

# Australian Road Rules (Driver Distraction) Amendment 2021

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**1 Name of Rules**

These Rules are the *Australian Road Rules (Driver Distraction) Amendment 2021*.

**2 Rules amended**

Schedule 1 amends the *Australian Road Rules*.

## Schedule 1 Amendment of Australian Road Rules

### [1] Rules 299 and 300

Omit the rules.

### [2] Part 18, Division 4

Insert after rule 304—

#### Division 4 Use of devices

##### 304A Definitions

In this Division:

*device*—see rule 304B.

*display*—see rule 304D.

*inbuilt device* means:

- (a) one of the following items or articles, if it is an inbuilt part of a vehicle:
  - (i) an information, navigation or entertainment system;
  - (ii) a dispatch system;
  - (iii) a heads-up display; or
- (b) another item or article that:
  - (i) is an inbuilt part of a vehicle; and
  - (ii) has the required capabilities.

*motor bike helmet* means an approved motor bike helmet, as defined in rule 270.

*motor bike helmet device* means:

- (a) one of the following items or articles, if it is an inbuilt part of a motor bike helmet or is affixed to a motor bike helmet:
  - (i) a communicator;
  - (ii) a navigation system;
  - (iii) a mobile phone;
  - (iv) a media player;
  - (v) a camera; or
- (b) another item or article that:
  - (i) is an inbuilt part of a motor bike helmet or is affixed to a motor bike helmet; and
  - (ii) has the required capabilities.

*mounted device* means:

- (a) one of the following items or articles, if it is securely mounted in or on a vehicle:
  - (i) a dispatch system;
  - (ii) a heads-up display;
  - (iii) a tablet;
  - (iv) a mobile phone;
  - (v) a media player;
  - (vi) a camera;
  - (vii) a laptop;

- (viii) a video game console; or
- (b) another item or article that:
  - (i) is securely mounted in or on a vehicle; and
  - (ii) has the required capabilities.

**operating**, in relation to a device—see rule 304E.

**portable device** means:

- (a) one of the following items or articles, if it is not an inbuilt device, a mounted device, a motor bike helmet device or a wearable device:
  - (i) a dispatch system;
  - (ii) a tablet;
  - (iii) a mobile phone;
  - (iv) a media player;
  - (v) a camera;
  - (vi) a laptop;
  - (vii) an information, navigation or entertainment system;
  - (viii) a video game console; or
- (b) another item or article that:
  - (i) is not an inbuilt device, a mounted device, a motor bike helmet device or a wearable device; and
  - (ii) has the required capabilities.

**Note.** A device is not a wearable device for the purposes of this Division unless it is worn by the driver of a vehicle. See the definitions of **wearable device** and **wearing**.  
**required capabilities**—see rule 304C.

**touching**, in relation to a device—see rule 304E.

**wearable device** means:

- (a) one of the following items or articles, if it is worn by the driver of a vehicle:
  - (i) a smart watch;
  - (ii) a wearable heads-up display; or
- (b) another item or article, other than a motor bike helmet device, that:
  - (i) is worn by the driver of a vehicle; and
  - (ii) has the required capabilities.

**wearing**, in relation to an item or article, means wearing the item or article or wearing an accessory attached to or holding the item or article, but does not include keeping the item or article:

- (a) in a pocket; or
- (b) in a pouch attached to clothing.

### 304B Devices

- (1) In this Division, **device** means:
  - (a) an inbuilt device; or
  - (b) a motor bike helmet device; or
  - (c) a mounted device; or
  - (d) a portable device; or
  - (e) a wearable device.

- (2) However, the following are not devices for the purposes of this Division:
- (a) a CB radio or other two-way radio;
  - (b) an item or article in an emergency vehicle or police vehicle;
  - (c) one of the following items or articles, if it does not have a display:
    - (i) a navigation system;
    - (ii) a dispatch system;
    - (iii) a camera;
    - (iv) a communicator;
    - (v) a media player.

**Note.** *Emergency vehicle* and *police vehicle* are defined in the dictionary.

#### **304C Required capabilities**

In this Division, an item or article has the *required capabilities* if it has:

- (a) the capability of communicating wirelessly or retrieving information electronically; and
- (b) the capability of making a display show information by wired, wireless, projection or other technology.

#### **304D Displays**

- (1) In this Division, *display* means a screen, a surface capable of displaying a projection or another physical source capable of showing information, including a part of the screen, surface or source.
- (2) In this Division, a reference to the display of a device is a reference to a display that is:
- (a) built into the device; or
  - (b) connected to the device by wired, wireless or other technology permitting the device to make the display show information; or
  - (c) for a surface capable of displaying a projection that is not connected to the device—positioned in a way that permits the device to make the display show information.

#### **304E Operation of devices**

- (1) In this Division, *operating* a device includes:
- (a) touching the device; and
  - (b) using a function on the device other than by touching the device; and
  - (c) permitting ongoing activity on the display of the device caused by:
    - (i) earlier use of a function on the device by a person; or
    - (ii) a function performed automatically by the device.
- (2) In this Division, *touching* a device means:
- (a) directly manipulating the device with a hand, finger or stylus; or
  - (b) other physical contact between the device and a person or an implement held by a person.

#### **304F Stationary and parked vehicles**

- (1) For the purposes of this Division, a stopped or stationary vehicle may be parked even though:
- (a) the key to the vehicle is located in the vehicle's ignition lock; or

(b) the engine of the vehicle is running.

**Note.** *Park* is defined in the dictionary.

(2) To avoid doubt, a vehicle that is stopped only because of traffic conditions is stationary but not parked for the purposes of this Division.

### 304G Permitted device interactions

(1) Rules 304H–304J do not prohibit the driver of a vehicle, or another person in the vehicle, from doing any of the following:

(a) using a function on the device for the purpose of:

- (i) disabling a visual or aural distraction caused by the device, or
- (ii) ending ongoing activity on the display of the device;

(b) if the vehicle is stationary at a location intended to be used for in-vehicle transactions—using a function on, or incidentally touching, the device for the purpose of carrying out an in-vehicle transaction;

(c) using a function on, or incidentally touching, the device to the extent necessary to comply with a requirement of a police officer or an authorised person;

**Example of incidental touching.** Touching or picking up a device stored in, or as part of, a wallet.

**Note.** *Authorised person* and *police officer* are defined in the dictionary.

(d) for a wearable device—incidental physical contact with the device caused by wearing the device;

(e) for a portable device—keeping the device:

- (i) in a pocket; or
- (ii) in a pouch attached to clothing;

(f) for an inbuilt device, a mounted device, a motor bike helmet device or a wearable device—permitting ongoing activity on the display of the device for the purpose of showing static or moving images associated with the safety or operation of the vehicle;

(g) permitting the display of the device to show the following static information:

- (i) if the device is locked—the device’s ordinary locked screen;
- (ii) if the device is unlocked—the device’s ordinary menu screen;
- (iii) information shown because of an automatic notification, including notification of an incoming audio or video call.

(2) Subrule (1)(a) does not apply to the touching of a portable device by the driver of a vehicle if another law of this jurisdiction prohibits the driver from touching the device for a purpose specified in the subrule.

(3) In this rule—

***in-vehicle transaction*** means one of the following transactions when conducted by a person in a vehicle, without leaving the vehicle:

- (a) a commercial transaction in which the person makes payment;
- (b) a transaction in which a item, article or source located immediately outside the vehicle is used to transmit, scan or receive information;
- (c) a transaction to enable the vehicle to enter a road-related area or land adjacent to a road;
- (d) a transaction requiring the production of physical or electronic documentation.

**Examples of in-vehicle transactions.**

- (a) redeeming electronic coupons or vouchers;
- (b) scanning QR codes;
- (c) presenting physical or electronic identification, including vaccination certificates.

**304H Use of inbuilt devices, mounted devices and motor bike helmet devices**

- (1) Unless subrule (2) applies, a person in a vehicle must not, while the vehicle is moving, or is stationary but not parked, operate an inbuilt device, a mounted device or a motor bike helmet device:
  - (a) while the display of the device is visible to the driver from the normal driving position; or
  - (b) in a way that is likely to distract another driver.Offence provision.
- (2) This subrule applies if the operation of the device is for one or more of the following purposes:
  - (a) to initiate, accept or reject an audio call on the device;
  - (b) to play or stream audio material on the device;
  - (c) to use a function on the device designed to assist the driver to operate the vehicle, including:
    - (i) a vehicle camera or other driver assistance system; or
    - (ii) a vehicle safety function or vehicle diagnostic system; or
    - (iii) a climate control function;
  - (d) to use a navigation function on the device;
  - (e) to use a function on the device designed to monitor the driver's behaviour or condition;
  - (f) to carry out a professional driving task;
  - (g) to adjust volume levels for a purpose mentioned in paragraphs (a)–(f) that involves sound.
- (3) However, subrule (2) does not apply to the following operations, if done by the driver of the vehicle:
  - (a) the entry of information, text, numbers or symbols, unless the operation is performed using voice controls only;
  - (b) scrolling on the device.
- (4) This rule does not apply to the operation of a device that:
  - (a) is in a bus; and
  - (b) creates or displays material indicating a destination or otherwise functioning as a bus sign.
- (5) In this rule—

***professional driving task*** means a task that supports a professional driver's performance of work-related functions undertaken while driving, and includes the following in relation to the professional driver's work:

  - (a) accepting or rejecting a job;
  - (b) information gathering;
  - (c) maintaining security;
  - (d) maintaining safety;

- (e) facilitating passenger movement.

**Examples of professional driving tasks.**

- (a) for information gathering—obtaining information about upcoming journeys, pick-ups or drop-offs;
- (b) for maintaining security—monitoring passengers or livestock in a vehicle;
- (c) for facilitating passenger movement—operating the doors of a bus.

**304I Use of wearable devices**

- (1) Unless subrule (2) applies, the driver of a vehicle must not, while the vehicle is moving, or is stationary but not parked, operate a wearable device while the display of the device is visible to the driver from the normal driving position.  
Offence provision.
- (2) This subrule applies if the operation of the device:
  - (a) does not involve touching the device; and
  - (b) is for one or more of the following purposes:
    - (i) to initiate, accept or reject an audio call on the device;
    - (ii) to play or stream audio material on the device;
    - (iii) to adjust volume levels for a purpose mentioned in subparagraph (i) or (ii).

**Example.** The operation of the device using voice commands to initiate an audio call.

- (3) The driver of a vehicle must not, while the vehicle is moving, or is stationary but not parked, look at the display of a wearable device being operated by another person in the vehicle.  
Offence provision.

**304J Use of portable devices**

- (1) The driver of a vehicle must not, while the vehicle is moving, or is stationary but not parked:
  - (a) touch a portable device; or
  - (b) otherwise operate a portable device:
    - (i) while the display of the device is visible to the driver from the normal driving position; or
    - (ii) in a way that is likely to distract another driver.  
Offence provision.
- (2) The driver of a vehicle must not, while the vehicle is moving, or is stationary but not parked, look at the display of a portable device being operated by another person in the vehicle.  
Offence provision.
- (3) The driver of a vehicle must not, while the vehicle is moving, or is stationary but not parked, have a portable device resting on the following:
  - (a) the driver's body;
  - (b) clothes worn by the driver;
  - (c) an item in the driver's lap.  
Offence provision.