

SENATE BILL NO. 206

INTRODUCED BY J. TREBAS, K. ZOLNIKOV, G. FRAZER, M. HOPKINS, K. REGIER, D. ZOLNIKOV, D.

EMRICH

A BILL FOR AN ACT ENTITLED: "AN ACT PREEMPTING A LOCAL ORDINANCE, RULE, OR REGULATION; EXEMPTING CERTAIN USES OF MOBILE ELECTRONIC COMMUNICATIONS DEVICES WHILE OPERATING A MOTOR VEHICLE; DEFINING MOBILE ELECTRONIC COMMUNICATIONS DEVICE; AND AMENDING SECTIONS 7-14-4116, 61-8-103, AND 61-12-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-14-4116, MCA, is amended to read:

"7-14-4116. ~~No authority to require fee and permit for oversize vehicles~~Limits on authority -- vehicle loads -- mobile electronic communications devices -- definition. (1) The authority to regulate trafficways and motor vehicles provided in this part does not include the authority to:

(a) require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is maintained by and under the jurisdiction of an entity other than the city or town; or

(b) subject to subsection (2), enact or enforce an ordinance, rule, or regulation that restricts or prohibits the use of a mobile electronic communications device while operating a motor vehicle unless the ordinance, rule, or regulation includes an exception that a person may use a mobile electronic communications device to make or receive a telephone call using voice communication while operating a motor vehicle.

(2) (a) For the purposes of this section, "mobile electronic communications device" means any handheld or portable electronic device capable of providing wireless data or voice communication between two or more people, including:

- (i) a cellular telephone;
- (ii) a broadband personal communication device;
- (iii) a two-way messaging device;

1 (iv) a pager;

2 (v) an electronic device that can receive or transmit text or character-based images, access a
3 social networking site, access or store data, or connect to the internet;

4 (vi) a personal digital assistant;

5 (vii) a laptop computer or tablet; or

6 (viii) video gaming equipment.

7 (b) The term does not include:

8 (i) a radio designed for the service of the federal communications commission or a commercial
9 two-way radio communications device;

10 (ii) an information or communication system installed within a vehicle; or

11 (iii) a prescribed medical device."

12

13 **Section 2.** Section 61-8-103, MCA, is amended to read:

14 **"61-8-103. Provisions uniform throughout state -- power of local authorities -- definition. (1)**

15 The provisions of this chapter ~~shall~~must be applicable and uniform throughout this state and in all political
16 subdivisions and municipalities ~~therein in the state,~~ and ~~no~~a local authority ~~shall~~may not enact or enforce any
17 ordinance, rule, or regulation in conflict with the provisions of this chapter unless expressly authorized ~~herein by~~
18 this chapter. ~~Local~~ Except as provided in subsection (2), local authorities may, ~~however,~~ adopt additional traffic
19 regulations ~~which~~that are not in conflict with the provisions of this chapter.

20 (2) Local authorities may not enact or enforce an ordinance, rule, or regulation that restricts or
21 prohibits the use of a mobile electronic communications device while operating a motor vehicle unless the
22 ordinance, rule, or regulation includes an exception that a person may use a mobile electronic communications
23 device to make or receive a telephone call using voice communication while operating a motor vehicle.

24 (3) (a) For the purposes of this section, "mobile electronic communications device" means any
25 handheld or portable electronic device capable of providing wireless data or voice communication between two
26 or more people, including:

27 (i) a cellular telephone;

28 (ii) a broadband personal communication device;

1 (iii) a two-way messaging device;

2 (iv) a pager;

3 (v) an electronic device that can receive or transmit text or character-based images, access a
4 social networking site, access or store data, or connect to the internet;

5 (vi) a personal digital assistant;

6 (vii) a laptop computer or tablet; or

7 (viii) video gaming equipment.

8 (b) The term does not include:

9 (i) a radio designed for the service of the federal communications commission or a commercial
10 two-way radio communications device;

11 (ii) an information or communication system installed within a vehicle; or

12 (iii) a prescribed medical device."

13

14 **Section 3.** Section 61-12-101, MCA, is amended to read:

15 **"61-12-101. Powers of local authorities to regulate traffic -- definition.** (1) The provisions of
16 chapters 8 and 9 do not prevent local authorities with respect to sidewalks, streets, and highways under their
17 jurisdiction and within the reasonable exercise of the police power from:

18 (a) regulating the standing or parking of vehicles;

19 (b) regulating the traffic by means of police officers or traffic control devices;

20 (c) regulating or prohibiting processions or assemblages on the highways;

21 (d) designating particular highways as one-way highways and requiring that all vehicles on those
22 highways be moved in one specific direction;

23 (e) regulating the speed of vehicles in public parks;

24 (f) designating any highway as a through highway, as defined in 61-8-341, and requiring that all
25 vehicles stop before entering or crossing a through highway and designating any intersection, as defined in 61-
26 8-102, as a stop intersection and requiring all vehicles to stop at one or more entrances to stop intersections;

27 (g) restricting the use of highways as authorized in 61-10-128(2);

28 (h) regulating the operation of bicycles or mopeds, as defined in 61-8-102, and requiring the

1 registration and licensing of bicycles or mopeds, including requiring a registration fee;

2 (i) regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;

3 (j) altering the speed limits as authorized in Title 7, chapter 14, and Title 61, chapter 8;

4 (k) regulating the operating of a vehicle by a person who is a habitual user of or under the
5 influence of any narcotic drug or who is under the influence of any other drug to a degree that renders the
6 person incapable of safely operating a vehicle within the incorporated limits of any city or town;

7 (l) regulating or prohibiting a person who is under the influence of intoxicating liquor from
8 operating or being in actual physical control of a vehicle within the incorporated limits of a city or town;

9 (m) regulating or prohibiting the operation of a vehicle by a person in willful or wanton disregard for
10 the safety of persons or property within the incorporated limits of a city or town;

11 (n) enacting as ordinances any provisions of chapter 8 or 9 and any other law regulating traffic,
12 pedestrians, vehicles, and operators of vehicles that are not in conflict with state law or federal regulations and
13 enforcing the ordinances;

14 (o) regulating the operation of motorized nonstandard vehicles on sidewalks, streets, and
15 highways; and

16 (p) regulating the operation of golf carts on streets and highways.

17 (2) The powers of a local authority to regulate traffic do not include:

18 (a) the power to require a fee and a permit for the movement of a vehicle, combination of vehicles,
19 load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a
20 highway that is under the jurisdiction of an entity other than the local authority; or

21 (b) subject to subsection (3), the power to enact or enforce an ordinance, rule, or regulation that
22 restricts or prohibits the use of a mobile electronic communications device while operating a motor vehicle
23 unless the ordinance, rule, or regulation includes an exception that a person may use a mobile electronic
24 communications device to make or receive a telephone call using voice communication while operating a motor
25 vehicle.

26 (3) (a) For the purposes of this section, "mobile electronic communications device" means any
27 handheld or portable electronic device capable of providing wireless data or voice communication between two
28 or more people, including:

- 1 (i) a cellular telephone;
- 2 (ii) a broadband personal communication device;
- 3 (iii) a two-way messaging device;
- 4 (iv) a pager;
- 5 (v) an electronic device that can receive or transmit text or character-based images, access a
- 6 social networking site, access or store data, or connect to the internet;
- 7 (vi) a personal digital assistant;
- 8 (vii) a laptop computer or tablet; or
- 9 (viii) video gaming equipment.
- 10 (b) The term does not include:
- 11 (i) a radio designed for the service of the federal communications commission or a commercial
- 12 two-way radio communications device;
- 13 (ii) an information or communication system installed within a vehicle; or
- 14 (iii) a prescribed medical device."

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