

What you should know about Oregon's new 'distracted driving' law related to licensed amateur radio operators

Bottom Line: Yes, you can continue to operate your ham radio while driving if you are over 18 years of age and have a valid FCC license. Distractions resulting from use of one's radio may still contribute to a charge of "careless driving".

Overview

Oregon's new 'Distracted Driving' law HB 2597 was passed during the 2017 Oregon Legislature. It goes into effect October 1, 2017. Generally speaking, the measure expanded the definition of '*operating a motor vehicle while using a mobile electronic device*' and increased penalties for this offense. It also removed many of the previous exemptions to the law.

Amateur Radio as 'Affirmative Defense'

That the "mobile electronic device" being used is a ham radio, the fact that the user holds a valid Amateur Radio license, and is at least 18 years of age is now an "affirmative defense" against prosecution under ORS 811.505. Specifically, the law reads:

ORS 811.507, Section 1

(4): It is an affirmative defense to a prosecution of a person under this section that the person:
(e) Was 18 years of age or older, held a valid amateur radio operator license issued or any other license issued by the Federal Communications Commission and was operating an amateur radio;

Thus, operating any amateur radio is an affirmative defense to prosecution for licensed hams over age 18 years. This includes those permanently installed or handheld. This means that if you are cited you can present evidence at the time of the trial to show you are a licensed amateur radio operator, are at least 18 and you were operating a ham radio.

It is probably a good idea for mobile operators to keep a copy of their FCC license and a document that shows that their radio is a HAM RADIO in their vehicle. Should an officer pull you over, you can present these documents. The officer may then be less likely to issue a citation for distracted driving.

This summary should not be relied on as legal advice and you may wish to consult an attorney on your particular situation.

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September 20, 2017

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