

SENATE, No. 2181

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JULY 1, 2010

Sponsored by:
Senator RICHARD J. CODEY
District 27 (Essex)

SYNOPSIS

Increases fine and imposes license suspension for talking or texting on hand-held device while driving.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning the use of wireless telephones and electronic
2 communication devices in motor vehicles and amending P.L.2003,
3 c.310.

4

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

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

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

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

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

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

36 As used in this act, "hands-free wireless telephone" means a
37 mobile telephone that has an internal feature or function, or that is
38 equipped with an attachment or addition, whether or not
39 permanently part of such mobile telephone, by which a user
40 engages in a conversation without the use of either hand; provided,
41 however, this definition shall not preclude the use of either hand to
42 activate, deactivate, or initiate a function of the telephone.

43 "Use" of a wireless telephone or electronic communication
44 device shall include, but not be limited to, talking or listening to
45 another person on the telephone, text messaging, or sending an

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.

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1 electronic message via the wireless telephone or electronic
2 communication device.

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

4 d. A person who violates this section shall be fined \$100 for a
5 first offense, \$250 for a second offense, and \$500 for a third or
6 subsequent offense. In addition, for a third or subsequent violation,
7 the person shall forfeit the right to operate a motor vehicle over the
8 highways of this State for a period of 60 days.

9 A person who has been convicted of a previous violation of this
10 section need not be charged as a second or subsequent offender in
11 the complaint made against him in order to render him liable to the
12 punishment imposed by this section on a second or subsequent
13 offender, but if the second offense occurs more than 10 years after
14 the first offense, the court shall treat the second conviction as a first
15 offense for sentencing purposes and if a third offense occurs more
16 than 10 years after the second offense, the court shall treat the third
17 conviction as a second offense for sentencing purposes.

18 e. No motor vehicle points or automobile insurance eligibility
19 points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall
20 be assessed for this offense.

21 f. The Chief Administrator of the New Jersey Motor Vehicle
22 Commission shall develop and undertake a program to notify and
23 inform the public as to the provisions of this act.

24 g. Whenever this section is used as an alternative offense in a
25 plea agreement to any other offense in Title 39 of the Revised
26 Statutes that would result in the assessment of motor vehicle points,
27 the penalty shall be the same as the penalty for a violation of
28 section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge
29 imposed pursuant to subsection f. of that section, and a conviction
30 under this section shall be considered a conviction under section 1
31 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining
32 subsequent enhanced penalties under that section.

33 (cf: P.L.2007, c.198, s.1)

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35 2. This act shall take effect on the first day of the fourth month
36 following enactment.

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STATEMENT

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41 This bill imposes increased fines for multiple offenses of talking
42 on a hand-held wireless telephone or texting a message with a hand-
43 held wireless electronic communication device while driving.

44 Under current law, the fine for this motor vehicle violation is
45 \$100. This bill would increase that fine to \$250 for a second
46 offense and to \$500 for third or subsequent offenses.

47 The bill also would impose a 60-day driver's license suspension
48 for persons convicted of the offense for a third or subsequent time.

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1 Under the bill, a person convicted of a second offense of driving
2 while talking or texting on a hand-held device would be treated as a
3 first time offender for sentencing purposes if the second offense
4 occurs more than 10 years after the first offense. Similarly, a
5 person convicted of a third offense would be treated as a second-
6 time offender for sentencing purposes if the third offense occurs
7 more than ten years after the second offense.

8 It is the sponsor's hope that the increased fines and suspension
9 imposed by the bill will act as further deterrents to the very
10 dangerous behavior of using a hand-held device to talk or text while
11 driving.