

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature Second Regular Session - 2012

IN THE SENATE

SENATE BILL NO. 1251

BY BOCK AND WERK

AN ACT

RELATING TO MOTOR VEHICLES AND CELLULAR TELEPHONES; AMENDING SECTION 49-104, IDAHO CODE, TO REVISE DEFINITIONS; AND AMENDING CHAPTER 14, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1431, IDAHO CODE, TO PROHIBIT THE USE OF A CELLULAR TELEPHONE WHILE OPERATING A MOTOR VEHICLE, TO PROVIDE FOR EXCEPTIONS, TO PROVIDE THAT THE SEIZURE OR FORFEITURE OF A CELLULAR TELEPHONE IS NOT AUTHORIZED UNLESS OTHERWISE PROVIDED FOR IN LAW AND TO PROVIDE A PENALTY.

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

SECTION 1. That Section 49-104, Idaho Code, be, and the same is hereby amended to read as follows:

49-104. DEFINITIONS -- C. (1) "Cancellation of driver's license" means the annulment or termination by formal action of the department of a person's driver's license because of some error or defect in the driver's license or because the licensee is no longer entitled to the driver's license. The cancellation of a driver's license is without prejudice and after compliance with requirements, the individual may apply for a new driver's license at any time after cancellation.

(2) "Caravaning" means the transportation of any motor vehicle into, out of, or within the state operating on its own wheels or in tow for the purpose of sale or offer of sale by any agent, dealer, manufacturer's representative, purchaser, or prospective purchaser, regardless of residence unless the motor vehicle is licensed by the state of Idaho, or is owned by an automobile dealer, duly licensed as a dealer by this state. It shall also be considered as the transportation of property for hire by a motor vehicle upon the highways of this state.

(3) "Cellular telephone" means a wireless telephone, often used in a motor vehicle, utilizing low powered radio transmitters, with each transmitter covering a distinct geographical area (cell), and utilizing electronic equipment to switch a call from one area to another, thus enabling large-scale portable telephone service.

(4) "Certificate of liability insurance" means a certificate of liability insurance issued by an insurance company authorized to do business in this state or a certificate of liability insurance issued by the department of insurance which demonstrates current insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance or use of a motor vehicle described in the certificate in an amount not less than that required by section 49-117(18), Idaho Code, and also demonstrates the current existence of any other coverage required by title 41, Idaho Code, or a certificate of self-insurance issued pursuant to law for each motor vehicle to be registered. A certificate of liability

insurance shall contain the information required by the department of insurance, including the name and address of the owner of the motor vehicle and a description of the motor vehicle including identification number if there is one, or a statement that all vehicles owned by a person or entity are covered by insurance, the inception date of coverage, and the name of the insurer. "Certificate of liability insurance" may also include the original contract of liability insurance or a true copy, demonstrating the current existence of the liability insurance described in this subsection.

(45) "Certification of safety compliance" means that a motor carrier certifies as part of its registration process that it has knowledge of the federal regulations and rules promulgated by the Idaho transportation department and the Idaho state police applicable to motor carriers.

(56) "Chains" means metal traction devices required pursuant to section 49-948, Idaho Code, which consist of two (2) circular metal loops, one (1) on each side of the tire, connected by not less than nine (9) evenly-spaced chains across the tire tread.

(67) "Coerce" means to compel or attempt to compel by threat or use of force.

(78) "Commercial coach." (See section 39-4301, Idaho Code)

(89) "Commercial driver's license" means any class A, class B or class C driver's license as defined in section 49-105, Idaho Code.

(910) "Commercial driver license information system (CDLIS)" is the information system established to serve as a clearinghouse for locating information related to the licensing and identification of motor vehicle drivers.

(101) "Commercial driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, and charging a consideration or tuition for such services.

(112) "Commercial vehicle" or "commercial motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

(123) "Compliance review" means an on-site examination of motor carrier operations, which may be at the carrier's place of business, including driver's hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and such other related safety and transportation records to determine safety fitness.

(134) "Controlled substance" means any substance so classified under section 102(6) of the controlled substances act, 21 U.S.C. 802(6), and includes all substances listed on schedules I through V, of 21, CFR part 1308, as they may be revised from time to time.

(145) "Conviction" means:

(a) The person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment. A conviction for purposes of this title shall also include an infraction judgment.

(b) For purposes of disqualification or withdrawal of commercial vehicle driving privileges only, "conviction" means an unvacated adjudication of guilt, or determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an autho-

1 rized administrative tribunal, an unvacated forfeiture of bail or col-
2 lateral deposited to secure the person's appearance in court, a plea of
3 guilty or nolo contendere accepted by the court, the payment of a fine or
4 court cost, or violation of a condition of release without bail, regard-
5 less of whether or not the penalty is rebated, suspended or probated.

6 (156) "Crosswalk" means:

7 (a) That part of a highway at an intersection included within the con-
8 nections of the lateral lines of the sidewalks on opposite sides of the
9 highway measured from the curbs or in the absence of curbs, from the
10 edges of the traversable highway; and in the absence of a sidewalk on one
11 side of the highway, that part of a highway included within the exten-
12 sion of the lateral lines of the existing sidewalk at right angles to the
13 centerline.

14 (b) Any portion of a highway at an intersection or elsewhere distinctly
15 indicated for pedestrian crossing by lines or other markings on the sur-
16 face.

17 SECTION 2. That Chapter 14, Title 49, Idaho Code, be, and the same is
18 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
19 ignated as Section 49-1431, Idaho Code, and to read as follows:

20 49-1431. USE OF CELLULAR TELEPHONE WHILE OPERATING A MOTOR VEHI-
21 CLE. (1) No person shall operate a motor vehicle upon a public highway while
22 using a cellular telephone to engage in a call, which includes initiating a
23 call, answering a call or listening to or participating in a verbal communi-
24 cation through the cellular telephone.

25 (2) The provisions of subsection (1) of this section shall not apply to
26 an individual who is using a cellular telephone device to do any of the fol-
27 lowing:

28 (a) Report a traffic accident, medical emergency, fire or serious road
29 hazard;

30 (b) Report a situation in which the person reasonably believes his per-
31 sonal safety is in jeopardy;

32 (c) Report or avert the perpetration or potential perpetration of a
33 criminal act against the individual or another person; or

34 (d) Carry out official duties as a police officer, law enforcement of-
35 ficial, member of a paid or volunteer fire department or operator of an
36 authorized emergency vehicle.

37 (3) The prohibition in subsection (1) of this section shall not apply
38 to an individual who is using a headset, voice-activated or other hands free
39 device.

40 (4) The provisions of this section shall not be construed as authoriz-
41 ing the seizure or forfeiture of a cellular telephone, unless otherwise pro-
42 vided by law.

43 (5) A violation of the provisions of subsection (1) of this sec-
44 tion shall be an infraction punishable by a fine of seventy-five dollars
45 (\$75.00).