

**HB 4116 A STAFF MEASURE SUMMARY**

Carrier: Rep. Noble

**House Committee On Judiciary****Action Date:** 02/15/18**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 11-0-0-0**Yeas:** 11 - Barker, Gorsek, Greenlick, Olson, Post, Power, Sanchez, Sprenger, Stark, Vial, Williamson**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Whitney Perez, Counsel**WHAT THE MEASURE DOES:**

Exempts construction work requiring parking vehicle on a roadway from driving definition, for purposes of driving while using a mobile electronic device. Modifies hands-free accessory definition to include minimal use of a finger to activate or deactivate a function of the mobile electronic device. Removes this language from exceptions to offense. Adds business band radio service to exceptions and affirmative defenses applicable to two-way radio devices for offense of driving a motor vehicle while using a mobile electronic device. Adds exception to this offense for use of a mobile electronic device while operating a vehicle wider than the lane of travel, a vehicle transporting livestock, a slow-moving vehicle, or a pilot or safety vehicle used to assist these vehicles, when the device facilitates safe operation of the vehicle. Adds exception for drivers' of vehicles weighing at least 10,001 pounds and using mobile electronic device to comply with federal regulations. Defines livestock. Prohibits enhanced classification of this offense for prior convictions that occur before July 1, 2018. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Need for a definition of livestock
- Explanation of affirmative defenses and changes made to that section of the law
- Explanation of need for livestock and construction exemption
- History of the law

**EFFECT OF AMENDMENT:**

Exempts certain construction work from driving definition. Removes "necessary" from specification of when certain types of driving are not included. Modifies hands-free accessory definition to include minimal use of a finger to activate or deactivate a function of the mobile electronic device. Removes this language from exceptions to this offense. Defines livestock. Adds exception for drivers of vehicles weighing at least 10,001 pounds and complying with federal regulations. Specifies that sentence of discharge may not include a fine. Declares emergency, effective on passage.

**BACKGROUND:**

In 2007, the Legislative Assembly passed House Bill 2872 making it a Class D traffic violation for a minor to operate a motor vehicle while using a mobile communication device. The law was expanded in 2009, to prohibit any person from operating a motor vehicle while using a mobile communication device. In 2013, Senate Bill 9 elevated this offense to a Class C traffic violation. In 2015, the Oregon Court of Appeals, in *State v. Rabanales-Ramos*, determined that this law "prohibits talking and texting on a mobile communication device, but not all activities that can be

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performed using such a device."

In February 2017, the Distracted Driving Task Force (task force) issued a report which included the recommendation that the distracted driving statute be amended to broaden the definition of device usage and eliminate certain exceptions. House Bill 2597, in 2017, encompassed several of the task force's recommendations. The measure renamed and expanded the offense to cover operating a motor vehicle while using a mobile electronic device. It also defined mobile electronic device, driving, and other key terms. HB 2597 also established certain exceptions and affirmative defense to this offense. Finally, it increased the penalty for a first offense from a Class C traffic violation to a Class B traffic violation. It further increased the penalty to a Class A traffic violation for a subsequent offense within 10 years or if the first offense contributes to an accident. A third offense within ten years is increased to a Class B misdemeanor with a mandatory \$2,000 fine.

House Bill 4116-A modifies the exceptions and affirmative defenses to this offense. It also specifies that the enhanced classification of this offense only applies to prior convictions occurring on or after July 1, 2018, and allows someone whose offense classification was enhanced due to a conviction before that date to have the court reduce the classification.