

[First Reprint]

**SENATE, No. 1602**

---

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

---

INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As reported by the Senate Transportation Committee on December 8, 2020, with amendments.



1 AN ACT concerning distracted driving and the use of wireless  
2 telephones and electronic communication devices in motor  
3 vehicles and amending 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. A person shall not 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 A person under 18 years of age shall not be issued a basic license  
16 to drive motor vehicles, and a person shall not 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  
20 include: a test of the applicant's vision; the applicant's ability to  
21 understand traffic control devices; the applicant's knowledge of safe  
22 driving practices, including distracted driving issues and <sup>1</sup>**including**<sup>1</sup> the dangers of driving a vehicle in an aggressive  
23 manner, which shall include, but not be limited to, unexpectedly  
24 altering the speed of a vehicle, making improper or erratic traffic  
25 lane changes, disregarding traffic control devices, failing to yield  
26 the right of way, and following another vehicle too closely; the  
27 applicant's knowledge of operating a motor vehicle in a manner that  
28 safely shares the roadway with pedestrians, cyclists, skaters, riders  
29 of motorized-scooters, and other non-motorized vehicles, which  
30 shall include, but not be limited to, passing a cyclist on the  
31 roadway, recognizing bicycle lanes, navigating intersections with  
32 pedestrians and cyclists, and exiting a vehicle without endangering  
33 pedestrians and cyclists; the applicant's knowledge of the effects  
34 that ingestion of alcohol or drugs has on a person's ability to operate  
35 a motor vehicle; the applicant's knowledge of the dangers of carbon  
36 monoxide poisoning from motor vehicles and techniques for the  
37 safe operation and proper maintenance of a motor vehicle; the  
38 applicant's knowledge of portions of the mechanism of motor  
39 vehicles as is necessary to insure the safe operation of a vehicle of  
40 the kind or kinds indicated by the applicant; and the applicant's  
41 knowledge of the laws and ordinary usages of the road. The  
42 examination shall be made available in English and each of the  
43 three languages, other than English, most commonly spoken in the  
44 State, as determined by the chief administrator. The chief

45 **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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate STR committee amendments adopted December 8, 2020.

1 administrator shall periodically, and at least every five years, verify  
2 the three languages, other than English, most commonly spoken in  
3 the State.

4 A person shall not sit for an examination for any permit without  
5 exhibiting photo identification deemed acceptable by the  
6 commission, unless that person is a high school student  
7 participating in a course of automobile driving education approved  
8 by the State Department of Education and conducted in a public,  
9 parochial, or private school of this State, pursuant to section 1 of  
10 P.L.1950, c.127 (C.39:3-13.1). The commission may waive the  
11 written law knowledge examination for any person 18 years of age  
12 or older possessing a valid driver's license issued by any other state,  
13 the District of Columbia, or the United States Territories of  
14 American Samoa, Guam, Northern Mariana Islands, Puerto Rico, or  
15 the Virgin Islands. The commission shall be required to provide  
16 that person with a booklet that highlights those motor vehicle laws  
17 unique to New Jersey. A road test shall be required for a  
18 probationary license and serve as a demonstration of the applicant's  
19 ability to operate a vehicle of the class designated. During the road  
20 test, an applicant may use a rear visibility system, parking sensors,  
21 or other technology installed on the motor vehicle that enables the  
22 applicant to view areas directly behind the vehicle or alerts the  
23 applicant of obstacles while parking.

24 A person shall not sit for a road test unless that person exhibits  
25 photo identification deemed acceptable by the commission. A high  
26 school student who has completed a course of behind-the-wheel  
27 automobile driving education approved by the State Department of  
28 Education and conducted in a public, parochial, or private school of  
29 this State, who has been issued a special learner's permit pursuant to  
30 section 1 of P.L.1950, c.127 (C.39:3-13.1) prior to January 1, 2003,  
31 shall not be required to exhibit photo identification in order to sit  
32 for a road test. The commission may waive the road test for any  
33 person 18 years of age or older possessing a valid driver's license  
34 issued by any other state, the District of Columbia, or the United  
35 States Territories of American Samoa, Guam, Northern Mariana  
36 Islands, Puerto Rico, or the Virgin Islands. The road test shall be  
37 given on public streets, where practicable and feasible, but may be  
38 preceded by an off-street screening process to assess basic skills.  
39 The commission shall approve locations for the road test which  
40 pose no more than a minimal risk of injury to the applicant, the  
41 examiner, and other motorists. New locations for the road test shall  
42 not be approved unless the test can be given on public streets.

43 A person who successfully completes a road test for a  
44 motorcycle license or a motorcycle endorsement when operating a  
45 motorcycle or motorized scooter with an engine displacement of  
46 less than 231 cubic centimeters shall be issued a motorcycle license  
47 or endorsement restricting the person's operation of the vehicles to  
48 any motorcycle with an engine displacement of 500 cubic

1 centimeters or less. A person who successfully completes a road  
2 test for a motorcycle license or motorcycle endorsement when  
3 operating a motorcycle with an engine displacement of 231 or more  
4 cubic centimeters shall be issued a motorcycle license or  
5 endorsement without any restriction as to engine displacement.  
6 Any person who successfully completes an approved motorcycle  
7 safety education course established pursuant to the provisions of  
8 section 1 of P.L.1991, c.452 (C.27:5F-36) shall be issued a  
9 motorcycle license or endorsement without restriction as to engine  
10 displacement.

11 A person issued a motorcycle license pursuant to this section  
12 may be issued a standard motorcycle license or a REAL ID  
13 motorcycle license. The chief administrator shall require an  
14 applicant for a standard motorcycle license to provide as proof of  
15 the applicant's identity, age, and residence primary and secondary  
16 documents, with which the chief administrator shall attribute point  
17 values in accordance with the point based identification verification  
18 program established pursuant to section 28 of P.L.2003, c.13  
19 (C.39:2A-28). The point total required to prove the identity of an  
20 applicant for the standard motorcycle license shall be the same for  
21 every applicant, regardless of immigration status. In the event that  
22 the commission changes the point total threshold, the requirement  
23 that every applicant reach the same point total threshold shall  
24 remain in effect.

25 In addition to requiring the person to submit satisfactory proof of  
26 identity and age, the commission shall require the person to  
27 provide:

28 (1) as a condition for obtaining a standard motorcycle license,  
29 proof of the person's social security number and one document  
30 providing satisfactory proof that the person is a New Jersey  
31 resident.

32 If the person does not have a social security number, the person  
33 shall either:

34 (a) provide satisfactory proof of an Individual Taxpayer  
35 Identification Number; or

36 (b) indicate, in a manner prescribed by the commission and  
37 consistent with all other provisions of P.L.2019, c.271 (C.39:3-10o  
38 et al.), that the person is not eligible to receive a social security  
39 number; or

40 (2) as a condition for obtaining a REAL ID motorcycle license:  
41 two documents providing satisfactory proof that the person is a New  
42 Jersey resident; proof of the person's social security number or  
43 verification of ineligibility for a social security number in  
44 accordance with the "REAL ID Act of 2005," Pub.L.109-13, any  
45 acts amendatory or supplementary thereto, and any federal  
46 regulations adopted thereunder; and proof that the person's presence  
47 in the United States is authorized under federal law.

1 A standard motorcycle license shall indicate that the license shall  
2 not be accepted as identification for an official purpose, as that term  
3 is defined under the "REAL ID Act of 2005," Pub.L.109-13, any  
4 acts amendatory or supplementary thereto, and any federal  
5 regulations adopted thereunder.

6 The commission shall issue a standard basic driver's license or a  
7 REAL ID basic driver's license to operate a motor vehicle other  
8 than a motorcycle to a person over 18 years of age who previously  
9 has not been licensed to drive a motor vehicle in this State or  
10 another jurisdiction only if that person has: (1) operated a passenger  
11 automobile in compliance with the requirements of this Title for not  
12 less than one year, not including any period of suspension or  
13 postponement, from the date of issuance of a probationary license  
14 pursuant to section 4 of P.L.1950, c.127 (C.39:3-13.4); (2) not been  
15 assessed more than two motor vehicle points; (3) not been convicted  
16 in the previous year for a violation of R.S.39:4-50, section 2 of  
17 P.L.1981, c.512 (C.39:4-50.4a), section 1 of P.L.1992, c.189  
18 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-5, section 1 of P.L.2017,  
19 c.165 (C.2C:11-5.3), subsection c. of N.J.S.2C:12-1, or any other  
20 motor vehicle-related violation the commission determines to be  
21 significant and applicable pursuant to regulation; and (4) passed an  
22 examination of the applicant's ability to operate a motor vehicle  
23 pursuant to this section.

24 The commission shall expand the driver's license examination by  
25 20 percent. The additional questions to be added shall consist solely  
26 of questions developed in conjunction with the Department of  
27 Health concerning the use of alcohol or drugs as related to highway  
28 safety. The commission shall develop, in conjunction with the  
29 Department of Health, supplements to the driver's manual which  
30 shall include information necessary to answer any question on the  
31 driver's license examination concerning alcohol or drugs as related  
32 to highway safety.

33 Up to 20 questions may be added to the examination on subjects  
34 to be determined by the commission that are of particular relevance  
35 to youthful drivers, including the importance of operating a motor  
36 vehicle in a manner that safely shares the roadway with pedestrians,  
37 cyclists, skaters, riders of motorized-scooters, and other non-  
38 motorized vehicles, which shall include, but not be limited to,  
39 passing a cyclist on the roadway, recognizing bicycle lanes,  
40 navigating intersections with pedestrians and cyclists, and exiting a  
41 vehicle without endangering pedestrians and cyclists, and the  
42 dangers of driving a vehicle in an aggressive manner, which shall  
43 include, but not be limited to, unexpectedly altering the speed of a  
44 vehicle, making improper or erratic traffic lane changes,  
45 disregarding traffic control devices, failing to yield the right of way,  
46 and following another vehicle too closely, after consultation with  
47 the Director of the Division of Highway Traffic Safety in the  
48 Department of Law and Public Safety.

1 The commission shall expand the driver's license examination to  
2 include a question asking whether the applicant is aware of the  
3 provisions of the "Revised Uniform Anatomical Gift Act,"  
4 P.L.2008, c.50 (C.26:6-77 et al.) and the procedure for indicating on  
5 the driver's license the intention to make a donation of body organs  
6 or tissues pursuant to section 1 of P.L.1978, c.181 (C.39:3-12.2).

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

9 The commission shall expand the driver's license examination to  
10 include a question asking whether the applicant is aware of the  
11 dangers of failing to comply with this State's motor vehicle traffic  
12 laws and the "STOP for Nikhil Safety Pledge" set forth in  
13 subsection e. of R.S.39:3-41.

14 The commission shall expand the driver's license examination to  
15 include questions concerning the dangers of carbon monoxide  
16 poisoning from motor vehicles and techniques for the safe operation  
17 and proper maintenance of a motor vehicle.

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

33 The commission shall create classified licensing of drivers  
34 covering the following classifications:

35 a. Motorcycles, except that for the purposes of this section,  
36 motorcycle shall not include any three-wheeled motor vehicle  
37 equipped with a single cab with glazing enclosing the occupant,  
38 seats similar to those of a passenger vehicle or truck, seat belts and  
39 automotive steering or any vehicle defined as a motorcycle pursuant  
40 to R.S.39:1-1 having a motor with a maximum piston displacement  
41 that is less than 50 cubic centimeters or a motor that is rated at no  
42 more than 1.5 brake horsepower with a maximum speed of no more  
43 than 35 miles per hour on a flat surface.

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

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

47 d. All motor vehicles not included in classifications a. and b. A  
48 license issued pursuant to this classification d. shall be referred to

1 as the "basic driver's license" and may be issued as a standard basic  
2 driver's license or a REAL ID basic driver's license.

3 Every applicant for a license under classification b. shall be a  
4 holder of a basic driver's license. Any issuance of a license under  
5 classification b. shall be by endorsement on the person's basic  
6 driver's license.

7 A driver's license for motorcycles may be issued separately, but  
8 if issued to the holder of a basic driver's license, it shall be by  
9 endorsement on the person's basic driver's license. The holder of a  
10 basic driver's license or a separately issued motorcycle license shall  
11 be authorized to operate a motorcycle having a motor with a  
12 maximum piston displacement that is less than 50 cubic centimeters  
13 or a motor that is rated at no more than 1.5 brake horsepower with a  
14 maximum speed no more than 35 miles per hour on a flat surface.

15 The commission, upon payment of the lawful fee and after it or a  
16 person authorized by it has examined the applicant and is satisfied  
17 of the applicant's ability as an operator, may, in its discretion, issue  
18 a license to the applicant to drive a motor vehicle. The license shall  
19 authorize the person to drive any registered vehicle, of the kind or  
20 kinds indicated.

21 The license shall expire, except as otherwise provided, during the  
22 fourth calendar year following the date in which the license was  
23 issued and on the same calendar day as the person's date of birth. If  
24 the person's date of birth does not correspond to a calendar day of  
25 the fourth calendar year, the license shall expire on the last day of  
26 the person's birth month.

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

42 The required fee for a license for the license period shall be as  
43 follows, subject to adjustment pursuant to section 16 of P.L.2007,  
44 c.335 (C.39:2A-36.1):

45 Standard motorcycle license or endorsement: \$18.

46 REAL ID motorcycle license: \$29.

47 Omnibus or school bus endorsement: \$18.

48 Standard basic driver's license: \$18.

1 REAL ID basic driver's license: \$29.

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

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

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

15 The commission in its discretion may refuse to grant a permit or  
16 license to drive motor vehicles to a person who is, in its estimation,  
17 not a proper person to be granted a permit or license, but a defect of  
18 the applicant shall not debar the applicant from receiving a permit  
19 or license unless it can be shown by tests approved by the  
20 commission that the defect incapacitates the applicant from safely  
21 operating a motor vehicle.

22 A person issued a basic driver's license pursuant to this section  
23 may be issued a standard basic driver's license or a REAL ID basic  
24 driver's license. The chief administrator shall require an applicant  
25 for a standard basic driver's license to provide as proof of the  
26 applicant's identity, age, and residence primary and secondary  
27 documents, with which the chief administrator shall attribute point  
28 values in accordance with the point based identification verification  
29 program established pursuant to section 28 of P.L.2003, c.13  
30 (C.39:2A-28). The point total required to prove the identity of an  
31 applicant for the standard basic driver's license shall be the same for  
32 every applicant, regardless of immigration status. In the event that  
33 the commission changes the point total threshold, the requirement  
34 that every applicant reach the same point total threshold shall  
35 remain in effect.

36 In addition to requiring an applicant for a driver's license to  
37 submit satisfactory proof of identity and age, the commission also  
38 shall require the applicant to provide:

39 (1) as a condition for obtaining a permit and standard basic  
40 driver's license, proof of the person's social security number and  
41 one document providing satisfactory proof that the applicant is a  
42 New Jersey resident. If the person does not have a social security  
43 number, the person shall either:

44 (a) provide satisfactory proof of an Individual Taxpayer  
45 Identification Number; or

46 (b) indicate, in a manner prescribed by the commission and  
47 consistent with all other provisions of P.L.2019, c.271 (C.39:3-10o



1 et al.), that the person is not eligible to receive a social security  
2 number; or

3 (2) as a condition for obtaining a REAL ID basic driver's  
4 license: two documents providing satisfactory proof that the  
5 applicant is a New Jersey resident; proof of the applicant's social  
6 security number or verification of ineligibility for a social security  
7 number in accordance with the "REAL ID Act of 2005," Pub.L.109-  
8 13, any acts amendatory or supplementary thereto, and any federal  
9 regulations adopted thereunder; and proof that the applicant's  
10 presence in the United States is authorized under federal law.

11 A standard basic driver's license shall indicate that the license  
12 shall not be accepted as identification for an official purpose, as that  
13 term is defined under the "REAL ID Act of 2005," Pub.L.109-13,  
14 any acts amendatory or supplementary thereto, and any federal  
15 regulations adopted thereunder.

16 If the commission has reasonable cause to suspect that any  
17 document presented by an applicant pursuant to this section is  
18 altered, false, or otherwise invalid, the commission shall refuse to  
19 grant the permit or license until the time when the document may be  
20 verified by the issuing agency to the commission's satisfaction.

21 A person violating this section shall be subject to a fine not  
22 exceeding \$500 or imprisonment in the county jail for not more  
23 than 60 days, but if that person has never been licensed to drive in  
24 this State or any other jurisdiction, the applicant shall be subject to  
25 a fine of not less than \$200 and, in addition, the court shall issue an  
26 order to the commission requiring the commission to refuse to issue  
27 a license to operate a motor vehicle to the person for a period of not  
28 less than 180 days. The penalties provided for by this paragraph  
29 shall not be applicable in cases where failure to have actual  
30 possession of the operator's license is due to an administrative or  
31 technical error by the commission.

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

35 Any documents and personal information, including an  
36 applicant's photograph, obtained by the commission from an  
37 applicant for a standard basic driver's license or standard  
38 motorcycle license shall be confidential, shall not be considered a  
39 government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.),  
40 P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning  
41 access to government records, and shall not be disclosed by the  
42 commission for any purpose related to Title 8 of the United States  
43 Code without the informed consent of the applicant, a warrant  
44 signed by a State or federal judge, or a lawful court order or  
45 subpoena; except that nothing in this section shall be construed to  
46 prohibit, or in any way restrict, any action where such prohibition  
47 or restriction would be contrary to federal law. When responding to  
48 a warrant, court order, or subpoena, the commission may disclose

1 only those records or information specifically requested in the  
2 warrant, court order, or subpoena.

3 Possession of a standard basic driver's license or standard  
4 motorcycle license issued pursuant to this section shall not be  
5 considered evidence of an individual's citizenship or immigration  
6 status and shall not be used as a basis for an investigation, arrest,  
7 citation, prosecution, or detention.

8 Information regarding an applicant's Individual Tax  
9 Identification Number, social security number, or ineligibility to  
10 receive a social security number obtained by the commission for the  
11 issuance of a standard motorcycle license or standard basic driver's  
12 license pursuant to this section, shall not be considered a  
13 government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.),  
14 P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning  
15 access to government records, and shall not be disclosed by the  
16 commission except where: (1) required by section 11 of P.L.1998,  
17 c.1 (C.2A:17-56.60); (2) the applicant provides written informed  
18 consent to the disclosure; (3) the requesting entity presents a  
19 warrant signed by a State or federal judge, a lawful court order, or a  
20 subpoena; (4) required by State or federal law, and to the extent that  
21 the disclosure may be necessary to permit the State to participate in  
22 the National Driver Register program, as set forth in 49 U.S.C.  
23 s.30301 et seq.; or (5) the disclosure is in connection with an audit  
24 or investigation of identity fraud, driver's license fraud, or non-  
25 driver identification card fraud.

26 As used in this section:

27 "Parking sensors" means proximity sensors which use either  
28 electromagnetic or ultrasonic technology and are designed to alert  
29 the driver to obstacles while parking.

30 "Rear visibility system" means devices or components installed  
31 on a motor vehicle at the time of manufacture that allow a forward  
32 facing driver to view a visual image of the area directly behind the  
33 vehicle.

34 (cf: P.L.2019, c.271, s.8)

35

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

38 1. a. The use of a wireless telephone or electronic  
39 communication device by an operator of a **【moving】** motor vehicle  
40 on a public road or highway, including while the motor vehicle is  
41 temporarily stationary because of traffic, a traffic light or stop sign,  
42 or otherwise, shall be unlawful except when the telephone is a  
43 hands-free wireless telephone or the electronic communication  
44 device is used hands-free, provided that its placement does not  
45 interfere with the operation of federally required safety equipment  
46 and the operator exercises a high degree of caution in the operation  
47 of the motor vehicle. The use of a wireless telephone or electronic  
48 communication device by an operator of a motor vehicle on a public

1 road or highway shall not be unlawful when the vehicle has been  
2 pulled over to the side of, or off, an active roadway and has stopped  
3 in a location where it can <sup>1</sup>[remain safely] safely remain<sup>1</sup>  
4 stationary. For the purposes of this section, an "electronic  
5 communication device" shall not include an amateur radio.

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

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

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

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

26 As used in this act:

27 "Citizen's band radio" means a mobile communication device  
28 designed to allow for the transmission and receipt of radio  
29 communications on frequencies allocated for citizen's band radio  
30 service use.

31 "Hands-free wireless telephone" means a mobile telephone that  
32 has an internal feature or function, or that is equipped with an  
33 attachment or addition, whether or not permanently part of such  
34 mobile telephone, by which a user engages in a conversation  
35 without the use of either hand; provided, however, this definition  
36 shall not preclude the use of either hand to activate, deactivate, or  
37 initiate a function of the telephone.

38 "Two-way radio" means two-way communications equipment  
39 that uses VHF frequencies approved by the Federal  
40 Communications Commission.

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

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

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

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

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

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

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

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

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

24 f. The Chief Administrator of the New Jersey Motor Vehicle  
25 Commission shall develop and undertake a program to notify and  
26 inform the public as to the provisions of this act. Notwithstanding  
27 the provisions of R.S.39:5-41, the fines assessed pursuant to  
28 subsection d. of this section shall be collected by the court and  
29 distributed as follows: 50 percent of the fine imposed shall be paid  
30 to the county and municipality wherein the violation occurred, to be  
31 divided equally, and 50 percent of the fine imposed shall be paid to  
32 the State Treasurer, who shall allocate the fine monies to the chief  
33 administrator to be used for this public education program, which  
34 shall include informing motorists of the dangers of texting while  
35 driving.

36 g. Whenever this section is used as an alternative offense in a  
37 plea agreement to any other offense in Title 39 of the Revised  
38 Statutes that would result in the assessment of motor vehicle points,  
39 the penalty shall be the same as the penalty for a violation of  
40 section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge  
41 imposed pursuant to subsection f. of that section, and a conviction  
42 under this section shall be considered a conviction under section 1  
43 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining  
44 subsequent enhanced penalties under that section.

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

46

47 3. This act shall take effect on the first day of the fourth month  
48 following enactment.