

ASSEMBLY, No. 1908

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

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District 19 (Middlesex)

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District 31 (Hudson)

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SYNOPSIS

Prohibits operator of motor vehicle from engaging in distracted driving.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 7/1/2016)

A1908 WISNIEWSKI, CHIARAVALLOTTI

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1 AN ACT concerning distracted driving, amending P.L.2003, c.310,
2 and supplementing Title 39 of the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.2003, c.310 (C.39:4-97.3) is amended to
8 read as follows:

9 1. a. (1) The use of a wireless telephone or electronic
10 communication device by an operator of a moving motor vehicle on
11 a public road or highway shall be unlawful except when the
12 telephone is a hands-free wireless telephone or the electronic
13 communication device is used hands-free, provided that its
14 placement does not interfere with the operation of federally required
15 safety equipment and the operator exercises a high degree of
16 caution in the operation of the motor vehicle. For the purposes of
17 this section, an "electronic communication device" shall not include
18 an amateur radio.

19 Nothing in P.L.2003, c.310 (C.39:4-97.3 et seq.) shall apply to
20 the use of a citizen's band radio or two-way radio by an operator of
21 a moving commercial motor vehicle or authorized emergency
22 vehicle on a public road or highway.

23 (2) There shall be a permissive inference that the operator of a
24 moving motor vehicle who holds a hand-held wireless telephone to,
25 or in the immediate proximity of, the operator's ear is using a
26 wireless telephone or electronic communication device in violation
27 of paragraph (1) of this subsection.

28 b. The operator of a motor vehicle may use a hand-held
29 wireless telephone while driving with one hand on the steering
30 wheel only if:

31 (1) The operator has reason to fear for his life or safety, or
32 believes that a criminal act may be perpetrated against himself or
33 another person; or

34 (2) The operator is using the telephone to report to appropriate
35 authorities a fire, a traffic accident, a serious road hazard or medical
36 or hazardous materials emergency, or to report the operator of
37 another motor vehicle who is driving in a reckless, careless or
38 otherwise unsafe manner or who appears to be driving under the
39 influence of alcohol or drugs. A hand-held wireless telephone
40 user's telephone records or the testimony or written statements from
41 appropriate authorities receiving such calls shall be deemed
42 sufficient evidence of the existence of all lawful calls made under
43 this paragraph.

44 As used in this act:

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Citizen's band radio" means a mobile communication device
2 designed to allow for the transmission and receipt of radio
3 communications on frequencies allocated for citizen's band radio
4 service use.

5 "Hands-free wireless telephone" means a mobile telephone that
6 has an internal feature or function, or that is equipped with an
7 attachment or addition, whether or not permanently part of such
8 mobile telephone, by which a user engages in a conversation
9 without the use of either hand; provided, however, this definition
10 shall not preclude the use of either hand to activate, deactivate, or
11 initiate a function of the telephone.

12 "Two-way radio" means two-way communications equipment
13 that uses VHF frequencies approved by the Federal
14 Communications Commission.

15 "Use" of a wireless telephone or electronic communication
16 device shall include, but not be limited to, talking or listening to
17 another person on the telephone, text messaging, or sending an
18 electronic message via the wireless telephone or electronic
19 communication device.

20 c. (Deleted by amendment, P.L.2007, c.198).

21 d. A person who violates this section shall be fined as follows:

22 (1) for a first offense, not less than \$200 or more than \$400;

23 (2) for a second offense, not less than \$400 or more than \$600;

24 and

25 (3) for a third or subsequent offense, not less than \$600 or more
26 than \$800 .

27 For a third or subsequent violation, the court, in its discretion,
28 may order the person to forfeit the right to operate a motor vehicle
29 over the highways of this State for a period of 90 days. In addition,
30 a person convicted of a third or subsequent violation shall be
31 assessed three motor vehicle penalty points pursuant to section 1 of
32 P.L.1982, c.43 (C.39:5-30.5).

33 A person who has been convicted of a previous violation of this
34 section need not be charged as a second or subsequent offender in
35 the complaint made against **【him】** the person in order to render
36 **【him】** the person liable to the punishment imposed by this section
37 on a second or subsequent offender, but if the second offense occurs
38 more than 10 years after the first offense, the court shall treat the
39 second conviction as a first offense for sentencing purposes and if a
40 third offense occurs more than 10 years after the second offense, the
41 court shall treat the third conviction as a second offense for
42 sentencing purposes.

43 e. Except as provided in subsection d. of this section, no motor
44 vehicle penalty points or automobile insurance eligibility points
45 pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall be
46 assessed for this offense.

47 f. The Chief Administrator of the New Jersey Motor Vehicle
48 Commission shall develop and undertake a program to notify and

1 inform the public as to the provisions of this act. Notwithstanding
2 the provisions of R.S.39:5-41, the fines assessed pursuant to
3 subsection d. of this section shall be collected by the court and
4 distributed as follows: 50 percent of the fine imposed shall be paid
5 to the county and municipality wherein the violation occurred, to be
6 divided equally, and 50 percent of the fine imposed shall be paid to
7 the State Treasurer, who shall allocate the fine monies to the chief
8 administrator to be used for this public education program, which
9 shall include informing motorists of the dangers of texting while
10 driving.

11 g. Whenever this section is used as an alternative offense in a
12 plea agreement to any other offense in Title 39 of the Revised
13 Statutes that would result in the assessment of motor vehicle points,
14 the penalty shall be the same as the penalty for a violation of
15 section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge
16 imposed pursuant to subsection f. of that section, and a conviction
17 under this section shall be considered a conviction under section 1
18 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining
19 subsequent enhanced penalties under that section.

20 (cf: P.L.2013, c.70, s.1)

21

22 2. (New section) a. An operator of a moving motor vehicle
23 shall not engage in any activity unrelated to the actual operation of
24 a motor vehicle in a manner that interferes with the safe operation
25 of the vehicle on a public road or highway.

26 b. A person who violates this section shall be fined:

27 (1) for a first offense, not less than \$200 or more than \$400;

28 (2) for a second offense, not less than \$400 or more than \$600;

29 and

30 (3) for a third or subsequent offense, not less than \$600 or more
31 than \$800.

32 For a third or subsequent violation, the court, in its discretion,
33 may order the person to forfeit the right to operate a motor vehicle
34 over the highways of this State for a period of 90 days. In addition,
35 a person convicted of a third or subsequent violation shall be
36 assessed three motor vehicle penalty points pursuant to section 1 of
37 P.L.1982, c.43 (C.39:5-30.5).

38 A person who has been convicted of a previous violation of this
39 section need not be charged as a second or subsequent offender in
40 the complaint made against the person in order to render the person
41 liable to the punishment imposed by this section on a second or
42 subsequent offender, but if the second offense occurs more than 10
43 years after the first offense, the court shall treat the second
44 conviction as a first offense for sentencing purposes and if a third
45 offense occurs more than 10 years after the second offense, the
46 court shall treat the third conviction as a second offense for
47 sentencing purposes.

1 c. Except as provided in subsection b. of this section, no motor
2 vehicle penalty points or automobile insurance eligibility points
3 pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall be
4 assessed for this offense.

5 d. A law enforcement officer who issues a summons for a
6 violation of this section shall record on the summons the specific
7 nature of any distracted driving behavior observed.

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9 3. This act shall take effect on the first day of the third month
10 after enactment.

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STATEMENT

15 This bill addresses the increasing problem of distracted driving.
16 The bill specifically prohibits a driver from engaging in any
17 activity, not related to the operation of the vehicle, in a manner that
18 interferes with the safe operation of the vehicle. A law enforcement
19 officer is to record on the summons the specific nature of the
20 distracted driving behavior. A violation of this prohibition will
21 result in a \$200-\$400 fine for the first offense, \$400-\$600 for a
22 second offense, and \$600-\$800 for a third or subsequent offense. A
23 third or subsequent violation may also result in a driver's license
24 suspension of up to 90 days and a motor vehicle points penalty at
25 the court's discretion. Points are only to be issued for third or
26 subsequent offenses.

27 This bill also strengthens the existing law prohibiting the use of a
28 cellphone while operating a motor vehicle by establishing a
29 presumptive inference that a person holding a cell phone near the
30 ear has committed a violation of that law.