



## **Distracted Driving Model Legislation**

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### **Dangerously distracted driving.**

- (1)
  - (a) It is a crime to drive dangerously distracted.
  - (b) This section applies to Level 1, 2, and 3 vehicles\* unless the Level 3 vehicle is equipped with a visual system capable of being observed by a law enforcement officer within [ X ] feet of the vehicle that indicates the vehicle's ADS is engaged.
  - (c) Enforcement of this crime may be accomplished as a primary enforcement action when a driver of a motor vehicle has been observed in violation of this section or the section on use of personal electronic devices, to the degree that the driver's activity is having an apparent adverse impact on the safe operation of the vehicle being operated on any highway. Causing or nearly causing a crash (with a vehicle, fixed object, or person) while using a personal electronic device constitutes prima facie evidence that the driver was dangerously distracted by the personal electronic device.

### **Using a personal electronic device while driving.**

- (1) A person who uses a personal electronic device while driving a motor vehicle on a public highway is guilty of the crime of using a personal electronic device while driving.
- (2) Subsection (1) of this section does not apply to
  - (a) a driver who is using a personal electronic device to contact emergency services;
  - (b) the use of a system by a transit system employee for time-sensitive relay communication between the transit system employee and the transit system's dispatch services;
  - (c) an employee or contractor of a utility services provider acting within the scope of employment while responding to a utility emergency;
  - (d) an individual employed as a commercial motor vehicle driver who uses a personal electronic device within the scope of such individual's employment if such use is permitted under 49 USC 31136 as it existed on July 23, 2017; and
  - (e) a person operating an authorized emergency vehicle.
- (3) the [state/province/territory] preempts the field of regulating the use of personal electronic devices in motor vehicles while driving, and this section supersedes any local laws, ordinances, orders, rules, or regulations enacted by any political subdivision or municipality to regulate the use of a personal electronic device by the operator of a motor vehicle.

\*If "automated driving system-equipped vehicles" are not defined in a jurisdiction's law, a definition may be required. AAMVA defines an ADS as the hardware and software that are collectively capable of performing the entire DDT on a sustained basis, regardless of whether it is limited to a specific ODD; this term is used specifically to describe Level 3, 4, or 5 driving automation systems.

- (4) For purposes of this section,
- (a) "Driving" means to operate a 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 when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.
  - (b) "Personal electronic device" means any portable electronic device that is capable of wireless communication or electronic data retrieval and is not manufactured primarily for hands-free use in a motor vehicle. "Personal electronic device" includes, but is not limited to, a cell phone, tablet, laptop, two-way messaging device, or electronic game. "Personal electronic device" does not include two-way radio, citizens band radio, or amateur radio equipment.
  - (c) "Use" or "uses" includes but is not limited to
    - (i) holding a personal electronic device in either hand or both hands;
    - (ii) using a hand or finger to compose, send, read, view, access, browse, transmit, save, or retrieve email, text messages, instant messages, photographs, or other electronic data; however, this does not preclude the minimal use of a finger to activate, deactivate, or initiate a function of the device;
    - (iii) watching video on a personal electronic device, other than watching data related to navigation; or
    - (iv) broadcasting a video (Facebook Live, Instagram Live, and so on) unless the personal electronic device is used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle (dashcam) and the recording device does not require interaction from the driver while the vehicle is being driven.