

Cherokee Nation Code Annotated

Title 47: Motor Vehicles

Chapter 11: Rules of the Road

Article IX. Reckless Driving, Driving While Intoxicated and Negligent Homicide

§ 11-901C. Unlawful use of a cellular telephone

Cite as: 47 CNCA § 11-901C

A. It shall be unlawful for any person to operate a commercial motor vehicle or for a public transit driver to operate a motor vehicle on any street or highway within this state while:

1. Using a cellular telephone or electronic communication device to write, send, or read a text-based communication; or
2. Using a hand-held mobile telephone while operating a commercial motor vehicle.

For the purposes of paragraphs 1 and 2 of this subsection, using a hand-held mobile telephone is permissible by drivers of a commercial motor vehicle when necessary to communicate with law enforcement officials, other emergency services or by a public school bus driver to and from a central dispatch school transportation department or its equivalent.

B. Any person who violates the provisions of subsection A of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of Five Hundred Dollars (\$500.00).

C. As used in this section:

1. "Cellular telephone" means an analog or digital wireless telephone authorized by the Federal Communications Commission to operate in the frequency bandwidth reserved for cellular telephones;
2. "Electronic communication device" means an electronic device that permits the user to manually transmit a communication of written text by means other than through an oral transfer or wire communication. This term does not include a voice-activated global positioning or navigation system that is affixed to a motor vehicle;
3. "Operate" means operating on a street or highway, including while temporarily stationary because of traffic, a traffic control device or other momentary delays. Operating does not include when the driver of a commercial motor vehicle has moved the vehicle to the side of or off a street or highway and has halted in a location where the vehicle can safely remain stationary;

4. "Public transit driver" means:

- a. any operator of a public transit vehicle owned and operated by the State of Oklahoma, any public trust authority, county, municipality, town or city within this state,
- b. any operator of a school bus or multi-passenger motor vehicle owned and approved to operate by the State Department of Education or any school district within this state, or
- c. any operator, conductor or driver of a locomotive engine, railway car or train of cars; and

5. "Write, send, or read a text-based communication", also known as texting, means manually entering alphanumeric text into, sending text, or reading text from, an electronic device, and includes, but is not limited to, short message service (SMS), emailing, instant messaging (IM), a command or request to access a World Wide Web page, or engaging in any other form of electronic text retrieval or entry, for present or future communication. As used in this paragraph, texting does not include:

- a. using voice commands to select or enter a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a phone call,
- b. inputting, selecting, or reading information on a global positioning system or navigation system, or
- c. using a device capable of performing multiple functions for a purpose that is not otherwise prohibited in this part, including, but not limited to, fleet management systems, dispatching devices, smart phones, citizens band radios, and music players.

D. This act shall not apply to railroads and railroad operating employees regulated by the Federal Railroad Administration.

Historical Data

LA 02-21, eff. January 11, 2021.