

SENATE, No. 2783

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED MAY 20, 2013

Sponsored by:

Senator JAMES W. HOLZAPFEL

District 10 (Ocean)

SYNOPSIS

Permits police officer to confiscate cell phones under certain circumstances;
increases penalties for texting while driving.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning motor vehicle safety, supplementing chapter 4
2 of Title 39 of the Revised Statutes, 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:*

7
8 1. (New section) Whenever an operator of a motor vehicle has
9 been involved in an accident resulting in death, bodily injury, or
10 property damage, a police officer who reports to the scene of the
11 accident may confiscate the operator's hand-held wireless telephone
12 if, after considering the facts and circumstances surrounding the
13 accident, the officer has reasonable grounds to believe that the
14 operator involved in the accident was operating a hand-held
15 wireless telephone while driving a motor vehicle in violation of
16 section 1 of P.L.2003, c.310 (C.39:4-97.3). Upon confiscating the
17 telephone, the police officer may review the hand-held wireless
18 telephone's call history data in order to determine whether the
19 motor vehicle operator was in violation of section 1 of P.L.2003,
20 c.310 (C.39:4-97.3) at the time of the accident. After reviewing the
21 call history data, the law enforcement officer shall return the hand-
22 held wireless telephone to the motor vehicle operator. Any
23 information contained in the call history data that indicates that the
24 motor vehicle operator was in violation of section 1 of P.L.2003,
25 c.310 (C.39:4-97.3) shall be included in the police report in
26 accordance with R.S.39:4-131.

27
28 2. Section 1 of P.L.2003, c.310 (C.39:4-97.3) is amended to read
29 as follows:

30 1. a. The use of a wireless telephone or electronic
31 communication device by an operator of a moving motor vehicle on
32 a public road or highway shall be unlawful except when the
33 telephone is a hands-free wireless telephone or the electronic
34 communication device is used hands-free, provided that its
35 placement does not interfere with the operation of federally required
36 safety equipment and the operator exercises a high degree of
37 caution in the operation of the motor vehicle. For the purposes of
38 this section, an "electronic communication device" shall not include
39 an amateur radio.

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

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

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

7 (2) The operator is using the telephone to report to appropriate
8 authorities a fire, a traffic accident, a serious road hazard or medical
9 or hazardous materials emergency, or to report the operator of
10 another motor vehicle who is driving in a reckless, careless or
11 otherwise unsafe manner or who appears to be driving under the
12 influence of alcohol or drugs. A hand-held wireless telephone
13 user's telephone records or the testimony or written statements from
14 appropriate authorities receiving such calls shall be deemed
15 sufficient evidence of the existence of all lawful calls made under
16 this paragraph.

17 As used in this act:

18 "Citizen's band radio" means a mobile communication device
19 designed to allow for the transmission and receipt of radio
20 communications on frequencies allocated for citizen's band radio
21 service use.

22 "Hands-free wireless telephone" means a mobile telephone that
23 has an internal feature or function, or that is equipped with an
24 attachment or addition, whether or not permanently part of such
25 mobile telephone, by which a user engages in a conversation
26 without the use of either hand; provided, however, this definition
27 shall not preclude the use of either hand to activate, deactivate, or
28 initiate a function of the telephone.

29 "Two-way radio" means two-way communications equipment
30 that uses VHF frequencies approved by the Federal
31 Communications Commission.

32 "Use" of a wireless telephone or electronic communication
33 device shall include, but not be limited to, talking or listening to
34 another person on the telephone, text messaging, or sending an
35 electronic message via the wireless telephone or electronic
36 communication device.

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

38 d. A person who violates this section shall be **【fined】** subject
39 to a fine of \$100. A person who violates this section by sending text
40 messages shall be subject to a fine of \$300 and shall be assessed
41 two motor vehicle penalty points pursuant to section 1 of P.L.1982,
42 c.43 (C.39:5-30.5). In addition to the penalty imposed under this
43 subsection, a person who violates this section and as a direct result
44 of that violation is involved in a motor vehicle accident resulting in
45 death, bodily injury, or property damage, upon conviction, also
46 shall forfeit the right to operate a motor vehicle for three months.

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

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

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

16 (cf: P.L.2010, c.40 s.1)

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18 3. This act shall take effect immediately.

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STATEMENT

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23 This bill allows a law enforcement officer who reports to the
24 scene of a motor vehicle accident to confiscate a driver's cell phone
25 if, after considering the facts and circumstances surrounding the
26 accident, the officer has reasonable grounds to believe that the
27 driver involved in the accident was illegally using a cell phone
28 while driving. Upon confiscating the phone, the police officer may
29 review the phone's call history data to determine whether the motor
30 vehicle operator committed a violation. Any information indicating
31 a driver was illegally using a cell phone at the time of the accident
32 may be included in the official police report.

33 In addition, this bill increases the penalty for sending text
34 messages while driving. A person who sends text messages while
35 driving is subject to a \$300 fine and is assessed two motor vehicle
36 penalty points under the provisions of the bill. In addition, a person
37 who causes an accident because he or she is sending text messages
38 is subject to a three month license suspension. Under current law,
39 the penalty for driving while illegally using a cell phone is a \$100
40 fine.