

HOUSE BILL 104

R5
HB 222/11 – ENV

2lr0970
CF SB 217

By: **Delegates Malone and Kach**

Introduced and read first time: January 19, 2012

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 21, 2012

CHAPTER _____

1 AN ACT concerning

2 **Motor Vehicles – Use of Wireless Communication Device – Prohibited Acts,**
3 **Enforcement, and Penalties**

4 FOR the purpose of repealing certain provisions of law that require enforcement as a
5 secondary offense of certain violations involving the use of a wireless
6 communication device while operating a motor vehicle; repealing certain
7 provisions of law that apply certain prohibitions involving the use of a wireless
8 communication device to certain operators of certain motor vehicles only if the
9 motor vehicle is in motion; providing that certain prohibitions against the use of
10 a wireless communication device while operating a motor vehicle apply only if
11 the vehicle is in the travel portion of the roadway; altering the penalty imposed
12 for a violation of a certain prohibition on the use of a handheld telephone while
13 operating a motor vehicle; repealing a certain provision of law prohibiting,
14 under certain circumstances, a certain assessment of points for a first violation
15 of a certain prohibition on the use of a handheld telephone while operating a
16 motor vehicle; making a certain technical correction; and generally relating to
17 the use of wireless communication devices while operating a motor vehicle.

18 BY repealing and reenacting, with amendments,
19 Article – Transportation
20 Section 21–1124 and 21–1124.2
21 Annotated Code of Maryland
22 (2009 Replacement Volume and 2011 Supplement)

23 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Transportation
2 Section 27–101(a) and (b)
3 Annotated Code of Maryland
4 (2009 Replacement Volume and 2011 Supplement)

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

7 **Article – Transportation**

8 21–1124.

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

10 (2) “9–1–1 system” has the meaning stated in § 1–301 of the Public
11 Safety Article.

12 (3) “Wireless communication device” means:

13 (i) A handheld or hands–free device used to access a wireless
14 telephone service; or

15 (ii) A text messaging device.

16 (b) This section does not apply to the use of a wireless communication device
17 to contact a 9–1–1 system.

18 (c) A [holder of a learner’s instructional permit or a provisional driver’s
19 license] **PERSON** who is under the age of 18 years may not use a wireless
20 communication device while operating a motor vehicle **IN THE TRAVEL PORTION OF**
21 **THE ROADWAY**.

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

25 (e)] (1) If the Administration receives satisfactory evidence that an
26 individual has violated this section, the Administration:

27 (i) May suspend the individual’s driver’s license for not more
28 than 90 days; and

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

31 1. In the course of the individual’s employment;

1 (4) Use of a handheld telephone as a communication device utilizing
2 push-to-talk technology by an individual operating a commercial motor vehicle, as
3 defined in 49 CFR Part 390.5 of the Federal Motor Carrier Safety Regulations.

4 (c) The following individuals may not use a handheld telephone while
5 operating a motor vehicle:

6 (1) A driver of a Class H (school) vehicle that is carrying passengers
7 and in [motion] **THE TRAVEL PORTION OF THE ROADWAY**; and

8 (2) A holder of a learner's instructional permit or a provisional driver's
9 license who is 18 years of age or older.

10 (d) (1) This subsection does not apply to an individual specified in
11 subsection (c) of this section.

12 (2) A driver of a motor vehicle that is in [motion] **THE TRAVEL**
13 **PORTION OF THE ROADWAY** may not use the driver's hands to use a handheld
14 telephone other than to initiate or terminate a wireless telephone call or to turn on or
15 turn off the handheld telephone.

16 (e) [A police officer may enforce this section only as a secondary action when
17 the police officer detains a driver for a suspected violation of another provision of the
18 Code.

19 (f) (1) A person convicted of a violation of this section is subject to the
20 following penalties:

21 (i) For a first offense, a fine of not more than \$40; and

22 (ii) For a second or subsequent offense, a fine of \$100.

23 (2) For a first offense under this section, points may not be assessed
24 against the individual under § 16-402 of this article unless the offense contributes to
25 an accident.

26 (g) The court may waive [a penalty under subsection (f)] **THE PENALTY FOR**
27 **A VIOLATION** of this section for a person who:

28 (1) Is convicted of a first offense under this section; and

29 (2) Provides proof that the person has acquired a hands-free
30 accessory, an attachment or add-on, a built-in feature, or an addition for the person's
31 handheld telephone that will allow the person to operate a motor vehicle in accordance
32 with this section.

1 27-101.

2 (a) It is a misdemeanor for any person to violate any of the provisions of the
3 Maryland Vehicle Law unless the violation:

4 (1) Is declared to be a felony by the Maryland Vehicle Law or by any
5 other law of this State; or

6 (2) Is punishable by a civil penalty under the applicable provision of
7 the Maryland Vehicle Law.

8 (b) Except as otherwise provided in this section, any person convicted of a
9 misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is
10 subject to a fine of not more than \$500.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.