER'S HANDS,
35 EXCEPT TO ACTIVATE OR DEACTIVATE A FUNCTION OF THE DEVICE OR SYSTEM BY A
36 SINGLE PRESS, TAP OR SWIPE OF THE OPERATOR'S FINGER.

1 C. THIS SECTION DOES NOT APPLY TO:

2 1. AN OPERATOR OF AN AUTHORIZED EMERGENCY, LAW ENFORCEMENT OR
3 PROBATION VEHICLE WHO USES A PORTABLE WIRELESS COMMUNICATION DEVICE WHILE
4 ACTING IN AN OFFICIAL CAPACITY.

5 2. AN OPERATOR WHO IS LICENSED BY THE FEDERAL COMMUNICATIONS
6 COMMISSION WHILE OPERATING A RADIO FREQUENCY DEVICE OTHER THAN A PORTABLE
7 WIRELESS COMMUNICATION DEVICE.

8 3. AN OPERATOR WHO USES A TWO-WAY RADIO OR PRIVATE LAND MOBILE RADIO
9 SYSTEM, WITHIN THE MEANING OF 47 CODE OF FEDERAL REGULATIONS PART 90, WHILE
10 IN THE PERFORMANCE AND SCOPE OF THE OPERATOR'S WORK-RELATED DUTIES AND WHO
11 IS OPERATING A FLEET VEHICLE OR WHO POSSESSES A COMMERCIAL DRIVER LICENSE.

12 4. AN OPERATOR WHO USES A PORTABLE WIRELESS COMMUNICATION DEVICE
13 EITHER:

14 (a) TO REPORT ILLEGAL ACTIVITY OR SUMMON EMERGENCY HELP.

15 (b) THAT WAS PERMANENTLY OR TEMPORARILY AFFIXED TO THE MOTOR VEHICLE
16 TO RELAY INFORMATION IN THE COURSE OF THE OPERATOR'S OCCUPATIONAL DUTIES
17 BETWEEN THE OPERATOR AND EITHER:

18 (i) A DISPATCHER.

19 (ii) A DIGITAL NETWORK OR SOFTWARE APPLICATION SERVICE.

20 D. BEGINNING JANUARY 1, 2021, A PERSON WHO VIOLATES THIS SECTION IS
21 SUBJECT TO A CIVIL PENALTY AS FOLLOWS:

22 1. AT LEAST \$75 BUT NOT MORE THAN \$149 FOR A FIRST VIOLATION.

23 2. AT LEAST \$150 BUT NOT MORE THAN \$250 FOR A SECOND OR SUBSEQUENT
24 VIOLATION.

25 E. THE DEPARTMENT SHALL POST A SIGN AT EACH POINT AT WHICH AN
26 INTERSTATE HIGHWAY OR UNITED STATES HIGHWAY ENTERS INTO THIS STATE THAT
27 INFORMS AN OPERATOR THAT BOTH:

28 1. THE USE OF A PORTABLE WIRELESS COMMUNICATION DEVICE WHILE
29 OPERATING A MOTOR VEHICLE IS PROHIBITED IN THIS STATE.

30 2. THE OPERATOR IS SUBJECT TO A CIVIL PENALTY IF THE OPERATOR USES A
31 PORTABLE WIRELESS COMMUNICATION DEVICE IN VIOLATION OF THIS SECTION WHILE
32 OPERATING A MOTOR VEHICLE IN THIS STATE.

33 F. A PEACE OFFICER WHO STOPS A MOTOR VEHICLE FOR AN ALLEGED
34 VIOLATION OF THIS SECTION MAY NOT:

35 1. TAKE POSSESSION OF OR OTHERWISE INSPECT A PORTABLE WIRELESS
36 COMMUNICATION DEVICE IN THE POSSESSION OF THE OPERATOR UNLESS OTHERWISE
37 AUTHORIZED BY LAW.

1 1. View a broadcast television image or a visual image from an image
2 display device ~~while that person is driving a motor vehicle and the motor~~
3 ~~vehicle is in motion on a public roadway or on an off-highway vehicle trail~~
4 ~~as defined in section 28-1171.~~

5 2. WATCH A VIDEO OR MOVIE ON A PORTABLE WIRELESS COMMUNICATION
6 DEVICE OR STAND-ALONE ELECTRONIC DEVICE OTHER THAN WATCHING DATA RELATED TO
7 THE NAVIGATION OF THE MOTOR VEHICLE, EXCEPT THAT A PERSON MAY VIEW DATA
8 RELATED TO THE NAVIGATION OF THE MOTOR VEHICLE, VEHICLE INFORMATION OR
9 INFORMATION RELATED TO DRIVING A MOTOR VEHICLE.

10 3. RECORD OR BROADCAST A VIDEO ON A PORTABLE WIRELESS COMMUNICATION
11 DEVICE OR STAND-ALONE ELECTRONIC DEVICE, EXCEPT THAT THE PERSON MAY USE THE
12 DEVICES FOR THE SOLE PURPOSE OF CONTINUOUSLY RECORDING OR BROADCASTING
13 VIDEO WITHIN OR OUTSIDE OF THE MOTOR VEHICLE.

14 B. A person shall not operate a motor vehicle with an image display
15 device that is visible to a driver seated in a normal driving position when
16 the vehicle is in motion.

17 C. This section does not apply to any of the following:

18 1. Emergency vehicles.

19 2. Image display devices that do any of the following:

20 (a) Display images that provide a driver with navigation and related
21 traffic, road and weather information.

22 (b) Provide vehicle information, controls or information related to
23 driving a vehicle.

24 (c) Enhance or supplement a driver's view of the area to the front,
25 rear or side of the vehicle.

26 (d) Permit a driver to monitor the vehicle occupants seated behind
27 the driver.

28 (e) Display information intended to enhance traffic safety.

29 3. Image display devices that are built into the motor vehicle and
30 that do not display images to a driver while the vehicle is in motion.

31 4. Image display devices that are portable and are not used to
32 display dynamic visual images other than for purposes of navigation or
33 global positioning to a driver while the vehicle is in motion.

34 5. Image display devices present in vehicles of a public service
35 corporation or any political subdivision of this state and used for service
36 or maintenance of its facilities.

37 6. Any use of an image display device while the vehicle is parked.

- 1 D. For the purposes of this section: ~~;~~
- 2 1. "Image display device" means equipment capable of displaying to
3 the driver of a motor vehicle rapidly changing images that are either of
4 the following:
- 5 ~~1.~~ (a) A broadcast television image or similar entertainment
6 content transmitted by other wireless means to the image display device.
- 7 ~~2.~~ (b) A dynamic visual image, other than text, from a digital
8 video disc or other storage device.
- 9 2. PORTABLE WIRELESS COMMUNICATION DEVICE" HAS THE SAME MEANING
10 PRESCRIBED IN SECTION 28-914.
- 11 3. "STAND-ALONE ELECTRONIC DEVICE" HAS THE SAME MEANING PRESCRIBED
12 IN SECTION 28-914.
- 13 Sec. 4. Section 28-3164, Arizona Revised Statutes, is amended to
14 read:
- 15 28-3164. Original applicants: examination
- 16 A. The department may do any of the following:
- 17 1. Examine an applicant for an original driver license.
- 18 2. Accept the examination conducted by an authorized third party
19 pursuant to chapter 13 of this title. Beginning July 1, 2014, the third
20 party must be authorized pursuant to section 28-5101.01 or 28-5101.03.
- 21 3. Accept documentation of successful completion of a driver
22 training course approved by the department. Beginning July 1, 2014, for a
23 class D or G license the documentation must be provided by a third party
24 authorized pursuant to section 28-5101.02.
- 25 4. Accept documentation that the applicant has successfully
26 completed education on special performance equipment and medically related
27 driving circumstances. Beginning July 1, 2014, the documentation must be
28 provided by a third party authorized pursuant to section 28-5101.02.
- 29 5. Accept documentation that the applicant has successfully
30 completed driver education lessons provided by an instructor who is
31 certified by the superintendent of public instruction.
- 32 B. The examination shall include all of the following:
- 33 1. A test of the applicant's:
- 34 (a) Eyesight.
- 35 (b) Ability to read and understand official traffic control devices.
- 36 (c) Knowledge of safe driving practices and the traffic laws of this
37 state, including those practices and laws relating to bicycles.

1 (d) KNOWLEDGE OF THE EFFECT OF USING A PORTABLE WIRELESS
2 COMMUNICATION DEVICE AS DEFINED IN SECTION 28-914 OR ENGAGING IN OTHER
3 ACTIONS THAT COULD DISTRACT A DRIVER ON THE SAFE OR EFFECTIVE OPERATION OF
4 A MOTOR VEHICLE.

5 2. An actual demonstration of ability to exercise ordinary and
6 reasonable control in the operation of a vehicle or vehicle combination of
7 the type covered by the license classification or endorsement for which the
8 applicant applies.

9 3. Other physical and mental examinations if the department finds
10 them necessary to determine the applicant's fitness to safely operate a
11 motor vehicle on the highways.

12 C. The department may examine an original applicant for a class M
13 license or a motorcycle endorsement or the department may accept the
14 examination conducted by an authorized third party pursuant to chapter 13,
15 article 1 of this title or documentation of successful completion of a
16 motorcycle training program approved by the department. Beginning July 1,
17 2014, the documentation of successful completion of a motorcycle training
18 program must be provided by a third party motorcycle driver license
19 training provider authorized pursuant to section 28-5101.02 or a motorcycle
20 training program approved by the department and provided in another state
21 or by the United States military. The department may examine an applicant
22 who has a motorcycle license from another jurisdiction. This examination
23 shall be the same as for all applicants, except that the department may
24 make modifications it finds necessary to determine the applicant's fitness
25 to operate a motorcycle, motor driven cycle or moped on the highways.

26 D. The department shall examine a person who holds a driver license
27 issued by another country and who applies for an initial license in this
28 state as an original applicant, except that the department may waive an
29 actual demonstration of the ability to exercise ordinary and reasonable
30 control in the operation of a motor vehicle if the person applies for a
31 class D or G license and appears to meet the department's medical
32 qualifications and if the out-of-state license is not revoked or is not
33 expired for more than one year.

34 E. The department may waive the driving examination for initial
35 applicants for a class M license or a motorcycle endorsement if all of the
36 following conditions exist:

1 1. The applicant's current license indicates the applicant has been
2 specifically licensed to operate a motorcycle.

3 2. The applicant appears to meet the department's medical
4 qualifications.

5 3. The applicant's out-of-state license is not revoked or is not
6 expired for more than one year.

7 Sec. 5. Use of portable wireless communication device while
8 driving; local authority laws

9 A. If, before the effective date of this act, a local authority
10 enacts a law regulating the use of a portable wireless communication
11 device, as defined in section 28-914, Arizona Revised Statutes, as added by
12 this act, while driving, the local authority may:

13 1. Issue citations for violations under the local authority's law
14 through December 31, 2020, and the local authority is not subject to the
15 warning period prescribed in section 28-914, Arizona Revised Statutes, as
16 added by this act.

17 2. Change the local authority's law to mirror section 28-914,
18 Arizona Revised Statutes, as added by this act, except that the local
19 authority is not subject to the warning period prescribed in section
20 28-914, Arizona Revised Statutes, as added by this act.

21 B. A local authority that before the effective date of this act has
22 not enacted a law regulating the use of a portable wireless communication
23 device, as defined in section 28-914, Arizona Revised Statutes, as added by
24 this act, while driving may adopt a law to mirror section 28-914, Arizona
25 Revised Statutes, as added by this act.

26 Sec. 6. Emergency

27 This act is an emergency measure that is necessary to preserve the
28 public peace, health or safety and is operative immediately as provided by
29 law."

30 Amend title to conform

And, as so amended, it do pass

2531TRANSPORTATION
02/20/2019
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NOEL W. CAMPBELL
CHAIRMAN