

SENATE, No. 3057

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED NOVEMBER 14, 2013

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Requires driver's license examination to include questions on distracted driving; makes it a violation for motorists to talk or text on hand-held wireless devices while vehicle is temporarily stopped.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the use of wireless telephones and electronic
2 communication devices in motor vehicles and amending
3 R.S.39:3-10 and P.L.2003, c.310.

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

7
8 1. R.S.39:3-10 is amended to read as follows:

9 39:3-10. No person shall drive a motor vehicle on a public
10 highway in this State unless the person is under supervision while
11 participating in a behind-the-wheel driving course pursuant to
12 section 6 of P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a
13 validated permit, or a probationary or basic driver's license issued to
14 that person in accordance with this article.

15 No person under 18 years of age shall be issued a basic license to
16 drive motor vehicles, nor shall a person be issued a validated
17 permit, including a validated examination permit, until the applicant
18 has passed a satisfactory examination and other requirements as to
19 the applicant's ability as an operator. The examination shall include
20 a test of the applicant's vision, the applicant's ability to understand
21 traffic control devices, the applicant's knowledge of safe driving
22 practices, including distracted driving issues, and of the effects that
23 ingestion of alcohol or drugs has on a person's ability to operate a
24 motor vehicle, the applicant's knowledge of such portions of the
25 mechanism of motor vehicles as is necessary to insure the safe
26 operation of a vehicle of the kind or kinds indicated by the
27 applicant, and of the laws and ordinary usages of the road. No
28 person shall sit for an examination for any permit without
29 exhibiting photo identification deemed acceptable by the
30 commission, unless that person is a high school student
31 participating in a course of automobile driving education approved
32 by the State Department of Education and conducted in a public,
33 parochial, or private school of this State, pursuant to section 1 of
34 P.L.1950, c.127 (C.39:3-13.1). The commission may waive the
35 written law knowledge examination for any person 18 years of age
36 or older possessing a valid driver's license issued by any other state,
37 the District of Columbia, or the United States Territories of
38 American Samoa, Guam, Puerto Rico, or the Virgin Islands. The
39 commission shall be required to provide that person with a booklet
40 that highlights those motor vehicle laws unique to New Jersey. A
41 road test shall be required for a probationary license and serve as a
42 demonstration of the applicant's ability to operate a vehicle of the
43 class designated. No person shall sit for a road test unless that
44 person exhibits photo identification deemed acceptable by the
45 commission. A high school student who has completed a course of

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 behind-the-wheel automobile driving education approved by the
2 State Department of Education and conducted in a public, parochial,
3 or private school of this State, who has been issued a special
4 learner's permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-
5 13.1) prior to January 1, 2003, shall not be required to exhibit photo
6 identification in order to sit for a road test. The commission may
7 waive the road test for any person 18 years of age or older
8 possessing a valid driver's license issued by any other state, the
9 District of Columbia, or the United States Territories of American
10 Samoa, Guam, Puerto Rico, or the Virgin Islands. The road test
11 shall be given on public streets, where practicable and feasible, but
12 may be preceded by an off-street screening process to assess basic
13 skills. The commission shall approve locations for the road test
14 which pose no more than a minimal risk of injury to the applicant,
15 the examiner, and other motorists. No new locations for the road
16 test shall be approved unless the test can be given on public streets.

17 A person who successfully completes a road test for a
18 motorcycle license or a motorcycle endorsement when operating a
19 motorcycle or motorized scooter with an engine displacement of
20 less than 231 cubic centimeters shall be issued a motorcycle license
21 or endorsement restricting the person's operation of such vehicles to
22 any motorcycle with an engine displacement of 500 cubic
23 centimeters or less. A person who successfully completes a road
24 test for a motorcycle license or motorcycle endorsement when
25 operating a motorcycle with an engine displacement of 231 or more
26 cubic centimeters shall be issued a motorcycle license or
27 endorsement without any restriction as to engine displacement.
28 Any person who successfully completes an approved motorcycle
29 safety education course established pursuant to the provisions of
30 section 1 of P.L.1991, c.452 (C.27:5F-36) shall be issued a
31 motorcycle license or endorsement without restriction as to engine
32 displacement.

33 The commission shall issue a basic driver's license to operate a
34 motor vehicle other than a motorcycle to a person over 18 years of
35 age who previously has not been licensed to drive a motor vehicle
36 in this State or another jurisdiction only if that person has: (1)
37 operated a passenger automobile in compliance with the
38 requirements of this title for not less than one year, not including
39 any period of suspension or postponement, from the date of
40 issuance of a probationary license pursuant to section 4 of
41 P.L.1950, c.127 (C.39:3-13.4); (2) not been assessed more than two
42 motor vehicle points; (3) not been convicted in the previous year for
43 a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-
44 50.4a), P.L.1992, c.189 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-
45 5, subsection c. of N.J.S.2C:12-1, or any other motor vehicle-
46 related violation the commission determines to be significant and
47 applicable pursuant to regulation; and (4) passed an examination of

1 the applicant's ability to operate a motor vehicle pursuant to this
2 section.

3 The commission shall expand the driver's license examination by
4 20%. The additional questions to be added shall consist solely of
5 questions developed in conjunction with the State Department of
6 Health **【and Senior Services】** concerning the use of alcohol or
7 drugs as related to highway safety. The commission shall develop
8 in conjunction with the State Department of Health **【and Senior**
9 **Services】** supplements to the driver's manual which shall include
10 information necessary to answer any question on the driver's license
11 examination concerning alcohol or drugs as related to highway
12 safety.

13 Up to 20 questions may be added to the examination on subjects
14 to be determined by the commission that are of particular relevance
15 to youthful drivers, after consultation with the Director of the
16 Division of Highway Traffic Safety in the Department of Law and
17 Public Safety.

18 The commission shall expand the driver's license examination to
19 include a question asking whether the applicant is aware of the
20 provisions of the "Revised Uniform Anatomical Gift Act,"
21 P.L.2008, c.50 (C.26:6-77 et al.) and the procedure for indicating on
22 the driver's license the intention to make a donation of body organs
23 or tissues pursuant to P.L.1978, c.181 (C.39:3-12.2).

24 The commission shall expand the driver's license examination to
25 include questions regarding distracted driving issues.

26 Any person applying for a driver's license to operate a motor
27 vehicle or motorized bicycle in this State shall surrender to the
28 commission any current driver's license issued to the applicant by
29 another state or jurisdiction upon the applicant's receipt of a driver's
30 license for this State. The commission shall refuse to issue a
31 driver's license if the applicant fails to comply with this provision.
32 An applicant for a permit or license who is less than 18 years of
33 age, and who holds a permit or license for a passenger automobile
34 issued by another state or country that is valid or has expired within
35 a time period designated by the commission, shall be subject to the
36 permit and license requirements and penalties applicable to State
37 permit and license applicants who are of the same age; except that if
38 the other state or country has permit or license standards
39 substantially similar to those of this State, the credentials of the
40 other state or country shall be acceptable.

41 The commission shall create classified licensing of drivers
42 covering the following classifications:

43 a. Motorcycles, except that for the purposes of this section,
44 motorcycle shall not include any three-wheeled motor vehicle
45 equipped with a single cab with glazing enclosing the occupant,
46 seats similar to those of a passenger vehicle or truck, seat belts and
47 automotive steering or any vehicle defined as a motorcycle pursuant
48 to R.S.39:1-1 having a motor with a maximum piston displacement

1 that is less than 50 cubic centimeters or a motor that is rated at no
2 more than 1.5 brake horsepower with a maximum speed of no more
3 than 35 miles per hour on a flat surface.

4 b. Omnibuses as classified by R.S.39:3-10.1 and school buses
5 classified under N.J.S.18A:39-1 et seq.

6 c. (Deleted by amendment, P.L.1999, c.28).

7 d. All motor vehicles not included in classifications a. and b. A
8 license issued pursuant to this classification d. shall be referred to
9 as the "basic driver's license."

10 Every applicant for a license under classification b. shall be a
11 holder of a basic driver's license. Any issuance of a license under
12 classification b. shall be by endorsement on the basic driver's
13 license.

14 A driver's license for motorcycles may be issued separately, but
15 if issued to the holder of a basic driver's license, it shall be by
16 endorsement on the basic driver's license. The holder of a basic
17 driver's license or a separately issued motorcycle license shall be
18 authorized to operate a motorcycle having a motor with a maximum
19 piston displacement that is less than 50 cubic centimeters or a motor
20 that is rated at no more than 1.5 brake horsepower with a maximum
21 speed no more than 35 miles per hour on a flat surface.

22 The commission, upon payment of the lawful fee and after it or a
23 person authorized by it has examined the applicant and is satisfied
24 of the applicant's ability as an operator, may, in its discretion, issue
25 a license to the applicant to drive a motor vehicle. The license shall
26 authorize him to drive any registered vehicle, of the kind or kinds
27 indicated, and shall expire, except as otherwise provided, on the last
28 day of the 48th calendar month following the calendar month in
29 which such license was issued.

30 The commission may, at its discretion and for good cause shown,
31 issue licenses which shall expire on a date fixed by it. If the
32 commission issues a license to a person who has demonstrated
33 authorization to be present in the United States for a period of time
34 shorter than the standard period of the license, the commission shall
35 fix the expiration date of the license at a date based on the period in
36 which the person is authorized to be present in the United States
37 under federal immigration laws. The commission may renew such a
38 license only if it is demonstrated that the person's continued
39 presence in the United States is authorized under federal law. The
40 fee for licenses with expiration dates fixed by the commission shall
41 be fixed by the commission in amounts proportionately less or
42 greater than the fee herein established.

43 The required fee for a license for the 48-month period shall be as
44 follows:

45 Motorcycle license or endorsement: \$18.

46 Omnibus or school bus endorsement: \$18.

47 Basic driver's license: \$18.

1 The commission shall waive the payment of fees for issuance of
2 omnibus endorsements whenever an applicant establishes to the
3 commission's satisfaction that said applicant will use the omnibus
4 endorsement exclusively for operating omnibuses owned by a
5 nonprofit organization duly incorporated under Title 15 or 16 of the
6 Revised Statutes or Title 15A of the New Jersey Statutes.

7 The commission shall issue licenses for the following license
8 period on and after the first day of the calendar month immediately
9 preceding the commencement of such period, such licenses to be
10 effective immediately.

11 All applications for renewals of licenses shall be made in a
12 manner prescribed by the commission and in accordance with
13 procedures established by it.

14 The commission in its discretion may refuse to grant a permit or
15 license to drive motor vehicles to a person who is, in its estimation,
16 not a proper person to be granted such a permit or license, but no
17 defect of the applicant shall debar the applicant from receiving a
18 permit or license unless it can be shown by tests approved by the
19 commission that the defect incapacitates the applicant from safely
20 operating a motor vehicle.

21 In addition to requiring an applicant for a driver's license to
22 submit satisfactory proof of identity and age, the commission also
23 shall require the applicant to provide, as a condition for obtaining a
24 permit and license, satisfactory proof that the applicant's presence
25 in the United States is authorized under federal law.

26 If the commission has reasonable cause to suspect that any
27 document presented by an applicant as proof of identity, age or
28 legal residency is altered, false or otherwise invalid, the
29 commission shall refuse to grant the permit or license until such
30 time as the document may be verified by the issuing agency to the
31 commission's satisfaction.

32 A person violating this section shall be subject to a fine not
33 exceeding \$500 or imprisonment in the county jail for not more
34 than 60 days, but if that person has never been licensed to drive in
35 this State or any other jurisdiction, the applicant shall be subject to
36 a fine of not less than \$200 and, in addition, the court shall issue an
37 order to the commission requiring the commission to refuse to issue
38 a license to operate a motor vehicle to the person for a period of not
39 less than 180 days. The penalties provided for by this paragraph
40 shall not be applicable in cases where failure to have actual
41 possession of the operator's license is due to an administrative or
42 technical error by the commission.

43 Nothing in this section shall be construed to alter or extend the
44 expiration of any license issued prior to the date this amendatory
45 and supplementary act becomes operative.

46 (cf: P.L.2011, c.13, s.1)

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

3 1. a. The use of a wireless telephone or electronic
4 communication device by an operator of a **【moving】** motor vehicle
5 on a public road or highway, including while the motor vehicle is
6 temporarily stationary because of traffic, a traffic light or stop sign,
7 or otherwise, shall be unlawful except when the telephone is a
8 hands-free wireless telephone or the electronic communication
9 device is used hands-free, provided that its placement does not
10 interfere with the operation of federally required safety equipment
11 and the operator exercises a high degree of caution in the operation
12 of the motor vehicle. The use of a wireless telephone or electronic
13 communication device by an operator of a motor vehicle on a public
14 road or highway shall not be unlawful when the vehicle has been
15 pulled over to the side of, or off, an active roadway and has stopped
16 in a location where it can safely remain stationary. For the
17 purposes of this section, an "electronic communication device" shall
18 not include 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 b. The operator of a motor vehicle may use a hand-held
24 wireless telephone while driving with one hand on the steering
25 wheel only if:

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

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

39 As used in this act:

40 "Citizen's band radio" means a mobile communication device
41 designed to allow for the transmission and receipt of radio
42 communications on frequencies allocated for citizen's band radio
43 service use.

44 "Hands-free wireless telephone" means a mobile telephone that
45 has an internal feature or function, or that is equipped with an
46 attachment or addition, whether or not permanently part of such
47 mobile telephone, by which a user engages in a conversation
48 without the use of either hand; provided, however, this definition

1 shall not preclude the use of either hand to activate, deactivate, or
2 initiate a function of the telephone.

3 "Two-way radio" means two-way communications equipment
4 that uses VHF frequencies approved by the Federal
5 Communications Commission.

6 "Use" of a wireless telephone or electronic communication
7 device shall include, but not be limited to, talking or listening to
8 another person on the telephone, text messaging, or sending an
9 electronic message via the wireless telephone or electronic
10 communication device.

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

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

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

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

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

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

24 A person who has been convicted of a previous violation of this
25 section need not be charged as a second or subsequent offender in
26 the complaint made against him in order to render him liable to the
27 punishment imposed by this section on a second or subsequent
28 offender, but if the second offense occurs more than 10 years after
29 the first offense, the court shall treat the second conviction as a first
30 offense for sentencing purposes and if a third offense occurs more
31 than 10 years after the second offense, the court shall treat the third
32 conviction as a second offense for sentencing purposes.

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

37 f. The Chief Administrator of the New Jersey Motor Vehicle
38 Commission shall develop and undertake a program to notify and
39 inform the public as to the provisions of this act. Notwithstanding
40 the provisions of R.S.39:5-41, the fines assessed pursuant to
41 subsection d. of this section shall be collected by the court and
42 distributed as follows: 50 percent of the fine imposed shall be paid
43 to the county and municipality wherein the violation occurred, to be
44 divided equally, and 50 percent of the fine imposed shall be paid to
45 the State Treasurer, who shall allocate the fine monies to the chief
46 administrator to be used for this public education program, which
47 shall include informing motorists of the dangers of texting while
48 driving.

