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THIRD READING

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Ian D. Izard, Q.C., Law Clerk

HONOURABLE KASH HEED
MINISTER OF PUBLIC SAFETY AND SOLICITOR GENERAL

BILL 15 — 2009

MOTOR VEHICLE AMENDMENT ACT, 2009

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1 Section 25 of the Motor Vehicle Act, R.S.B.C. 1996, c. 318, is amended

(a) by adding the following subsection:

(10.11) Without limiting subsection (10) or (10.1), the Lieutenant Governor in Council may, by regulation,

(a) impose a restriction or condition on a class of driver's licence, or on the driver's licences of persons who hold a licence to drive a motor vehicle of a specified category, that the holder of the licence must not use an electronic device within the meaning of Part 3.1 while driving or operating a motor vehicle on a highway, and

(b) set out exceptions to a restriction or condition referred to in paragraph (a) that are not inconsistent with Part 3.1. , ***and***

(b) by repealing subsection (10.2) and substituting the following:

(10.2) A restriction or condition imposed by a regulation under subsection (10.1) or (10.11) is applicable to and conclusively deemed to be part of the driver's licence of the person on whom the restriction or condition is imposed, whether the licence is issued before or after the coming into force of the regulation.

2 Section 209 (3) is repealed.

3 The following Part is added:

Part 3.1 — Use of Electronic Devices while Driving

Definitions

214.1 In this Part:

"**electronic device**" means

- (a) a hand-held cellular telephone or another hand-held electronic device that includes a telephone function,
- (b) a hand-held electronic device that is capable of transmitting or receiving electronic mail or other text-based messages, or
- (c) a prescribed class or type of electronic device;

"**use**", in relation to an electronic device, means one or more of the following actions:

- (a) holding the device in a position in which it may be used;
- (b) operating one or more of the device's functions;
- (c) communicating orally by means of the device with another person or another device;
- (d) taking another action that is set out in the regulations by means of, with or in relation to an electronic device.

Prohibition against use of electronic device while driving

214.2 (1) A person must not use an electronic device while driving or operating a motor vehicle on a highway.

(2) Without limiting subsection (1), a person must not communicate by means of an electronic device with another person or another device by electronic mail or other text-based message.

Exceptions to prohibition — emergency personnel

214.3 Section 214.2 does not apply to the following persons who use an electronic device while carrying out their powers, duties or functions:

- (a) a peace officer;
- (b) a person driving or operating an ambulance as defined in the *Emergency and Health Services Act*;
- (c) fire services personnel as defined in the *Fire Services Act*.

Exceptions to prohibition — certain permitted activities

214.4 Section 214.2 does not apply to a person who uses an electronic device

(a) while operating a motor vehicle that is safely parked off the roadway or lawfully parked on the roadway and is not impeding traffic,

(b) to call or send a message to a police force, fire department or ambulance service about an emergency, or

(c) that is configured and equipped to allow hands-free use in a telephone function, is used in a hands-free manner and is used in accordance with the regulations, if any.

Exceptions to prohibition — by regulation

214.5 Section 214.2 does not apply to

(a) a prescribed class of persons who, while carrying out their powers, duties or functions and driving or operating a motor vehicle or a prescribed class of motor vehicle, use an electronic device or a prescribed class or type of electronic device,

(b) a person who uses an electronic device while engaged in a prescribed activity or in circumstances or under conditions set out in the regulations, or

(c) a person who uses a prescribed class or type of electronic device.

Power to make regulations

214.6 The Lieutenant Governor in Council may make regulations as follows:

(a) prescribing classes or types of electronic devices for the purposes of paragraph (c) of the definition of "electronic device" in section 214.1;

(b) setting out actions for the purposes of paragraph (d) of the definition of "use" in section 214.1;

(c) for the purposes of section 214.4 (c), setting out the manner in which, or the extent to which, a hands-free electronic device may be used in a telephone function;

(d) for the purposes of section 214.5;

(e) regulating the installation or mounting of classes or types of electronic devices in motor vehicles;

(f) exempting or excluding, with or without conditions, classes or types of electronic devices, classes of persons or classes of vehicles or classes of persons while driving or operating a motor vehicle or class of motor vehicle from the operation of a provision of this Part.

Commencement

4 This Act comes into force by regulation of the Lieutenant Governor in Council.

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