

1 **Senate Bill No. 260**

2 (By Senators Beach, Klempa, Unger, Foster, Edgell, Miller and  
3 Snyder)

4 \_\_\_\_\_  
5 [Introduced January 25, 2011; referred to the Committee on  
6 Transportation and Infrastructure; and then to the Committee on  
7 the Judiciary.]

8 \_\_\_\_\_  
9  
10  
11  
12 A BILL to amend the Code of West Virginia, 1931, as amended, by  
13 adding thereto a new section, designated §17C-14-15, relating  
14 to establishing the offense of unlawful use of a wireless  
15 communication device while operating a motor vehicle on a  
16 street or highway; providing exceptions and conditions for  
17 certain lawful uses; definitions; and misdemeanor criminal  
18 penalties upon conviction.

19 *Be it enacted by the Legislature of West Virginia:*

20 That the Code of West Virginia, 1931, as amended, be amended  
21 by adding thereto a new section, designated §17C-14-15, to read as  
22 follows:

23 **ARTICLE 14. MISCELLANEOUS RULES**

24 **§17C-14-15. Unlawful Use of a Wireless Device.**

1           (a) It is unlawful for any driver while operating a motor  
2 vehicle on the roads or highways of this state to manually type or  
3 enter multiple letters, numbers, symbols or other text in a  
4 wireless communication device, or send or read data in the device,  
5 for the purpose of nonvoice interpersonal communication, including  
6 texting, emailing and instant messaging.

7           (b) For the purposes of this section, texting means manually  
8 entering alphanumeric text into or reading text from an electronic  
9 device.

10          (1) Texting includes but is not limited to short message  
11 service, e-mailing, instant messaging, a command or request to  
12 enter a world-wide web page, or engaging in any other form of  
13 electronic text retrieval or entry for present or future  
14 communication.

15          (2) Texting does not include:

16          (A) Reading, selecting or entering a telephone number, an  
17 extension number, or voicemail retrieval codes and commands into an  
18 electronic device for the purpose of initiating or receiving a  
19 telephone call or using voice commands to initiate or receive a  
20 telephone call;

21          (B) Inputting, selecting or reading information on a global  
22 positioning system or navigation system; or

23          (C) Using a device capable of performing multiple functions  
24 such as fleet management systems, dispatching devices, smart

1 phones, citizen band radios or music players for a purpose that is  
2 otherwise not prohibited in this section.

3 (c) For the purposes of this section, electronic devices  
4 include but are not limited to, a cellular telephone, personal  
5 digital assistant, pager, computer, or any device used to input,  
6 write, send, receive or read text.

7 (d) This section does not apply to a driver who is:

8 (1) A law-enforcement, fire service, or emergency medical  
9 services professional performing official duties;

10 (2) Reporting an emergency or criminal or suspicious activity  
11 to law-enforcement authorities; or

12 (3) Not operating a motor vehicle on the travel portion of a  
13 public street or highway.

14 (e) This section does not supercede the provisions restricting  
15 texting and cell phone use for drivers under the age of eighteen  
16 possessing a level one or level two graduated driver's license or  
17 any more restrictive provisions for drivers of commercial motor  
18 vehicles prescribed by the provisions of chapter seventeen-e of  
19 this code or federal law or rule.

20 (f) Unless a greater penalty is prescribed by this code or  
21 federal law or rule pertaining to a class of driver, any driver who  
22 violates this section shall upon conviction be subject to a fine of  
23 \$25. No court costs or other fees shall be assessed for a  
24 violation of this section and notwithstanding any other section of

1 this code to the contrary, no points may be entered on any driving  
2 record administered by the Division of Motor Vehicles as a result  
3 of violation of this section.

NOTE: The purpose of this bill is to establish the offense of unlawful use of a wireless communication device for the purposes of texting while operating a motor vehicle on a street or highway. The bill provides for a \$25 fine for anyone convicted of a violation of this section.

§17C-14-15 is new; therefore, strike-throughs and underscoring have been omitted.