

PLEASE NOTE: In most BUT NOT ALL instances, the page and line numbering of bills on this web site correspond to the page and line numbering of the official printed version of the bills.

REFERENCE TITLE: **cellular telephones; use while driving**

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

SB 1003

Introduced by
Senator Smith

AN ACT

**AMENDING TITLE 28, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 21;
RELATING TO THE USE OF CELLULAR TELEPHONES WHILE DRIVING.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 28, chapter 3, Arizona Revised Statutes, is amended
3 by adding article 21, to read:

4 ARTICLE 21. USE OF CELLULAR TELEPHONES WHILE DRIVING

5 28-1191. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CELLULAR TELEPHONE" MEANS AN ANALOG OR DIGITAL WIRELESS TELEPHONE
8 AUTHORIZED BY THE FEDERAL COMMUNICATIONS COMMISSION TO OPERATE IN THE
9 FREQUENCY BANDWIDTH RESERVED FOR CELLULAR RADIOPHONES.

10 2. "ENGAGE IN A CALL":

11 (a) MEANS TALKING INTO OR LISTENING ON A HANDHELD CELLULAR TELEPHONE.

12 (b) DOES NOT INCLUDE HOLDING A CELLULAR TELEPHONE TO ACTIVATE,
13 DEACTIVATE OR INITIATE A FUNCTION OF THE CELLULAR TELEPHONE.

14 3. "HANDHELD CELLULAR TELEPHONE" MEANS A CELLULAR TELEPHONE WITH WHICH
15 A USER ENGAGES IN A CALL USING AT LEAST ONE HAND.

16 4. "HANDS-FREE CELLULAR TELEPHONE" MEANS A CELLULAR TELEPHONE THAT HAS
17 AN INTERNAL FEATURE OR FUNCTION, OR THAT IS EQUIPPED WITH AN ATTACHMENT OR
18 ADDITION, WHETHER OR NOT PERMANENTLY PART OF THE CELLULAR TELEPHONE, BY WHICH
19 A USER ENGAGES IN A CALL WITHOUT THE USE OF EITHER HAND, WHETHER OR NOT THE
20 USE OF EITHER HAND IS NECESSARY TO ACTIVATE, DEACTIVATE OR INITIATE A
21 FUNCTION OF THE CELLULAR TELEPHONE.

22 5. "IMMEDIATE PROXIMITY" MEANS THE DISTANCE THAT PERMITS THE USER OF A
23 CELLULAR TELEPHONE TO HEAR TELECOMMUNICATIONS TRANSMITTED OVER THE CELLULAR
24 TELEPHONE BUT THAT DOES NOT REQUIRE PHYSICAL CONTACT WITH THE USER'S EAR.

25 6. "USING" MEANS HOLDING A CELLULAR TELEPHONE TO, OR IN THE IMMEDIATE
26 PROXIMITY OF, THE USER'S EAR.

27 28-1192. Use of cellular telephones while driving; prohibition;
28 exceptions

29 A. A PERSON SHALL NOT OPERATE A MOTOR VEHICLE ON A HIGHWAY WHILE USING
30 A CELLULAR TELEPHONE TO ENGAGE IN A CALL WHILE THE MOTOR VEHICLE IS IN
31 MOTION.

32 B. AN OPERATOR OF A MOTOR VEHICLE WHO HOLDS A CELLULAR TELEPHONE TO,
33 OR IN THE IMMEDIATE PROXIMITY OF, THE OPERATOR'S EAR WHILE THE MOTOR VEHICLE
34 IS IN MOTION IS PRESUMED TO BE ENGAGING IN A CALL. THIS PRESUMPTION IS
35 REBUTTABLE BY EVIDENCE TENDING TO SHOW THAT THE OPERATOR WAS NOT ENGAGED IN A
36 CALL.

37 C. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

38 1. LAW ENFORCEMENT AND SAFETY PERSONNEL.

39 2. DRIVERS OF AUTHORIZED EMERGENCY VEHICLES.

40 3. HOLDERS OF COMMERCIAL DRIVER LICENSES WHILE DRIVING WITHIN THE
41 SCOPE OF THEIR EMPLOYMENT.

42 4. PUBLIC TRANSIT PERSONNEL.

43 5. A PERSON WHO IS REPORTING RECKLESS OR NEGLIGENT BEHAVIOR.

44 6. A PERSON WHO BELIEVES THE PERSON IS IN PHYSICAL DANGER IF THE
45 PERSON IS THE ONLY ADULT IN THE MOTOR VEHICLE.

1 7. THE USE OF A CELLULAR TELEPHONE FOR THE SOLE PURPOSE OF
2 COMMUNICATING WITH ANY OF THE FOLLOWING REGARDING AN EMERGENCY SITUATION:

- 3 (a) AN EMERGENCY RESPONSE OPERATOR.
- 4 (b) A HOSPITAL, PHYSICIAN'S OFFICE OR HEALTH CLINIC.
- 5 (c) A PROVIDER OF AMBULANCE SERVICES.
- 6 (d) A PROVIDER OF FIRE FIGHTING SERVICES.
- 7 (e) A LAW ENFORCEMENT AGENCY.

8 8. A PERSON WHO IS OPERATING AN AMATEUR RADIO AND WHO HOLDS AN
9 UNREVOKED AND UNEXPIRED AMATEUR RADIO STATION LICENSE ISSUED BY THE FEDERAL
10 COMMUNICATIONS COMMISSION.

11 9. THE USE OF A HANDS-FREE CELLULAR TELEPHONE.

12 28-1193. Nonmoving violation; civil penalties; accident reports

13 A. A VIOLATION OF THIS ARTICLE IS A NONMOVING CIVIL TRAFFIC VIOLATION.

14 B. IF A PERSON VIOLATES THIS ARTICLE AND THE PERSON IS NOT INVOLVED IN
15 A MOTOR VEHICLE ACCIDENT, THE PERSON IS SUBJECT TO A CIVIL PENALTY OF FIFTY
16 DOLLARS.

17 C. IF A PERSON VIOLATES THIS ARTICLE AND THE PERSON IS INVOLVED IN A
18 MOTOR VEHICLE ACCIDENT, THE PERSON IS SUBJECT TO A CIVIL PENALTY OF TWO
19 HUNDRED DOLLARS.

20 D. IF A PERSON IS CITED FOR VIOLATING THIS ARTICLE, THE PERSON IS
21 INVOLVED IN A MOTOR VEHICLE ACCIDENT AND A WRITTEN ACCIDENT REPORT IS
22 REQUIRED PURSUANT TO ARTICLE 4 OF THIS CHAPTER, THE LAW ENFORCEMENT OFFICER
23 INVESTIGATING THE ACCIDENT SHALL INDICATE ON THE WRITTEN ACCIDENT FORM THE
24 USE OF A CELLULAR TELEPHONE AT THE TIME OF THE ACCIDENT.

25 Sec. 2. Warning period

26 For the purpose of informing and educating persons who operate motor
27 vehicles, beginning on September 1, 2002 through September 30, 2002, any law
28 enforcement officer authorized to issue traffic complaints may stop motor
29 vehicles and issue verbal warnings to persons who would be violating section
30 28-1192, Arizona Revised Statutes, as added by this act, if it was effective
31 on the day the warning is issued.

32 Sec. 3. Effective date

33 Title 28, chapter 3, article 21, Arizona Revised Statutes, as added by
34 this act, is effective from and after September 30, 2002.