

P.L. 2007, c.198
Approved November 2, 2007

SENATE, No. 1099
STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED JANUARY 26, 2006

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SYNOPSIS

Makes it a primary offense for motorists to talk on or text message with hand-held wireless telephone or electronic communication device while driving.

CURRENT VERSION OF TEXT

As reported by the Assembly Law and Public Safety Committee on June 14, 2007, with amendments.

AN ACT concerning the use of wireless telephones ²and electronic communication devices² in motor vehicles and amending P.L.2003, c.310.

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

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

1. a. The use of a wireless telephone ²or electronic communication device² by an operator of a moving motor vehicle on a public road or highway shall be unlawful except when the telephone is a hands-free wireless telephone ²or the electronic communication device is used hands-free², provided that its placement does not interfere with the operation of federally required safety equipment and the operator exercises a high degree of caution in the operation of the motor vehicle. ²For the purposes of this section, an "electronic communication device" shall not include an amateur radio.²

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

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

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

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

"Use" of a wireless telephone ²or electronic communication device² shall include, but not be limited to, talking or listening to another person on the telephone ², text messaging, or sending an electronic message via the wireless telephone or electronic communication device².

c. [Enforcement of this act by State or local law enforcement officers shall be accomplished only as a secondary action when the operator of a motor vehicle has been detained for a violation of Title 39 of the Revised Statutes or another offense] Deleted by amendment, P.L. , c. ²[now]² pending before the Legislature as this bill).

d. A person who violates this section shall be fined ²[no less than]² \$100 ²[or more than \$250]².

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

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

g. Whenever this section is used as an alternative offense in a plea agreement to any other offense in Title 39 of the Revised Statutes that would result in the assessment of motor vehicle points, the penalty shall be the same as the penalty for a violation of section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge imposed pursuant to subsection f. of that section, and a conviction under this section shall be considered a conviction under section 1 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining subsequent enhanced penalties under that section. (cf: P.L.2003, c.310, s.1)

²2. Section 3 of P.L.2003, c.310 (C.39:4-97.5) is amended to read as follows:

3. This act supersedes and preempts all ordinances of any county or municipality with regard to the use of a wireless telephone or electronic communication device by an operator of a motor vehicle.²

(cf: P.L.2003, c.310, s.3)

²[²]³. This act shall take effect ¹[immediately] on the first day of the fourth month ²[after] following² enactment¹.