



Substitute House Bill No. 6959

Public Act No. 05-220

AN ACT CONCERNING ACCIDENTS INVOLVING STATE VEHICLES AND THE USE OF HAND-HELD MOBILE TELEPHONES AND MOBILE ELECTRONIC DEVICES BY OPERATORS OF MOTOR VEHICLES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (a) of section 13b-34 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005, and applicable to any civil action pending on or filed on or after said date*):

(a) The commissioner shall have power, in order to aid or promote the operation, whether temporary or permanent, of any transportation service operating to, from or in the state, to contract in the name of the state with any person, including but not limited to any common carrier, any transit district formed under chapter 103a or any special act, or any political subdivision or entity, or with the United States or any other state, or any agency, instrumentality, subdivision, department or officer thereof, for purposes of initiating, continuing, developing, providing or improving any such transportation service. Such contracts may include provision for arbitration of disputed issues. The commissioner, in order to aid or promote the operation of any transportation service operating outside the state, may contract in

Substitute House Bill No. 6959

the name of the state with any person, including, but not limited to, any common carrier, or with the United States or any other state, or any agency, instrumentality, subdivision, department or officer thereof, for purposes of providing any transportation service in the event such assistance is required in the case of an emergency or a special event. The state, acting by and through the commissioner, may, by itself or in concert with others, provide all or a portion of any such service, share in the costs of or provide funds for such service, or furnish equipment or facilities for use in such service upon such terms and conditions as the commissioner may deem necessary or advisable, and any such contracts may include, without limitation thereto, arrangements under which the state shall so provide service, share costs, provide funds or furnish equipment or facilities. To these ends, the commissioner may in the name of the state acquire or obtain the use of facilities and equipment employed in providing any such service by gift, purchase, lease or other arrangements and may own and operate any such facilities and equipment and establish, charge and collect such fares and other charges or arrange for such collection for the use or services thereof as he may deem necessary, convenient or desirable. The commissioner may also acquire title in fee simple to, or any lesser estate, interest or right in, any rights-of-way, properties or facilities, including properties used on or before October 1, 1969, for rail or other forms of transportation services. The commissioner may hold such properties for future use by the state and may enter into agreements for interim use of such properties for other purposes. Any person contracting with the state pursuant to this section for the provision of any transportation service shall not be considered an arm or agent of the state. Any damages caused by the operation of such transportation service by such person may be recovered in a civil action brought against such person in the superior court and such person may not assert the defense of sovereign immunity in such action.

Substitute House Bill No. 6959

Sec. 2. Section 1 of public act 05-159 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) For purposes of this section and section 2 of public act 05-159, as amended by this act, the following terms have the following meanings:

(1) "Mobile telephone" means a cellular, analog, wireless or digital telephone capable of sending or receiving telephone communications without an access line for service.

(2) "Using" or "use" means holding a hand-held mobile telephone to, or in the immediate proximity of, the user's ear.

(3) "Hand-held mobile telephone" means a mobile telephone with which a user engages in a call using at least one hand.

(4) "Hands-free accessory" means an attachment, add-on, built-in feature, or addition to a mobile telephone, whether or not permanently installed in a motor vehicle, that, when used, allows the vehicle operator to maintain both hands on the steering wheel.

(5) "Hands-free mobile telephone" means a hand-held mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such hand-held mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a function of such telephone.

(6) "Engage in a call" means talking into or listening on a hand-held mobile telephone, but does not include holding a hand-held mobile telephone to activate, deactivate or initiate a function of such telephone.

(7) "Immediate proximity" means the distance that permits the

Substitute House Bill No. 6959

operator of a hand-held mobile telephone to hear telecommunications transmitted over such hand-held mobile telephone, but does not require physical contact with such operator's ear.

(8) "Mobile electronic device" means any hand-held or other portable electronic equipment capable of providing data communication between two or more persons, including a text messaging device, a paging device, a personal digital assistant, a laptop computer, equipment that is capable of playing a video game or a digital video disk, or equipment on which digital photographs are taken or transmitted, or any combination thereof, but does not include any audio equipment or any equipment installed in a motor vehicle for the purpose of providing navigation, emergency assistance to the operator of such motor vehicle or video entertainment to the passengers in the rear seats of such motor vehicle.

(b) (1) Except as otherwise provided in this section and section 2 of [this act] public act 05-159, as amended by this act, no person shall operate a motor vehicle upon a highway, as defined in subsection (a) of section 14-1 of the general statutes, while using a hand-held mobile telephone to engage in a call or while using a mobile electronic device while such vehicle is in motion. (2) An operator of a motor vehicle who holds a hand-held mobile telephone to, or in the immediate proximity of, his or her ear while such vehicle is in motion is presumed to be engaging in a call within the meaning of this section. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not engaged in a call. (3) The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a hand-held mobile telephone or a mobile electronic device, unless otherwise provided by law. (4) Subdivision (1) of this subsection does not apply to: (A) The use of a hand-held mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation: An emergency response

Substitute House Bill No. 6959

operator; a hospital, physician's office or health clinic; an ambulance company; a fire department; or a police department, or (B) any of the following persons while in the performance of his or her official duties and within the scope of his or her employment: A peace officer, as defined in subdivision (9) of section 53a-3 of the general statutes, a firefighter or an operator of an ambulance or authorized emergency vehicle, as defined in subsection (a) of section 14-1 of the general statutes, [or the operator of a taxi cab, tow truck or bus without passengers,] or (C) the use of a hands-free mobile telephone.

Sec. 3. Section 2 public act 05-159 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) No person shall use a hand-held mobile telephone or other electronic device, including those with hands-free accessories, or a mobile electronic device while operating a moving school bus that is carrying passengers, except that this [section] subsection does not apply to (1) a school bus driver who places an emergency call to school officials, or (2) the use of a hand-held mobile telephone as provided in subparagraph (A) of subdivision (4) of subsection (b) of section 1 of [this act] public act 05-159, as amended by this act.

(b) No person [who holds a learner's permit or any holder of a motor vehicle license subject to the requirements of subsection (d) of section 14-36 of the general statutes] under eighteen years of age shall use any hand-held mobile telephone, including one with a hands-free accessory, or a mobile electronic device while operating a moving motor vehicle on a public highway except as provided in subparagraph (A) of subdivision (4) of subsection (b) of section 1 of [this act] public act 05-159, as amended by this act.

Approved July 6, 2005