



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3005/2
EVM:emw&kjf

2015 ASSEMBLY BILL 853

February 3, 2016 – Introduced by Representatives BARCA, SUBECK, OHNSTAD, WACHS and SPREITZER, cosponsored by Senators VINEHOUT and L. TAYLOR. Referred to Committee on Transportation.

1 **AN ACT to renumber and amend** 346.89 (4) (a); **to amend** 346.95 (1) and 346.95
2 (2); and **to create** 346.89 (4) (a) 2. and 3. of the statutes; **relating to:** use of
3 wireless telephones while driving and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits, with certain exceptions, any person from driving while using a cellular or other wireless telephone (cellular phone). The exceptions include certain hands-free and emergency-related use.

Current law prohibits inattentive driving of a motor vehicle, which means that a driver of a motor vehicle may not be engaged or occupied with an activity, other than driving the vehicle, that interferes with the safe driving of the vehicle. Current law also specifically prohibits, with certain exceptions, a person from driving while composing or sending an electronic text message. Persons who violate either of these prohibitions may be required to forfeit not less than \$20 nor more than \$400. Also under current law, a person driving under an instruction permit or a probationary license is prohibited from driving a motor vehicle while using a cellular phone, except to report an emergency. Persons who violate this prohibition may be required to forfeit not less than \$20 nor more than \$40 for a first offense, and not less than \$50 nor more than \$100 for a second or subsequent offense within one year.

This bill prohibits any person from driving while using a cellular phone. Except in certain cases involving persons driving under an instruction permit or a probationary license, the prohibition does not apply to any of the following: 1) operators of authorized emergency vehicles; 2) use of certain emergency alert or

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vehicle monitoring devices; 3) use of global positioning system devices; 4) certain amateur radio operators; 5) certain use of hands-free telephones; and 6) use in response to an emergency. Persons who violate this prohibition may be required to forfeit not less than \$20 or more than \$400.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 346.89 (4) (a) of the statutes, as affected by 2015 Wisconsin Act ...
2 (Senate Bill 158), is renumbered 346.89 (4) (a) 1. and amended to read:

3 346.89 (4) (a) 1. ~~Subject to sub. (3), no~~ No person who holds a probationary
4 license issued under s. 343.085, or an instruction permit issued under s. 343.07, may
5 drive, as defined in s. 343.305 (1) (b), any motor vehicle while using a cellular or other
6 wireless telephone, ~~except to report an emergency.~~

7 **SECTION 2.** 346.89 (4) (a) 2. and 3. of the statutes are created to read:

8 346.89 (4) (a) 2. Except as provided in subd. 3., this paragraph does not apply
9 to any of the following:

10 a. The operator of an authorized emergency vehicle.

11 b. The use of any device whose primary function is transmitting and receiving
12 emergency alert messages and messages related to the operation of the vehicle or an
13 accessory that is integrated into the electrical system of a vehicle.

14 c. The use of a global positioning system device, including a global positioning
15 system device that is integrated into a wireless telephone.

16 d. An amateur radio operator who holds a valid amateur radio operator's
17 license issued by the federal communications commission when he or she is using
18 dedicated amateur radio 2-way radio communication equipment and observing
19 proper amateur radio operating procedures.

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1 e. The use of a voice-operated or hands-free wireless telephone if the driver
2 of the motor vehicle does not use his or her hands to operate the telephone, except
3 to activate or deactivate a feature or function of the telephone, including dialing a
4 telephone number.

5 f. The use of a wireless telephone in response to an emergency.

6 3. Subject to sub. (3), subd. 2. a. to e. does not apply to a person who holds a
7 probationary license issued under s. 343.085 or an instruction permit issued under
8 s. 343.07.

9 **SECTION 3.** 346.95 (1) of the statutes is amended to read:

10 346.95 (1) Any person violating s. 346.87, 346.88, 346.89 (4) (b) or (5), 346.90
11 to 346.92 or 346.94 (1), (9), (10), (11), (12) or (15) may be required to forfeit not less
12 than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than
13 \$100 for the 2nd or subsequent conviction within a year.

14 **SECTION 4.** 346.95 (2) of the statutes is amended to read:

15 346.95 (2) Any person violating s. 346.89 (1) ~~or~~, (3) (a), or (4) (a) or 346.94 (2),
16 (4), or (7) may be required to forfeit not less than \$20 nor more than \$400.

17 **SECTION 5. Effective date.**

18 (1) This act takes effect on the first day of the 13th month beginning after
19 publication.

20 (END)