

SENATE BILL 143

R5

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By: **Senators Lenett, Conway, Currie, Dyson, Garagiola, Harrington, Jones, Kelley, King, Klausmeier, Madaleno, McFadden, Middleton, Miller, Muse, Peters, Pinsky, Pugh, Robey, and Rosapepe**

Introduced and read first time: January 19, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Use of Wireless Communication Devices While Driving –**
3 **Prohibitions**

4 FOR the purpose of prohibiting a driver of a certain school vehicle from using certain
5 wireless communication devices; prohibiting a holder of a learner’s instructional
6 permit or provisional driver’s license who is 18 years of age or older from driving
7 a motor vehicle while using certain wireless communication devices; prohibiting
8 a certain driver of a motor vehicle that is in motion from using the driver’s
9 hands to use certain wireless communication devices except under certain
10 circumstances; establishing penalties for a violation of this Act; authorizing the
11 court to waive a certain penalty under certain circumstances; providing for
12 exceptions to certain provisions of this Act relating to prohibitions on using
13 wireless communication devices while driving; defining certain terms; and
14 generally relating to prohibitions against the use of wireless communication
15 devices while operating a motor vehicle.

16 BY repealing and reenacting, without amendments,
17 Article – Health – General
18 Section 18–213.2(a)(7) and (8)
19 Annotated Code of Maryland
20 (2005 Replacement Volume and 2008 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Transportation
23 Section 21–1124
24 Annotated Code of Maryland
25 (2006 Replacement Volume and 2008 Supplement)

26 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Transportation
2 Section 21–1124.1
3 Annotated Code of Maryland
4 (2006 Replacement Volume and 2008 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Health – General**

8 18–213.2.

9 (a) (7) “First responder” means a:

10 (i) Fire fighter;

11 (ii) Emergency medical technician;

12 (iii) Rescue squad member;

13 (iv) Law enforcement officer;

14 (v) Correctional officer; or

15 (vi) Sworn member of the State Fire Marshal’s office.

16 (8) “Law enforcement officer” means any individual who, in an official
17 capacity, is authorized by law to make arrests and who is a member of one of the
18 following law enforcement agencies:

19 (i) The Department of State Police;

20 (ii) The Baltimore City Police Department;

21 (iii) The police department, bureau, or force of any county;

22 (iv) The police department, bureau, or force of any incorporated
23 city or town;

24 (v) The office of the sheriff of any county;

25 (vi) The police department, bureau, or force of any bicounty
26 agency or constituent institution of the University System of Maryland, Morgan State
27 University, St. Mary’s College, or of any institution under the jurisdiction of the
28 Maryland Higher Education Commission;

29 (vii) The Maryland Aviation Administration police force of the
30 Department of Transportation, the Maryland Transit Administration police force of

1 the Department of Transportation, the Maryland Transportation Authority police
2 force, and the Maryland Port Administration police force of the Department of
3 Transportation;

4 (viii) The law enforcement officers of the Department of Natural
5 Resources;

6 (ix) The Field Enforcement Bureau of the Comptroller's Office;
7 or

8 (x) The Internal Investigative Unit of the Department of Public
9 Safety and Correctional Services.

10 **Article - Transportation**

11 21-1124.

12 (a) (1) In this section the following words have the meanings indicated.

13 (2) "9-1-1 system" has the meaning stated in § 1-301 of the Public
14 Safety Article.

15 (3) "Wireless communication device" means:

16 (i) A handheld or hands-free device used to access a wireless
17 telephone service; or

18 (ii) A text messaging device.

19 (b) This section does not apply to the use of a wireless communication device
20 to contact a 9-1-1 system.

21 (c) A holder of a learner's instructional permit or a provisional driver's
22 license who is under the age of 18 years may not use a wireless communication device
23 while operating a motor vehicle.

24 (d) A police officer may enforce this section only as a secondary action when
25 the police officer detains a driver for a suspected violation of another provision of the
26 Code.

27 (e) (1) If the Administration receives satisfactory evidence that an
28 individual has violated this section, the Administration:

29 (i) May suspend the individual's driver's license for not more
30 than 90 days; and

31 (ii) May issue a restricted license for the period of suspension
32 that is limited to driving a motor vehicle:

- 1 1. In the course of the individual's employment;
- 2 2. For the purpose of driving to or from a place of
3 employment; or
- 4 3. For the purpose of driving to or from school.

5 (2) An individual may request a hearing as provided for a suspension
6 or revocation under Title 12, Subtitle 2 of this article.

7 **21-1124.1.**

8 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
9 **MEANINGS INDICATED.**

10 (2) **"9-1-1 SYSTEM" HAS THE MEANING STATED IN § 1-301 OF**
11 **THE PUBLIC SAFETY ARTICLE.**

12 (3) **"WIRELESS COMMUNICATION DEVICE" HAS THE MEANING**
13 **STATED IN § 21-1124(A) OF THIS SUBTITLE.**

14 (B) **THIS SECTION DOES NOT APPLY TO:**

15 (1) **USE OF A WIRELESS COMMUNICATION DEVICE TO CALL A**
16 **9-1-1 SYSTEM FOR PURPOSES RELATED TO AN EMERGENCY THAT IS ONGOING**
17 **AT THE TIME THE CALL IS MADE;**

18 (2) **USE OF A WIRELESS COMMUNICATION DEVICE BY THE**
19 **FOLLOWING INDIVIDUALS, WHEN ACTING WITHIN THE SCOPE OF OFFICIAL**
20 **DUTY:**

21 (I) **FIRST RESPONDERS, AS DEFINED IN § 18-213.2 OF THE**
22 **HEALTH - GENERAL ARTICLE;**

23 (II) **STATE HIGHWAY ADMINISTRATION EMPLOYEES OR**
24 **CONTRACTORS ACTING UNDER THE AUTHORITY OF § 8-602 OF THIS ARTICLE IN**
25 **AN EMERGENCY SITUATION; AND**

26 (III) **AN INDIVIDUAL DRIVING FOR A TRANSPORTATION**
27 **SERVICE OPERATING UNDER § 2-103.3 OF THIS ARTICLE; AND**

28 (3) **USE OF A TWO-WAY RADIO THAT OPERATES WITH**
29 **PUSH-TO-TALK TECHNOLOGY BY AN INDIVIDUAL OPERATING A COMMERCIAL**
30 **MOTOR VEHICLE, AS DEFINED IN § 16-803 OF THIS ARTICLE.**

1 **(C) THE FOLLOWING INDIVIDUALS MAY NOT USE A WIRELESS**
2 **COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE:**

3 **(1) A DRIVER OF A CLASS H (SCHOOL) VEHICLE THAT IS**
4 **CARRYING PASSENGERS AND IS IN MOTION; AND**

5 **(2) A HOLDER OF A LEARNER'S INSTRUCTIONAL PERMIT OR A**
6 **PROVISIONAL DRIVER'S LICENSE WHO IS 18 YEARS OF AGE OR OLDER.**

7 **(D) (1) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL**
8 **SPECIFIED IN SUBSECTION (C) OF THIS SECTION.**

9 **(2) A DRIVER OF A MOTOR VEHICLE THAT IS IN MOTION MAY NOT**
10 **USE THE DRIVER'S HANDS TO USE A WIRELESS COMMUNICATION DEVICE OTHER**
11 **THAN TO INITIATE OR TERMINATE A WIRELESS TELEPHONE CALL OR TO TURN**
12 **THE WIRELESS COMMUNICATION DEVICE ON OR OFF.**

13 **(E) (1) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION IS**
14 **SUBJECT TO THE FOLLOWING PENALTIES:**

15 **(I) FOR A FIRST OFFENSE, A FINE OF NOT MORE THAN \$50;**
16 **AND**

17 **(II) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE OF**
18 **\$100.**

19 **(2) FOR A FIRST OFFENSE UNDER THIS SECTION, POINTS MAY**
20 **NOT BE ASSESSED AGAINST THE INDIVIDUAL UNDER § 16-402 OF THIS ARTICLE**
21 **UNLESS THE OFFENSE CONTRIBUTES TO AN ACCIDENT.**

22 **(F) THE COURT MAY WAIVE A PENALTY UNDER SUBSECTION (E) OF THIS**
23 **SECTION FOR A PERSON WHO:**

24 **(1) IS CONVICTED OF A FIRST OFFENSE UNDER THIS SECTION;**
25 **AND**

26 **(2) PROVIDES PROOF THAT THE PERSON HAS ACQUIRED A**
27 **HANDS-FREE ACCESSORY, AN ATTACHMENT OR ADD-ON, A BUILT-IN FEATURE,**
28 **OR AN ADDITION FOR THE PERSON'S WIRELESS COMMUNICATION DEVICE THAT**
29 **WILL ALLOW THE PERSON TO OPERATE A MOTOR VEHICLE IN ACCORDANCE**
30 **WITH THIS SECTION.**

31 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
32 **October 1, 2009.**