

HOUSE BILL 753

R5

(3lr1789)

ENROLLED BILL

— Environmental Matters/Judicial Proceedings —

Introduced by **Delegates Malone, Kach, Clagett, Barkley, Bobo, Hogan, Howard, Lafferty, A. Miller, Murphy, Pendergrass, Reznik, Stein, and Weir** Weir, Glenn, Beidle, Cane, Carr, Healey, S. Robinson, and Wilson

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

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,

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.

Italics indicate opposite chamber/conference committee amendments.



1 under certain circumstances, a certain assessment of points for a ~~first~~ *second or*
 2 *subsequent* violation of a certain prohibition on the use of a handheld telephone
 3 while operating a motor vehicle; and generally relating to the use of wireless
 4 communication devices while operating a motor vehicle.

5 BY repealing and reenacting, with amendments,
 6 Article – Transportation
 7 Section 21–1124 and 21–1124.2
 8 Annotated Code of Maryland
 9 (2012 Replacement Volume)

10 BY repealing and reenacting, without amendments,
 11 Article – Transportation
 12 Section 27–101(a) and (b)
 13 Annotated Code of Maryland
 14 (2012 Replacement Volume)

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

17 **Article – Transportation**

18 21–1124.

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

20 (2) “9–1–1 system” has the meaning stated in § 1–301 of the Public
 21 Safety Article.

22 (3) “Wireless communication device” means a handheld or hands–free
 23 device used to access a wireless telephone service.

24 (b) This section does not apply to the use of a wireless communication device:

25 (1) To contact a 9–1–1 system; or

26 (2) As a text messaging device as defined in § 21–1124.1 of this
 27 subtitle.

28 (c) An individual who is under the age of 18 years may not use a wireless
 29 communication device while operating a motor vehicle ~~IN THE TRAVEL PORTION OF~~
 30 ~~THE ROADWAY.~~

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

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

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

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

7 1. In the course of the individual's employment;

8 2. For the purpose of driving to or from a place of
9 employment; or

10 3. For the purpose of driving to or from school.

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

13 21-1124.2.

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

15 (2) "Handheld telephone" means a handheld device used to access
16 wireless telephone service.

17 (3) "9-1-1 system" has the meaning stated in § 1-301 of the Public
18 Safety Article.

19 (b) This section does not apply to:

20 (1) Emergency use of a handheld telephone, including calls to:

21 (i) A 9-1-1 system;

22 (ii) A hospital;

23 (iii) An ambulance service provider;

24 (iv) A fire department;

25 (v) A law enforcement agency; or

26 (vi) A first aid squad;

1 (2) Use of a handheld telephone by the following individuals when
2 acting within the scope of official duty:

3 (i) Law enforcement personnel; and

4 (ii) Emergency personnel;

5 (3) Use of a handheld telephone as a text messaging device as defined
6 in § 21-1124.1 of this subtitle; and

7 (4) Use of a handheld telephone as a communication device utilizing
8 push-to-talk technology by an individual operating a commercial motor vehicle, as
9 defined in 49 C.F.R. Part 390.5 of the Federal Motor Carrier Safety Regulations.

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

12 (1) A driver of a Class H (school) vehicle that is carrying passengers
13 and in ~~motion~~ ~~THE TRAVEL PORTION OF THE ROADWAY~~; and

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

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

18 (2) A driver of a motor vehicle that is in ~~motion~~ ~~THE TRAVEL~~
19 ~~PORTION OF THE ROADWAY~~ may not use the driver's hands to use a handheld
20 telephone other than to initiate or terminate a wireless telephone call or to turn on or
21 turn off the handheld telephone.

22 (e) [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 (f) (1) A person convicted of a violation of this section is subject to the
26 following penalties:

27 (i) For a first offense, a fine of not more than ~~\$40~~; and **\$75**;

28 (ii) For a second ~~or subsequent~~ offense, a fine of ~~\$100~~ **OF NOT**
29 **MORE THAN \$125; AND**

30 **(III) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE OF NOT**
31 **MORE THAN \$175.**

1 (2) ~~For a first offense under this section, points~~ **POINTS** may not be
 2 assessed against the individual under § 16-402 of this article unless the offense
 3 contributes to an accident.

4 ~~(e) (F)~~ The court may waive ~~fa~~ a penalty under subsection (f) ~~THE~~
 5 ~~PENALTY FOR A VIOLATION~~ of this section for a person who:

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

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

11 27-101.

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

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

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

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 22 October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.