

Washington State Autonomous Vehicle Work Group Subcommittee Recommendation Form

Subcommittee	Safety Subcommittee – referred to the Licensing subcommittee
Date of Meeting	November 8, 2019
Voting Members Present	10 voting members

Instructions:

- 1) List subject of discussion
- 2) Write a detailed description of the recommendation, including the timeframe recommended for adoption, the agencies and stakeholders affected, and any fiscal implications. Identify potential challenges, including funding, regulation, legislation, education, etc. List recommended remedies to address identified challenges.
- 3) Check all required changes, and write in any that are not listed. Provide a brief explanation of the change needed
- 4) Check all impact areas affected and list recommendations for addressing identified impacts. Write in any impact areas not listed.
- 5) If the recommendation has been voted on, please list votes in favor and against. If no vote was taken, please note why.

1) RECOMMENDATION

We recommend that the first section only of RCW 46.37.480 of should be repealed.

RCW [46.37.480](#) *Television viewers—Earphones.*

(1) No person shall drive any motor vehicle equipped with any television viewer, screen, or other means of visually receiving a television broadcast when the moving images are visible to the driver while operating the motor vehicle on a public road, except for live video of the motor vehicle backing up. This subsection does not apply to law enforcement vehicles communicating with mobile computer networks.

(2) No person shall operate any motor vehicle on a public highway while wearing any headset or earphones connected to any electronic device capable of receiving a radio broadcast or playing a sound recording for the purpose of transmitting a sound to the human auditory senses and which headset or earphones muffle or exclude other sounds. This subsection does not apply to students and instructors participating in a Washington state motorcycle safety program.

(3) This section does not apply to authorized emergency vehicles, motorcyclists wearing a helmet with built-in headsets or earphones as approved by the Washington state patrol, or motorists using hands-free, wireless communications systems, as approved by the equipment section of the Washington state patrol.

2) RECOMMENDATION DESCRIPTION, CHALLENGES, AND MITIGATION

Initially, stakeholders raised the topic of RCW 46.37.480 as a perceived barrier to the development of truck platooning technology and its potential safety benefits. The AV Licensing subcommittee discussed it and referred the topic to the AV Safety subcommittee. The AV Safety subcommittee discussed its applicability and current impacts to safety, and how it might be modified to bring it in line with current technology. This recommendation addresses the use of TV viewers in all “vehicles” (not just trucks) because that’s what the RCW refers to.

The RCW language is obsolete and out of date. Currently, vehicle viewing screens (not television viewers) can and are doing much more than just “receiving a television broadcast” as the current statute reads, and thus presents equity and interpretive issues. Even with this repeal, use of electronic devices in vehicles and dangerously distracted driving are properly covered by RCW 46.61.672 and RCW 46.61.673 respectively. Law enforcement and other emergency vehicle operators are exempted from the former in RCW 46.61.672(d).

Law enforcement rarely uses RCW 46.37.480 (1) in distraction cases due to more applicable statutes, which actually carry a higher penalty. WSP prefers that the more recent electronic distraction RCW 46.61.672 and/or RCW 46.61.673 are cited.

Repealing this section could also eliminate a potential barrier to advancing technology that may be posed by this RCW, including but not limited to, truck platooning.

When future RCWs are created on the topic of automated vehicle technology, the AV Safety subcommittee recommends that it have a separate and distinct RCW.

Additional Notes:



For reference:

RCW [46.61.672](#) *Using a personal electronic device while driving.*

(1) A person who uses a personal electronic device while driving a motor vehicle on a public highway is guilty of a traffic infraction and must pay a fine as provided in RCW 46.63.110(3).

(2) Subsection (1) of this section does not apply to:

(a) A driver who is using a personal electronic device to contact emergency services;

(b) The use of a system by a transit system employee for time-sensitive relay communication between the transit system employee and the transit system's dispatch services;

(c) An individual employed as a commercial motor vehicle driver who uses a personal electronic device within the scope of such individual's employment if such use is permitted under 49 U.S.C. Sec. 31136 as it existed on July 23, 2017; and

(d) A person operating an authorized emergency vehicle.

(3) The state preempts the field of regulating the use of personal electronic devices in motor vehicles while driving, and this section supersedes any local laws, ordinances, orders, rules, or regulations enacted by any political subdivision or municipality to regulate the use of a personal electronic device by the operator of a motor vehicle.

(4) A second or subsequent offense under this section is subject to two times the penalty amount under RCW 46.63.110.

(5) For purposes of this section:

(a) "Driving" means to operate a motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. "Driving" does not include when the vehicle has pulled over to the side of, or off of, an active roadway and has stopped in a location where it can safely remain stationary.

(b) "Personal electronic device" means any portable electronic device that is capable of wireless communication or electronic data retrieval and is not manufactured primarily for hands-free use in a motor vehicle. "Personal electronic device" includes, but is not limited to, a cell phone, tablet, laptop, two-way messaging device, or electronic game. "Personal electronic device" does not include two-way radio, citizens band radio, or amateur radio equipment.

(c) "Use" or "uses" means:



2) RECOMMENDATION DESCRIPTION, CHALLENGES, AND MITIGATION

(i) Holding a personal electronic device in either hand or both hands;

(ii) Using your hand or finger to compose, send, read, view, access, browse, transmit, save, or retrieve email, text messages, instant messages, photographs, or other electronic data; however, this does not preclude the minimal use of a finger to activate, deactivate, or initiate a function of the device;

(iii) Watching video on a personal electronic device.

RCW [46.61.673](#) *Dangerously distracted driving.*

(1)(a) It is a traffic infraction to drive dangerously distracted. Any driver who commits this infraction must be assessed a base penalty of thirty dollars.

(b) Enforcement of the infraction of driving dangerously distracted may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of a separate traffic infraction or an equivalent local ordinance.

(c) For the purposes of this section, "dangerously distracted" means a person who engages in any activity not related to the actual operation of a motor vehicle in a manner that interferes with the safe operation of such motor vehicle on any highway.

(2) The additional monetary penalty imposed under this section must be deposited into the distracted driving prevention account created in subsection (3) of this section.

(3) The distracted driving prevention account is created in the state treasury. All receipts from the base penalty in subsection (1) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to support programs dedicated to reducing distracted driving and improving driver education on distracted driving.

3) REQUIREMENTS IDENTIFIED

"X" or blank	Type of Change Required	Brief Description of Change Needed
	Cost impact mitigation	
X	Legislative change	Repeal Section (1) of RCW 46.37.480



<input type="checkbox"/>	Regulatory change	
<input type="checkbox"/>	Other	

4) IDENTIFIED IMPLICATIONS AND IMPACTS

"X" OR BLANK	Impact Area	Description of Implication / Impact
<input type="checkbox"/>	Infrastructure	
X	Safety	Use of electronic devices in vehicles and dangerously distracted driving will still be prohibited by RCW 46.61.672 and RCW 46.61.673, respectively. However, repealing this one section could remove a perceived barrier to potentially safer driving technologies.
<input type="checkbox"/>	Insurance	
<input type="checkbox"/>	Health and livability	
<input type="checkbox"/>	Environmental	
<input type="checkbox"/>	Economic	
<input type="checkbox"/>	Workforce	
<input type="checkbox"/>	Equitable Access	
<input type="checkbox"/>	Other	

5) VOTES

10	Aye
	Nay
	Abstained