

SENATE BILL 348

R5

(4lr2227)

ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by **Senator Manno**

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.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~Texting~~ ***Use of Text Messaging Device or Handheld Telephone While Driving –***
3 ***Accidents Resulting in Death or Serious Injury – Penalties***

4 FOR the purpose of ~~altering a certain prohibition against using a text messaging~~
5 ~~device while operating a motor vehicle to prohibit an individual from using the~~
6 ~~individual's hands to use a text messaging device for certain purposes while~~
7 ~~operating a motor vehicle under certain circumstances;~~ prohibiting a person
8 from committing a violation of a certain prohibition against using a text
9 messaging device *or a handheld telephone* while driving that ~~contributes to~~
10 ~~causes~~ an accident that *directly* results in the death or serious bodily injury of
11 another; ~~requiring a person who is involved in a motor vehicle accident that~~
12 ~~results in the death of or a life threatening injury to another person and who is~~
13 ~~detained by a police officer who has reasonable grounds to believe that the~~
14 ~~person has been driving while using a text messaging device in violation of a~~
15 ~~certain provision of law to allow the officer to inspect the device and to provide~~

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 ~~the officer with certain information regarding the device;~~ establishing certain
 2 criminal penalties for a certain violation of this Act; providing that a sentence
 3 imposed under this Act shall be separate from and concurrent with a sentence for
 4 a certain other crime; providing for the assessment of certain points for a
 5 violation of a certain provision of this Act; and generally relating to the
 6 ~~prohibition~~ prohibitions on using a text messaging device and a handheld
 7 telephone while driving.

8 BY adding to
 9 Article – Transportation
 10 Section 16–402(a)(39), 21–1124.3, and 27–115
 11 Annotated Code of Maryland
 12 (2012 Replacement Volume and 2013 Supplement)

13 BY repealing and reenacting, ~~with~~ without amendments,
 14 Article – Transportation
 15 Section 21–1124.1 and 21–1124.2
 16 Annotated Code of Maryland
 17 (2012 Replacement Volume and 2013 Supplement)

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

20 **Article – Transportation**

21 16–402.

22 (a) After the conviction of an individual for a violation of Title 2, Subtitle 5, §
 23 2–209, or § 3–211 of the Criminal Law Article, or of the vehicle laws or regulations of
 24 this State or of any local authority, points shall be assessed against the individual as
 25 of the date of violation and as follows:

26 **(39) A VIOLATION OF ~~§ 21–1124.1(B)(2)~~ § 21–1124.3 OF THIS**
 27 **ARTICLE..... 12 POINTS**

28 21–1124.1.

- 29 (a) (1) In this section the following words have the meanings indicated.
- 30 (2) “9–1–1 system” has the meaning stated in § 1–301 of the Public
 31 Safety Article.
- 32 (3) “Text messaging device” means a handheld device used to send a
 33 text message or an electronic message via a short message service, wireless telephone
 34 service, or electronic communication network.

1 (b) ~~(1)~~ Subject to subsection (c) of this section, an individual may not use
2 ~~THE INDIVIDUAL'S HANDS TO USE~~ a text messaging device to write, send, or read a
3 text message or an electronic message while operating a motor vehicle in the travel
4 portion of the roadway.

5 ~~(2) A PERSON MAY NOT COMMIT A VIOLATION OF PARAGRAPH (1)~~
6 ~~OF THIS SUBSECTION THAT CONTRIBUTES TO CAUSES AN ACCIDENT THAT~~
7 ~~RESULTS IN THE DEATH OR, AS DEFINED IN § 27-113 OF THIS ARTICLE, SERIOUS~~
8 ~~BODILY INJURY OF ANOTHER.~~

9 (c) This section does not apply to the use of:

10 (1) A global positioning system; or

11 (2) A text messaging device to contact a 9-1-1 system.

12 (d) (1) If the Administration receives satisfactory evidence that an
13 individual who is under the age of 18 years has violated this section, the
14 Administration:

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

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

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

20 2. For the purpose of driving to or from a place of
21 employment; or

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

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

25 ~~(E) IF A PERSON IS INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT~~
26 ~~RESULTS IN THE DEATH OF OR A LIFE THREATENING INJURY TO ANOTHER~~
27 ~~PERSON AND THE PERSON IS DETAINED BY A POLICE OFFICER WHO HAS~~
28 ~~REASONABLE GROUNDS TO BELIEVE THAT THE PERSON HAS BEEN DRIVING~~
29 ~~WHILE USING A TEXT MESSAGING DEVICE IN VIOLATION OF THIS SECTION, THE~~
30 ~~PERSON SHALL ALLOW THE OFFICER TO INSPECT THE DEVICE AND SHALL~~
31 ~~PROVIDE THE OFFICER WITH THE FOLLOWING INFORMATION REGARDING THE~~
32 ~~DEVICE:~~

- 1 ~~(1) THE CELL PHONE NUMBER ASSOCIATED WITH THE DEVICE;~~
2 ~~(2) THE IDENTITY OF THE SERVICE CARRIER FOR THE DEVICE;~~
3 AND
4 ~~(3) ANY ELECTRONIC MAIL ADDRESS ASSOCIATED WITH THE~~
5 ~~DEVICE.~~

6 21-1124.2.

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

8 (2) “Handheld telephone” means a handheld device used to access
9 wireless telephone service.

10 (3) “9-1-1 system” has the meaning stated in § 1-301 of the Public
11 Safety Article.

12 (b) This section does not apply to:

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

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

15 (ii) A hospital;

16 (iii) An ambulance service provider;

17 (iv) A fire department;

18 (v) A law enforcement agency; or

19 (vi) A first aid squad;

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

22 (i) Law enforcement personnel; and

23 (ii) Emergency personnel;

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

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 C.F.R. 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; 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 may not use the driver's
13 hands to use a handheld telephone other than to initiate or terminate a wireless
14 telephone call or to turn on or turn off the handheld telephone.

15 (e) (1) A person convicted of a violation of this section is subject to the
16 following penalties:

17 (i) For a first offense, a fine of not more than \$75;

18 (ii) For a second offense, a fine of not more than \$125; and

19 (iii) For a third or subsequent offense, a fine of not more than
20 \$175.

21 (2) Points may not be assessed against the individual under § 16-402
22 of this article unless the offense contributes to an accident.

23 (f) The court may waive a penalty under subsection (e) of this section for a
24 person who:

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

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

30 **21-1124.3.**

1 A PERSON MAY NOT COMMIT A VIOLATION OF § 21-1124.1 OR § 21-1124.2
 2 OF THIS SUBTITLE THAT CAUSES AN ACCIDENT THAT DIRECTLY RESULTS IN THE
 3 DEATH OR, AS DEFINED IN § 27-113 OF THIS ARTICLE, SERIOUS BODILY INJURY
 4 OF ANOTHER.

5 27-115.

6 (A) A PERSON WHO VIOLATES ~~§ 21-1124.1(B)(2)~~ § 21-1124.3 OF THIS
 7 ARTICLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO
 8 IMPRISONMENT FOR NOT MORE THAN ~~3 YEARS~~ 1 YEAR OR A FINE OF NOT MORE
 9 THAN \$5,000 OR BOTH.

10 (B) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE SEPARATE
 11 FROM AND CONCURRENT WITH A SENTENCE FOR ANOTHER CRIME BASED IN
 12 WHOLE OR PART ON THE ACT ESTABLISHING THE VIOLATION OF § 21-1124.3 OF
 13 THIS ARTICLE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 15 October 1, 2014.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.