



## 2009 ASSEMBLY BILL 429

September 22, 2009 – Introduced by Representatives SMITH, BLACK, HUBLER and VAN ROY, cosponsored by Senators TAYLOR and RISSER. Referred to Committee on Transportation.

1     **AN ACT** *to amend* 346.95 (2); and *to create* 346.89 (3) of the statutes; **relating**  
2             **to:** driving a motor vehicle while using a wireless telecommunications device  
3             and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Current law prohibits inattentive driving, which means that a driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle. Any person convicted of inattentive driving may be required to forfeit not less than \$20 nor more than \$400.

This bill prohibits a person from using a wireless telecommunications device while driving. A “wireless telecommunications device” is defined as any cellular telephone two-way radio or citizens band radio, personal digital assistant, or other device while being used by the device’s operator to transmit verbal communications, electronic mail, text messages, or any other electronic communication to one or more persons not physically present with the device’s operator, but does not include any global positioning system device installed in or on a vehicle.

An exception is provided for a person who uses a wireless telecommunications device that allows the person to talk and listen without holding the device or any handset or receiver and the person does not hold or touch the device or any handset or receiver while driving the motor vehicle. This exception does not apply to a person who holds a probationary license or an instruction permit and who is under 18 years of age. Exceptions to the prohibition are also provided for use of a wireless telecommunications device in response to an emergency or by an operator of an

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authorized emergency vehicle. A person found guilty of violating this provision may be required to forfeit not less than \$20 nor more than \$400.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 346.89 (3) of the statutes is created to read:

2           346.89 (3) (a) In this subsection:

3           1. “Drive” has the meaning given in s. 343.305 (1) (b).

4           2. “Wireless telecommunications device” means any cellular telephone,  
5 two-way radio or citizens band radio, personal digital assistant, or other device while  
6 being used by the device’s operator to transmit verbal communications, electronic  
7 mail, text messages, or any other electronic communication to one or more persons  
8 not physically present with the device’s operator, but does not include any global  
9 positioning system device installed in or on a vehicle.

10           (b) No person may drive a motor vehicle while using a wireless  
11 telecommunications device unless any of the following applies:

12           1. The person is using a wireless telecommunications device that allows the  
13 person to talk and listen without holding the device or any handset or receiver and  
14 the person does not hold or touch the device or any handset or receiver while driving  
15 the motor vehicle. This subdivision does not apply to a person who holds a  
16 probationary license issued under s. 343.085 or an instruction permit issued under  
17 s. 343.07 and who is under 18 years of age.

18           2. The person is using the wireless telecommunications device in response to  
19 an emergency.

20           3. The person using the wireless telecommunications device is an operator of  
21 an authorized emergency vehicle.

