

**2019 DRAFTING REQUEST****Bill**

For: **John Spiros (608) 266-1182** Drafter: **emueller**  
 By: **Erin** Secondary Drafters:  
 Date: **4/18/2019** May Contact:

Same as LRB:

Submit via email: **YES**  
 Requester's email: **Rep.Spiros@legis.wisconsin.gov**  
 Carbon copy (CC) to: **eric.mueller@legis.wisconsin.gov**  
**zachary.wyatt@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Prohibit certain use of handheld devices while driving

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 4/29/2019				
/P1	emueller 9/10/2019	kfollett 4/30/2019	lparisi 4/30/2019		State S&L
/P2	emueller 9/18/2019	kfollett 9/12/2019	dwalker 9/12/2019		State S&L
/P3	emueller 9/23/2019	kfollett 9/19/2019	mbarman 9/19/2019		State S&L
/1		kfollett	jmurphy	jmurphy	State

Vers.    Drafted

Reviewed  
9/23/2019

Submitted  
9/23/2019

Jacketed  
9/23/2019

Required  
S&L

FE Sent For: *At Into*

<END>

4/18



Erin @ Rep. Spinas

2017-  
Redraft 2217 / P4

- get rid of age reqt

- use construction <sup>bar</sup> lay.
- "no person may be"
- but save exceptions



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-2868/P1

EVM:...

lgf  
RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

4/30/19

- 1 AN ACT ...; relating to: the use of a wireless telephone while driving and  
2 providing a penalty.

---

***Analysis by the Legislative Reference Bureau***

This bill prohibits any person from using a cellular or other wireless telephone (cellular phone) while driving, except for 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. Persons who violate this prohibition 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. Also, a person is prohibited from driving a motor vehicle while using a cellular phone in a highway construction zone, except to report an emergency. Persons who violate either of these prohibitions 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 using a cellular phone while driving. Exceptions are provided for the use of a cellular phone to report an emergency and for certain hands-free cellular phone use by persons who hold a license other than a probationary license or an instruction permit. 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.

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.** 343.315 (2) (f) 10. of the statutes is amended to read:

2           343.315 (2) (f) 10. In this subdivision, "mobile telephone" has the meaning  
3 given in 49 CFR 390.5. Violating s. 346.89 (4) ~~(b)~~ (4g) or a local ordinance in  
4 conformity therewith or a law of a federally recognized American Indian tribe or  
5 band in this state in conformity with s. 346.89 (4) ~~(b)~~ (4g) or the law of another  
6 jurisdiction prohibiting driving a commercial motor vehicle, as defined in 49 CFR  
7 390.5, while using a hand-held mobile telephone, as those or substantially similar  
8 terms are used in that jurisdiction's law.

History: 1989 a. 105; 1991 a. 39, 277; 1995 a. 113, 448; 1997 a. 84, 258; 1999 a. 85, 140; 2001 a. 38, 109; 2003 a. 33, 97; 2007 a. 20; 2009 a. 28, 103; 2011 a. 32, 101, 244, 258; 2011 a. 260 s. 81; 2013 a. 100; 2015 a. 77, 123.

9           **SECTION 2.** 346.89 (4) (a) of the statutes is repealed.

10          **SECTION 3.** 346.89 (4) (b) of the statutes is renumbered 346.89 (4g) and 346.89  
11 (4g) (a) (intro.), as renumbered, is amended to read:

12          346.89 (4g) (a) (intro.) In this paragraph subsection:

13          **SECTION 4.** 346.89 (4m) of the statutes is renumbered 346.89 (4m) (a) and  
14 amended to read:

15          346.89 (4m) (a) No person may drive, as defined in s. 343.305 (1) (b), any motor  
16 vehicle while using use a cellular or other wireless telephone, including using the  
17 telephone for a purpose other than communication, where persons engaged in work  
18 in a highway maintenance or construction area or in a utility work area are at risk  
19 from traffic while driving, as defined in s. 343.305 (1) (b), except to report an  
20 emergency. This

1            (b) This subsection does not apply to the use of a voice-operated or hands-free  
2            device if the all of the following apply:

3            1. The driver of the motor vehicle does not use his or her hands to operate the  
4            device, except to activate or deactivate a feature or function of the device.

History: 2009 a. 220; 2011 a. 164; 2013 a. 350; 2015 a. 123, 308.

5            **SECTION 5.** 346.89 (4m) (b) 2. of the statutes is created to read:

6            346.89 (4m) (b) 2. The driver holds an operator's license other than a  
7            probationary license issued under s. 343.085, or an instruction permit issued under  
8            s. 343.07.

9            **SECTION 6.** 346.95 (1) of the statutes is amended to read:

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

History: 1971 c. 278; 1973 c. 182, 314, 336; 1975 c. 297, 320; 1977 c. 68; 1983 a. 56, 175, 538; 1989 a. 335 s. 89; 1991 a. 83; 1993 a. 260, 455; 1995 a. 194, 373, 420; 1999 a. 109; 2001 a. 90; 2003 a. 192, 297, 327; 2005 a. 250; 2009 a. 22, 157, 220, 311; 2011 a. 164; 2013 a. 106, 350; 2015 a. 308; 2017 a. 13, 105.

15           **SECTION 7. Initial applicability.**

16           (1) This act first applies to violations committed on the effective date of this  
17           subsection but does not preclude the counting of offenses as prior offenses for the  
18           purposes of sentencing.

19           (END)

**Mueller, Eric**

**From:** Clark, Erin  
**Sent:** Wednesday, September 04, 2019 10:40 AM  
**To:** Mueller, Eric  
**Subject:** LRB 2868

*Per Erin 9/9*

Hi Eric,

I'm reaching out on a bill you had drafted for us earlier this year, LRB 2868 related to the use of phones while driving. We've looking at moving forward with the bill and I wanted to make a few changes.

*leave pt. structure as is*

1. In Section 6, increase the fine. Let's do \$50 for the first offense, \$100 for the second offense, and \$150 for any third and subsequent offenses. Additionally, we'd like to add to the penalty demerit points on the offender's driving record. Let's do 2 points for a first offense, 3 points for the second offense, and 4 points for any third and subsequent offenses.

2. We would like to include a definition or voice-activated or hands-free mode, based on the language used in a recent Minnesota law that was passed. Here's the language in the Minnesota law, feel free to edit to better fit into this bill"

a. (c) "Voice-activated or hands-free mode" means an attachment, accessory, wirelessly paired or tethered capability, application, wireless connection, or built-in feature of a wireless communications device or a motor vehicle that allows the person to use verbal or single touch commands to:

i. (1) activate or deactivate the device; and

ii. (2) activate or deactivate a function or software application of the device.

iii. Voice-activated or hands-free mode does not include typing or scrolling on a device.

*not needed for inclusion*

iv. (d) For purposes of this section, a motor vehicle is not in motion or a part of traffic if the vehicle is lawfully stopped, is in a location that is not designed or ordinarily used for vehicular travel, and is not obstructing traffic.

3. In Section 4, change 346.89 (4m) (b) 1 to read "The driver of the motor vehicle does physically hold or support, with any part of his or her body a wireless communication device, except when using voice-activated or hands-free mode to activate or deactivate a feature or function of the device."

a. If you can think of a better way to word what we're trying to do in that sentence, go for it.

*already covered by other law*

4. In addition to actual use of the phone, we would like to prohibit people from reaching for a phone or standalone electric device in such a manner that requires the drive to no longer be a) in a seated driving position, or b) properly restrained by a safety belt.

5. Can we outline some specific types of usage that will be prohibited under the bill? These should include writing, sending, or reading any text-based communication, engaging in a phone call (including video calling), and accessing or recording audio, photo, or video content. The bill should be including, but not limited to these types of usage.

*open to potential language*

6. Does the bill as currently drafted exempt law enforcement – not just while responding to an emergency, but at all times?

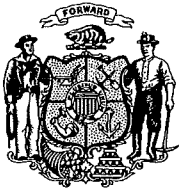
*add exemption for law enforcement*

Thanks Eric. Feel free to give me a call if you have any questions about any of this!

Erin Clark  
Research Assistant  
Office of Rep. John Spiros

86<sup>th</sup> Assembly District  
(608) 266-1182





State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-2868/P1  
EVM:kjf

P2  
PUB

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERT

9/12/19

Reyer

1 **AN ACT to repeal** 346.89 (4) (a); **to renumber and amend** 346.89 (4) (b) and  
2 346.89 (4m); **to amend** 343.315 (2) (f) 10. and 346.95 (1); and **to create** 346.89  
3 (4m) (b) 2. of the statutes; **relating to:** the use of a wireless telephone while  
4 driving and providing a penalty.

**Analysis by the Legislative Reference Bureau**

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

Use by law enforcement officials, or use related to an emergency

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. Persons who violate this prohibition 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. Also, a person is prohibited from driving a motor vehicle while using a cellular phone in a highway construction zone, except to report an emergency. Persons who violate either of these prohibitions 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.

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by law enforcement officers or

a probationary license or an instruction permit. 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.

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

*\$50*  
*affine, and not more than \$150 for a third*

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

1 SECTION 1. 343.315 (2) (f) 10. of the statutes is amended to read:

2 343.315 (2) (f) 10. In this subdivision, "mobile telephone" has the meaning  
3 given in 49 CFR 390.5. Violating s. 346.89 (4) (b) (4g) or a local ordinance in  
4 conformity therewith or a law of a federally recognized American Indian tribe or  
5 band in this state in conformity with s. 346.89 (4) (b) (4g) or the law of another  
6 jurisdiction prohibiting driving a commercial motor vehicle, as defined in 49 CFR  
7 390.5, while using a hand-held mobile telephone, as those or substantially similar  
8 terms are used in that jurisdiction's law.

9 SECTION 2. 346.89 (4) (a) of the statutes is repealed.

10 SECTION 3. 346.89 (4) (b) of the statutes is renumbered 346.89 (4g), and 346.89  
11 (4g) (a) (intro.), as renumbered, is amended to read:

12 346.89 (4g) (a) (intro.) In this paragraph subsection:

13 SECTION 4. 346.89 (4m) of the statutes is renumbered 346.89 (4m) (a) and  
14 amended to read:

15 346.89 (4m) (a) No person may drive, as defined in s. 343.305 (1) (b), any motor  
16 vehicle while using use a cellular or other wireless telephone, including using the  
17 telephone for a purpose other than communication, *no strike* where persons engaged in work  
18 in a highway maintenance or construction area or in a utility work area are at risk

1 from traffic while driving as defined in s. 343.305 (1) (b) except to report an  
2 emergency.

3 (b) This subsection does not apply to the use of a voice-operated or hands-free  
4 device if the all of the following apply:

5 1. The driver of the motor vehicle does not use his or her hands to operate the  
6 device, except to activate or deactivate a feature or function of the device.

7 SECTION 5. 346.89 (4m) (b) 2. of the statutes is created to read:

8 346.89 (4m) (b) 2. The driver holds an operator's license other than a  
9 probationary license issued under s. 343.085, or an instruction permit issued under  
10 s. 343.07.

11 SECTION 6. 346.95 (1) of the statutes is amended to read:

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

17 SECTION 7. Initial applicability.

18 (1) This act first applies to violations committed on the effective date of this  
19 subsection but does not preclude the counting of offenses as prior offenses for the  
20 purposes of sentencing.

21 (END)

strike

strike

strike

strike

strike

hands-free

strike

strike

strike

any part of

strike

body

strike

telephone

INS 3-6

software application

INS 3-10

strike

INS 3-16

the telephone

1 INS 3-6

2

3 SECTION 1. 346.89 (4m) (a) of the statutes is created to read:

4 346.89 (4m) (a) In this subsection:

5 1. "Drive" has the meaning given in s. 343.305 (1) (b).

6 2. "Hands-free use" means the use of an attachment, accessory, wirelessly  
7 paired or tethered capability, application, wireless connection, or built-in feature of  
8 a cellular or other wireless telephone or a motor vehicle that allows the person to use  
9 verbal or single touch commands to activate or deactivate the telephone or to activate  
10 or deactivate a function or software application of the telephone. Hands-free use  
11 does not include typing or scrolling on a device.

12

13 INS 3-10

14

15 SECTION 2. 346.89 (4m) (c) 2. of the statutes is created to read:

16 346.89 (4m) (c) 2. This subsection does not apply to the use of a cellular or other  
17 wireless telephone by a law enforcement officer.

18 SECTION 3. 346.89 (3m) (c) 3. of the statutes is created to read:

19 346.89 (3m) (c) 3. This subsection does not apply to the use of a cellular or other  
20 wireless telephone to report an emergency.

21

22

23

1           INS 3-16

2

3

*(2g) ✓*  
**SECTION 4.** 346.95 *(2g)* of the statutes is created to read:

4

346.95 *(2g)* **(2m)** Any person violating s. 346.89 *(4m) ✓* may be required to forfeit not

5

more than \$50 for the first offense, not more than \$100 for the *2nd* **second** offense, and

6

not more than \$150 for the 3rd or subsequent conviction within a year.

## Mueller, Eric

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**From:** Clark, Erin  
**Sent:** Wednesday, September 18, 2019 1:51 PM  
**To:** Mueller, Eric  
**Subject:** Re: Draft review: LRB -2868/P2

Let's go with wireless communication device. That's what I've seen most often with the other states who have passed similar legislation.

Thanks!

On Sep 18, 2019, at 1:46 PM, Mueller, Eric <[Eric.Mueller@legis.wisconsin.gov](mailto:Eric.Mueller@legis.wisconsin.gov)> wrote:

Erin,

In regard to item 1., do you want to use the term "wireless communication device" throughout the draft (this term was used in parts of the previous request)? Just "wireless device"? Something else?

Eric Mueller  
Attorney, Legislative Reference Bureau  
Phone: (608)261-7032  
[eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)

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**From:** Clark, Erin <[Erin.Clark@legis.wisconsin.gov](mailto:Erin.Clark@legis.wisconsin.gov)>  
**Sent:** Tuesday, September 17, 2019 12:27 PM  
**To:** Mueller, Eric <[Eric.Mueller@legis.wisconsin.gov](mailto:Eric.Mueller@legis.wisconsin.gov)>  
**Subject:** RE: Draft review: LRB -2868/P2

Hey Eric,

Thanks for making these changes for us. I'm wondering if we can make a few more:

1. Can we use the word "device" instead of "telephone"? I want to make sure we're not limiting the bill and that it can apply to tablets and any other new technology.
2. Can we remove the phrase "within a year" from Section 10? We'd like people to pay the full fine amount regardless of when the convictions happen.

Let me know if you have any questions.

Thanks!

Erin Clark  
Research Assistant  
Office of Rep. John Spiros  
86<sup>th</sup> Assembly District  
(608) 266-1182

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**From:** LRB.Legal <[lrblegal@legis.wisconsin.gov](mailto:lrblegal@legis.wisconsin.gov)>  
**Sent:** Thursday, September 12, 2019 10:58 AM

**To:** Rep.Spiros <[Rep.Spiros@legis.wisconsin.gov](mailto:Rep.Spiros@legis.wisconsin.gov)>

**Subject:** Draft review: LRB -2868/P2

**Following is the PDF version of draft LRB -2868/P2.**



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-2868/P2  
EVM:kjf

P3  
RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

9/19/19

1 AN ACT *to repeal* 346.89 (4) (a); *to renumber and amend* 346.89 (4) (b) and  
2 346.89 (4m); *to amend* 343.315 (2) (f) 10. and 346.95 (1); and *to create* 346.89  
3 (4m) (a), 346.89 (4m) (c) 1. b., 346.89 (4m) (c) 2., 346.89 (4m) (c) 3. and 346.95  
4 (2g) of the statutes; **relating to:** the use of a wireless telephone while driving  
5 and providing a penalty.

communication device

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This bill prohibits any person from using a cellular or other wireless telephone (cellular phone) while driving, except for certain hands-free use, use by law enforcement officials, or use related to an emergency.

device

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. Persons who violate this prohibition 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. Also, a person is prohibited from driving a motor vehicle while using a cellular phone in a highway construction zone, except to report an emergency. Persons who violate either of these prohibitions 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.

communication device

This bill prohibits any person from using a cellular phone while driving. Exceptions are provided for the use of a cellular phone by law enforcement officers

device

device



or to report an emergency and for certain hands-free use <sup>of a device</sup> by persons who hold a license other than a probationary license or an instruction permit. Persons who violate this prohibition may be required to forfeit not more than \$50 for a first offense, not more than \$100 for a second offense, and not more than \$150 for a third or subsequent offense ~~(within one year)~~.

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. 343.315 (2) (f) 10. of the statutes is amended to read:

2 343.315 (2) (f) 10. In this subdivision, "mobile telephone" has the meaning  
3 given in 49 CFR 390.5. Violating s. 346.89 (4) ~~(b)~~ (4g) or a local ordinance in  
4 conformity therewith or a law of a federally recognized American Indian tribe or  
5 band in this state in conformity with s. 346.89 (4) ~~(b)~~ (4g) or the law of another  
6 jurisdiction prohibiting driving a commercial motor vehicle, as defined in 49 CFR  
7 390.5, while using a hand-held mobile telephone, as those or substantially similar  
8 terms are used in that jurisdiction's law.

9 SECTION 2. 346.89 (4) (a) of the statutes is repealed.

10 SECTION 3. 346.89 (4) (b) of the statutes is renumbered 346.89 (4g), and 346.89  
11 (4g) (a) (intro.), as renumbered, is amended to read:

12 346.89 (4g) (a) (intro.) In this paragraph subsection:

13 SECTION 4. 346.89 (4m) of the statutes is renumbered 346.89 (4m) (b) and  
14 amended to read:

15 346.89 (4m) (b) No person may drive, as defined in s. 343.305 (1) (b), any motor  
16 vehicle while using use a cellular or other wireless telephone, including using the  
17 telephone for a purpose other than communication, where persons engaged in work

↑  
strike

device

strike

strike

communication  
device

1 in a highway maintenance or construction area or in a utility work area are at risk  
2 from traffic, except to report an emergency while driving.

3 (c) 1. This subsection does not apply to the hands-free use of a voice-operated  
4 or hands-free device cellular or other wireless telephone if the all of the following  
5 apply:

6 a. The driver of the motor vehicle does not use any part of his or her hands body  
7 to operate the device telephone, except to activate or deactivate a feature the  
8 telephone or a function or software application of the device telephone.

9 SECTION 5. 346.89 (4m) (a) of the statutes is created to read:

10 346.89 (4m) (a) In this subsection:

11 1. "Drive" has the meaning given in s. 343.305 (1) (b).

12 2. "Hands-free use" means the use of an attachment, accessory, wirelessly  
13 paired or tethered capability, application, wireless connection, or built-in feature of  
14 a cellular or other wireless telephone or a motor vehicle that allows the person to use  
15 verbal or single-touch commands to activate or deactivate the telephone or to  
16 activate or deactivate a function or software application of the telephone.  
17 Hands-free use does not include typing or scrolling on a device.

18 SECTION 6. 346.89 (4m) (c) 1. b. of the statutes is created to read:

19 346.89 (4m) (c) 1. b. The driver holds an operator's license other than a  
20 probationary license issued under s. 343.085, or an instruction permit issued under  
21 s. 343.07.

22 SECTION 7. 346.89 (4m) (c) 2. of the statutes is created to read:

23 346.89 (4m) (c) 2. This subsection does not apply to the use of a cellular or other  
24 wireless telephone by a law enforcement officer.

25 SECTION 8. 346.89 (4m) (c) 3. of the statutes is created to read:

1 346.89 (4m) (c) 3. This subsection does not apply to the use of a cellular or other  
2 wireless telephone <sup>communication device</sup> to report an emergency.

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

4 346.95 (1) Except as provided in sub. (13), any person violating s. 346.87,  
5 346.88, 346.89 (4), ~~(4m)~~, (4g) or (5), 346.90 to 346.92, or 346.94 (1), (9), (10), (11), (12),  
6 or (15) may be required to forfeit not less than \$20 nor more than \$40 for the first  
7 offense and not less than \$50 nor more than \$100 for the 2nd or subsequent  
8 conviction within a year.

9 SECTION 10. 346.95 (2g) of the statutes is created to read:

10 346.95 (2g) Any person violating s. 346.89 (4m) may be required to forfeit not  
11 more than \$50 for the first offense, not more than \$100 for the 2nd offense, and not  
12 more than \$150 for the 3rd or subsequent conviction within a year.

13 SECTION 11. Initial applicability.

14 (1) This act first applies to violations committed on the effective date of this  
15 subsection but does not preclude the counting of offenses as prior offenses for the  
16 purposes of sentencing.

17

(END)



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-2868/P3 /1  
EVM:kjf

RMB

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

No Changes

9/23/19

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3             (4m) (a), 346.89 (4m) (c) 1. b., 346.89 (4m) (c) 2., 346.89 (4m) (c) 3. and 346.95  
4             (2g) of the statutes; **relating to:** the use of a wireless communication device  
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***Analysis by the Legislative Reference Bureau***

This bill prohibits any person from using a wireless communication device (device) while driving, except for certain hands-free use, use by law enforcement officials, or use related to an emergency.

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. Persons who violate this prohibition 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. Also, a person is prohibited from driving a motor vehicle while using a cellular phone in a highway construction zone, except to report an emergency. Persons who violate either of these prohibitions 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 using a device while driving. Exceptions are provided for the use of a device by law enforcement officers or to report an emergency

and for certain hands-free use of a device by persons who hold a license other than a probationary license or an instruction permit. Persons who violate this prohibition may be required to forfeit not more than \$50 for a first offense, not more than \$100 for a second offense, and not more than \$150 for a third or subsequent offense.

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

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

1           **SECTION 1.** 343.315 (2) (f) 10. of the statutes is amended to read:

2           343.315 (2) (f) 10. In this subdivision, “mobile telephone” has the meaning  
3 given in 49 CFR 390.5. Violating s. 346.89 (4) ~~(b)~~ (4g) or a local ordinance in  
4 conformity therewith or a law of a federally recognized American Indian tribe or  
5 band in this state in conformity with s. 346.89 (4) ~~(b)~~ (4g) or the law of another  
6 jurisdiction prohibiting driving a commercial motor vehicle, as defined in 49 CFR  
7 390.5, while using a hand-held mobile telephone, as those or substantially similar  
8 terms are used in that jurisdiction’s law.

9           **SECTION 2.** 346.89 (4) (a) of the statutes is repealed.

10           **SECTION 3.** 346.89 (4) (b) of the statutes is renumbered 346.89 (4g), and 346.89  
11 (4g) (a) (intro.), as renumbered, is amended to read:

12           346.89 (4g) (a) (intro.) In this paragraph subsection:

13           **SECTION 4.** 346.89 (4m) of the statutes is renumbered 346.89 (4m) (b) and  
14 amended to read:

15           346.89 (4m) (b) No person may drive, as defined in s. 343.305 (1) (b), any motor  
16 vehicle ~~while using~~ use a cellular or other wireless telephone communication device,  
17 including using the telephone device for a purpose other than communication, where  
18 persons ~~engaged in work in a highway maintenance or construction area or in a~~  
19 utility work area are at risk from traffic, except to report an emergency while driving.

1           (c) 1. This subsection does not apply to the hands-free use of a ~~voice-operated~~  
2 ~~or hands-free~~ wireless communication device if the all of the following apply:

3           a. The driver of the motor vehicle does not use any part of his or her hands body  
4 to operate the device, except to activate or deactivate ~~a feature~~ the device or a  
5 function or software application of the device.

6           **SECTION 5.** 346.89 (4m) (a) of the statutes is created to read:

7           346.89 (4m) (a) In this subsection:

8           1. "Drive" has the meaning given in s. 343.305 (1) (b).

9           2. "Hands-free use" means the use of an attachment, accessory, wirelessly  
10 paired or tethered capability, application, wireless connection, or built-in feature of  
11 a wireless communication device or a motor vehicle that allows the person to use  
12 verbal or single-touch commands to activate or deactivate the device or to activate  
13 or deactivate a function or software application of the device. Hands-free use does  
14 not include typing or scrolling on a device.

15           **SECTION 6.** 346.89 (4m) (c) 1. b. of the statutes is created to read:

16           346.89 (4m) (c) 1. b. The driver holds an operator's license other than a  
17 probationary license issued under s. 343.085, or an instruction permit issued under  
18 s. 343.07.

19           **SECTION 7.** 346.89 (4m) (c) 2. of the statutes is created to read:

20           346.89 (4m) (c) 2. This subsection does not apply to the use of a wireless  
21 communication device by a law enforcement officer.

22           **SECTION 8.** 346.89 (4m) (c) 3. of the statutes is created to read:

23           346.89 (4m) (c) 3. This subsection does not apply to the use of a wireless  
24 communication device to report an emergency.

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



## Mueller, Eric

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**From:** Clark, Erin  
**Sent:** Monday, September 23, 2019 2:44 PM  
**To:** Mueller, Eric  
**Subject:** FW: Draft review: LRB -2868/P3  
**Attachments:** 19-2868/P3.pdf

Hi Eric,

Thanks for making those changes for us! I think we're ready to go on this one. Could we get this jacketed for introduction?

Additionally, Senator Wanggaard will be our Senate lead, so could we get a Senate version drafted and jacketed for his office?

Thanks!!

Erin

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**From:** LRB.Legal <lrblegal@legis.wisconsin.gov>  
**Sent:** Thursday, September 19, 2019 9:48 AM  
**To:** Rep.Spiros <Rep.Spiros@legis.wisconsin.gov>  
**Subject:** Draft review: LRB -2868/P3

**Following is the PDF version of draft LRB -2868/P3.**