

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 712 , Approved and Ordered

DEC 10 2009



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that,

(a) effective January 1, 2010,

(i) the *Motor Vehicle Amendment Act, 2009, S.B.C. 2009, c. 23*, is brought into force, and

(ii) the *Use of Electronic Devices While Driving Regulation*, as set out in the attached Schedule 1, is made, and

(b) effective February 1, 2010,

(i) the *Motor Vehicle Act Regulations, B.C. Reg. 26/58*, are amended as set out in the attached Schedule 2, and

(ii) the *Motor Vehicle Act Regulations, B.C. Reg. 26/58*, are amended as set out in the attached Schedule 3.



Minister of Public Safety and Solicitor General



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- *Motor Vehicle Act, R.S.B.C. 1996, c. 318, ss. 25, 210 and 214.6*
Motor Vehicle Amendment Act, 2009, S.B.C. 1996, c. 23, s. 4

Other (specify):- OIC 1004/58

November 25, 2009

R/878/2009/15

SCHEDULE 1

USE OF ELECTRONIC DEVICES WHILE DRIVING REGULATION

Definition

- 1 In this regulation, “Act” means the *Motor Vehicle Act*.

“Use” further defined

- 2 A person who watches the screen of an electronic device uses the device for the purposes of paragraph (d) of the definition of “use” in section 214.1 of the Act.

Prescribed electronic devices

- 3 (1) The following electronic devices are prescribed for the purposes of paragraph (c) of the definition of “electronic device” in section 214.1 of the Act:
- (a) electronic devices that include a hands-free telephone function;
 - (b) global positioning systems;
 - (c) hand-held electronic devices, one of the purposes of which is to process or compute data;
 - (d) hand-held audio players;
 - (e) hand microphones;
 - (f) televisions.
- (2) In subsection (1), “hand microphone” means a communication device consisting of a hand-held unit that
- (a) is both receiver and microphone,
 - (b) is operated by a push and hold-to-talk function, and
 - (c) allows for oral communication, but not for the transmission and receipt of oral communication at the same time.

Installation of electronic devices

- 4 (1) Subject to sections 7 (1) (a) and 8 (3), an electronic device listed in subsection (2) must be installed
- (a) so that it is securely fixed to the motor vehicle, and
 - (b) in a manner that does not obstruct the driver’s view of the front or sides of the motor vehicle or interfere with the safety or operating equipment of the motor vehicle.
- (2) The following electronic devices are listed for the purposes of subsection (1):
- (a) global positioning systems;
 - (b) electronic devices that include a hands-free telephone function;
 - (c) televisions.

Persons carrying out powers, duties or functions

- 5** For the purposes of section 214.5 (a) of the Act, the following classes of persons may use an electronic device while exercising their powers, duties or functions:
- (a) a person appointed under section 11 of the *Canada Border Services Agency Act* to conduct intelligence, investigation or enforcement work of the agency in the Intelligence Division, the Criminal Investigators Division or the Pacific Region Enforcement Centre;
 - (b) a person designated as a park warden under section 18 of the *National Parks Act*.

New drivers exempt from section 214.2 of the Act

- 6** Section 214.2 of the Act does not apply to a person to whom a Class 7 or 7L licence is issued.

Hands-free use of electronic device

- 7** (1) Subject to subsection (2), a person may use an electronic device in a hands-free telephone function while driving or operating a motor vehicle on a highway, if the device
- (a) is installed in accordance with section 4 and within easy reach of the driver's seat, or worn securely on the person's body,
 - (b) is voice-activated or requires only one touch in order to initiate, accept or end a call, and
 - (c) in the case of a device that includes an earpiece, the earpiece is worn only in one ear.
- (2) Subsection (1) (c) does not apply to a person who is driving or operating a motorcycle on a highway.

Global positioning system

- 8** (1) Subject to subsection (3), a person may use a global positioning system for navigation purposes while driving or operating a motor vehicle on a highway, if the system is
- (a) installed in accordance with section 4 if subsection (3) of this section does not apply, and
 - (b) operated in accordance with this section.
- (2) A person may use a global positioning system while driving or operating a motor vehicle on a highway, if the system
- (a) is programmed before the person begins to drive or operate the motor vehicle, or
 - (b) can be programmed in a voice-activated manner.
- (3) If a global positioning system is a hand-held type, a person may use the system while driving or operating a motor vehicle on a highway if, in addition to the requirements of subsection (2), the system
- (a) is not held in the person's hand, and

- (b) is securely fixed to the motor vehicle in a manner that does not obstruct the person's view of the front or sides of the motor vehicle or interfere with the safety or operating equipment of the motor vehicle.

Hand microphone

- 9 A person may use a hand microphone while driving or operating a motor vehicle on a highway if
 - (a) the device is within easy reach of the driver's seat, and
 - (b) is securely fixed to the motor vehicle or worn securely on the person's body in a manner that does not obstruct the person's view of the front or sides of the motor vehicle or interfere with the safety or operating equipment of the motor vehicle.

Hand-held audio player

- 10 A person may use a hand-held audio player while driving or operating a motor vehicle on a highway if
 - (a) the device
 - (i) is not held in the person's hand, and
 - (ii) is securely fixed to the motor vehicle or worn securely on the person's body in a manner that does not obstruct the person's view of the front or sides of the motor vehicle or interfere with the safety or operating equipment of the motor vehicle, and
 - (b) the sound is emitted through the speakers of the sound system of the motor vehicle.

Televisions

- 11 (1) Except as provided in subsection (2), a person must not drive or operate a motor vehicle on a highway in which the image displayed from a television in the vehicle is visible to the person.
- (2) Subsection (1) does not apply if the image on the television displays pictures, information or data solely designed to assist the driver in the safe operation of the vehicle or the safety and security of its load or its passengers.

SCHEDULE 2

1 The Motor Vehicle Act Regulations, B.C. Reg. 26/58, are amended

(a) by repealing section 7.18,

(b) in section 30.01 (2) (c) by striking out “subject to the applicable condition under section 30.10 (4) and restriction under section 30.11 (1)” and substituting “subject to the applicable conditions and restrictions under sections 30.072, 30.10 (4) and 30.11 (1)”,

(c) in section 30.01 (2) (d) by striking out “30.07 (3), 30.09 (3)” and substituting “30.07 (3), 30.072, 30.09 (3)”, and

(d) by adding the following section:

Restriction on use of electronic device while driving

30.072 (1) Subject to subsection (2), a person to whom a Class 7 or 7L licence is issued must not

(a) use an electronic device within the meaning of Part 3.1 of the Act while driving or operating a motor vehicle on a highway, or

(b) without limiting paragraph (a), communicate by means of an electronic device with another person or another device by electronic mail or other text-based message while driving or operating a motor vehicle on a highway.

(2) Subsection (1) does not apply to a person referred to in that subsection if the person uses the electronic device

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

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

SCHEDULE 3

1 Table 2 of the Schedule to section 28.01 of Motor Vehicle Act Regulations, B.C. Reg. 26/58, is amended by adding the following:

<u>Motor Vehicle Act</u>	<u>Description of Offence</u>
51 214.2 (2)	Emailing or texting while driving