

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 346

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO DISTRACTED DRIVING; AMENDING SECTION 49-208, IDAHO CODE, TO  
2 PROVIDE THAT NO LOCAL AUTHORITY SHALL PROHIBIT OR RESTRICT THE USE OF A  
3 HANDHELD WIRELESS DEVICE WHILE OPERATING A MOTOR VEHICLE; AND AMENDING  
4 SECTION 49-1401A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING DIS-  
5 TRACTED DRIVING AND TO REVISE PROVISIONS REGARDING CERTAIN PENALTIES.  
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 49-208, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 49-208. POWERS OF LOCAL AUTHORITIES. (1) The provisions of this title  
11 shall not be deemed to prevent local authorities with respect to highways  
12 under their jurisdiction and within the reasonable exercise of the police  
13 power from:

14 (a) Regulating or prohibiting stopping, standing or parking;

15 (b) Regulating traffic by means of peace officers or traffic-control  
16 devices;

17 (c) Regulating or prohibiting processions or assemblages on the high-  
18 ways;

19 (d) Designating particular highways for use by traffic moving in one  
20 (1) direction;

21 (e) Establishing speed limits for vehicles in public parks;

22 (f) Designating any highway as a through highway or designating any in-  
23 tersection or junction of highways as a stop or yield intersection or  
24 junction;

25 (g) Restricting the use of highways as authorized in chapter 10, title  
26 49, Idaho Code;

27 (h) Regulating or prohibiting the turning of vehicles or specified  
28 types of vehicles;

29 (i) Altering or establishing speed limits;

30 (j) Designating no-passing zones;

31 (k) Prohibiting or regulating the use of controlled-access highways by  
32 any class or kind of traffic;

33 (l) Prohibiting or regulating the use of heavily traveled highways by  
34 any class or kind of traffic found to be incompatible with the normal and  
35 safe movement of traffic;

36 (m) Establishing minimum speed limits;

37 (n) Prohibiting pedestrians from crossing a highway in a business dis-  
38 trict or any designated highway except in a crosswalk;

39 (o) Restricting pedestrian crossings at unmarked crosswalks;

40 (p) Establishing the maximum speed of vehicles on a bridge or other ele-  
41 vated structure;

42 (q) Requiring written accident reports;

- 1 (r) Regulating persons propelling pushcarts;  
 2 (s) Regulating persons upon skates, coasters, sleds and other toy vehi-  
 3 cles;  
 4 (t) Adopting and enforcing temporary or experimental regulations as  
 5 may be necessary to cover emergencies or special conditions;  
 6 (u) Prohibiting drivers of ambulances from exceeding maximum speed  
 7 limits;  
 8 (v) Adopting such other traffic regulations as are specifically autho-  
 9 rized by this title.

10 (2) No ordinance or regulation enacted under paragraphs (d) through (p)  
 11 of subsection (1) of this section shall be effective until traffic-control  
 12 devices giving notice of local traffic regulations are erected upon or at the  
 13 entrances to the highway or part affected as may be most appropriate.

14 (3) No local authority shall erect or maintain any traffic-control de-  
 15 vice at any location so as to require traffic on any state highway to stop be-  
 16 fore entering or crossing any intersecting highway unless approval in writ-  
 17 ing has first been obtained from the department.

18 (4) No local authority shall adopt an ordinance that prohibits or re-  
 19 stricts the use of a handheld wireless device while operating a moving motor  
 20 vehicle. Any such regulation, resolution, or ordinance implemented prior to  
 21 July 1, 2020, shall be null, void, and of no force and effect on and after July  
 22 1, 2020.

23 (45) Local authorities by ordinance may adopt by reference all or any  
 24 part of title 49, Idaho Code, without publishing or posting in full the pro-  
 25 visions thereof, provided that not less than one (1) copy is available for  
 26 public use and examination in the office of the clerk.

27 (56) Local authorities may adopt an ordinance establishing procedures  
 28 for the abatement and removal of abandoned, junk, dismantled or inoperative  
 29 vehicles or their parts from private or public property, including highways,  
 30 provided the ordinance is not in conflict with the provisions of this title.

31 SECTION 2. That Section 49-1401A, Idaho Code, be, and the same is hereby  
 32 amended to read as follows:

33 49-1401A. TEXTING WHILE DISTRACTED DRIVING.

34 (1) ~~(a) As used in For purposes of this section: "texting" means engag-~~  
 35 ~~ing in the review of, or manual preparation and transmission of, written~~  
 36 ~~communications via handheld wireless devices. This definition does not~~  
 37 ~~include voice-operated or hands free devices that allow the user to re-~~  
 38 ~~view, prepare and transmit a text message without the use of either hand~~  
 39 ~~except to activate, deactivate or initiate a feature or function.~~

40 (i) "Distracted driving" means operating a moving motor vehicle  
 41 in a manner as to endanger or that is likely to endanger any person  
 42 or property.

43 (ii) "Manner as to endanger or that is likely to endanger any per-  
 44 son or property" means driving in a careless or erratic manner or  
 45 in violation of section 49-635, 49-637, or 49-638, Idaho Code, or  
 46 in violation of another such rule of the road or an equivalent lo-  
 47 cal ordinance.

48 (iii) "Operate" means to drive or assume physical control of a mo-  
 49 tor vehicle in motion upon a public way, street, road, or highway.

1        (b) Distracted driving shall be considered a lesser offense than inat-  
2        tentive driving, as described in section 49-1401(3), Idaho Code, and  
3        shall be applicable in those circumstances where the careless or er-  
4        ratic driving has been brief or temporary.

5        (2) ~~Texting~~ Distracted driving, as that term is defined in subsection  
6        (1) of this section, while driving a moving motor vehicle shall constitute  
7        an infraction ~~provided this does not apply to voice-operated or hands free~~  
8        devices that allow the user to review, prepare and transmit a text message  
9        without the use of either hand ~~except to activate, deactivate or initiate a~~  
10       feature or function. Every person who violates this section shall be guilty  
11       of an infraction. A violation of this section shall be punishable by a fine  
12       of fifty dollars (\$50.00) for a first offense and one hundred dollars (\$100)  
13       for a second offense within two (2) years of a first offense. For a third  
14       offense within two (2) years of a first offense, and for each subsequent of-  
15       fense within two (2) years of a first offense, the offender shall be punished  
16       by a fine of three hundred dollars (\$300). Any offense under this section  
17       committed while using a handheld wireless device shall be punishable by an  
18       additional fine of twenty-five dollars (\$25.00) per violation. Except for a  
19       third offense and each subsequent offense within two (2) years of a first of-  
20       fense, a conviction under this section shall not result in violation point  
21       counts as prescribed in section 49-326, Idaho Code. In addition, ~~except for~~  
22       a third offense and each subsequent offense within two (2) years of a first  
23       offense, a conviction under this section shall not be deemed to be a mov-  
24       ing traffic violation for the purpose of establishing rates of motor vehi-  
25       cle insurance charged by a casualty insurer. A third offense within two (2)  
26       years of a first offense, and each subsequent offense within two (2) years of  
27       a first offense, shall result in three (3) violation points pursuant to sec-  
28       tion 49-326, Idaho Code, and shall be deemed to be a moving traffic violation  
29       for the purpose of establishing rates of motor vehicle insurance charged by a  
30       casualty insurer.