



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-2868/1  
EVM:kjf

## 2019 ASSEMBLY BILL 582

October 31, 2019 - Introduced by Representatives SPIROS, EMERSON, TUSLER, BOWEN, ANDERSON, CONSIDINE, DITTRICH, MURSAU, OHNSTAD, PETRYK, ROHRKASTE, SARGENT, SINICKI, SKOWRONSKI, SUBECK and ZIMMERMAN, cosponsored by Senators WANGGAARD, CARPENTER, RINGHAND, RISSER, SCHACHTNER and SMITH. Referred to Committee on State Affairs.

1     **AN ACT** *to repeal* 346.89 (4) (a); *to renumber and amend* 346.89 (4) (b) and  
2             346.89 (4m); *to amend* 343.315 (2) (f) 10. and 346.95 (1); and *to create* 346.89  
3             (4m) (a), 346.89 (4m) (c) 1. b., 346.89 (4m) (c) 2., 346.89 (4m) (c) 3. and 346.95  
4             (2g) of the statutes; **relating to:** the use of a wireless communication device  
5             while driving and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

This bill prohibits any person from using a wireless communication device (device) while driving, except for certain hands-free use, use by law enforcement officials, or use related to an emergency.

Current law prohibits inattentive driving of a motor vehicle, which means that a driver of a motor vehicle may not be engaged or occupied with an activity, other than driving the vehicle, that interferes with the safe driving of the vehicle. Persons who violate this prohibition may be required to forfeit not less than \$20 nor more than \$400. Also under current law, a person driving under an instruction permit or a probationary license is prohibited from driving a motor vehicle while using a cellular phone, except to report an emergency. Also, a person is prohibited from driving a motor vehicle while using a cellular phone in a highway construction zone, except to report an emergency. Persons who violate either of these prohibitions may be required to forfeit not less than \$20 nor more than \$40 for a first offense, and not less than \$50 nor more than \$100 for a second or subsequent offense within one year.

This bill prohibits any person from using a device while driving. Exceptions are provided for the use of a device by law enforcement officers or to report an emergency

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and for certain hands-free use of a device by persons who hold a license other than a probationary license or an instruction permit. Persons who violate this prohibition may be required to forfeit not more than \$50 for a first offense, not more than \$100 for a second offense, and not more than \$150 for a third or subsequent offense.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 343.315 (2) (f) 10. of the statutes is amended to read:

2           343.315 **(2)** (f) 10. In this subdivision, “mobile telephone” has the meaning  
3 given in 49 CFR 390.5. Violating s. 346.89 ~~(4)–(b)~~ (4g) or a local ordinance in  
4 conformity therewith or a law of a federally recognized American Indian tribe or  
5 band in this state in conformity with s. 346.89 ~~(4)–(b)~~ (4g) or the law of another  
6 jurisdiction prohibiting driving a commercial motor vehicle, as defined in 49 CFR  
7 390.5, while using a hand-held mobile telephone, as those or substantially similar  
8 terms are used in that jurisdiction’s law.

9           **SECTION 2.** 346.89 (4) (a) of the statutes is repealed.

10          **SECTION 3.** 346.89 (4) (b) of the statutes is renumbered 346.89 (4g), and 346.89  
11 (4g) (a) (intro.), as renumbered, is amended to read:

12          346.89 **(4g)** (a) (intro.) In this paragraph subsection:

13          **SECTION 4.** 346.89 (4m) of the statutes is renumbered 346.89 (4m) (b) and  
14 amended to read:

15          346.89 **(4m)** (b) No person may ~~drive, as defined in s. 343.305 (1) (b), any motor~~  
16 ~~vehicle while using~~ use a cellular or other wireless telephone communication device,  
17 including using the telephone device for a purpose other than communication, where  
18 persons ~~engaged in work in a highway maintenance or construction area or in a~~  
19 ~~utility work area are at risk from traffic, except to report an emergency~~ while driving.

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1           (c) 1. This subsection does not apply to ~~the~~ hands-free use of a ~~voice-operated~~  
2 ~~or hands-free~~ wireless communication device if ~~the~~ all of the following apply:

3           a. The driver of the motor vehicle does not use any part of his or her ~~hands~~ body  
4 to operate the device, except to activate or deactivate ~~a feature~~ the device or a  
5 function or software application of the device.

6           **SECTION 5.** 346.89 (4m) (a) of the statutes is created to read:

7           346.89 (4m) (a) In this subsection:

8           1. “Drive” has the meaning given in s. 343.305 (1) (b).

9           2. “Hands-free use” means the use of an attachment, accessory, wirelessly  
10 paired or tethered capability, application, wireless connection, or built-in feature of  
11 a wireless communication device or a motor vehicle that allows the person to use  
12 verbal or single-touch commands to activate or deactivate the device or to activate  
13 or deactivate a function or software application of the device. Hands-free use does  
14 not include typing or scrolling on a device.

15           **SECTION 6.** 346.89 (4m) (c) 1. b. of the statutes is created to read:

16           346.89 (4m) (c) 1. b. The driver holds an operator’s license other than a  
17 probationary license issued under s. 343.085, or an instruction permit issued under  
18 s. 343.07.

19           **SECTION 7.** 346.89 (4m) (c) 2. of the statutes is created to read:

20           346.89 (4m) (c) 2. This subsection does not apply to the use of a wireless  
21 communication device by a law enforcement officer.

22           **SECTION 8.** 346.89 (4m) (c) 3. of the statutes is created to read:

23           346.89 (4m) (c) 3. This subsection does not apply to the use of a wireless  
24 communication device to report an emergency.

25           **SECTION 9.** 346.95 (1) of the statutes is amended to read:

