HOUSE BILL 1212

R5 (4lr1174)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Clippinger, Waldstreicher, Anderson, Arora, Cluster, Dumais, Hammen, McDermott, McHale, Valderrama, and Valentino–Smith**

Read and Examined by Proofreaders:

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Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____M.

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Speaker.

CHAPTER _____

AN ACT concerning

Use of Text Messaging Device or Handheld Telephone While Driving – Accidents Resulting in Death or Serious Injury – Penalties

FOR the purpose of prohibiting a person from committing a violation of a certain prohibition against using a text messaging device or a handheld telephone while driving that ~~substantially contributes to~~ *causes* an accident that directly results in the death or serious bodily injury of another; ~~requiring a person who is involved in a motor vehicle accident that results in the death of or a life threatening injury to another person and who is detained by a police officer who has reasonable grounds to believe that the person has been driving while using a text messaging device or a handheld telephone in violation of a certain provision of law to provide the officer with certain information regarding the device;~~ establishing certain criminal penalties for a certain violation of this Act;

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.

providing that a sentence imposed under this Act shall be separate from and concurrent with a sentence for a certain other crime; providing for the assessment of certain points for a violation of a certain provision of this Act; and generally relating to the prohibitions on using a text messaging device and a handheld telephone while driving.

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

BY repealing and reenacting, without amendments,
Article – Transportation
Section 21–1124.1 and 21–1124.2
Annotated Code of Maryland
(2012 Replacement Volume and 2013 Supplement)

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

Article – Transportation

16–402.

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

(39) A VIOLATION OF ~~§ 21–1124.3(A)~~ *§ 21–1124.3* OF THIS ARTICLE ..... 12 POINTS

21–1124.1.

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

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

(3) "Text messaging device" means a handheld device used to send a text message or an electronic message via a short message service, wireless telephone service, or electronic communication network.

(b) Subject to subsection (c) of this section, an individual may not use a text messaging device to write, send, or read a text message or an electronic message while operating a motor vehicle in the travel portion of the roadway.

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

(1) A global positioning system; or

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

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

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

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

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

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

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

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

21–1124.2.

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

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

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

(b) This section does not apply to:

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

(i) A 9–1–1 system;

(ii) A hospital;

(iii) An ambulance service provider;

(iv) A fire department;

(v) A law enforcement agency; or

(vi) A first aid squad;

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

(i) Law enforcement personnel; and

(ii) Emergency personnel;

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

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

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

(1) A driver of a Class H (school) vehicle that is carrying passengers and in motion; and

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

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

(2) A driver of a motor vehicle that is in motion may not use the driver's hands to use a handheld telephone other than to initiate or terminate a wireless telephone call or to turn on or turn off the handheld telephone.

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

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

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

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

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

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

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

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

21–1124.3.

~~(A)~~ A PERSON MAY NOT COMMIT A VIOLATION OF § 21–1124.1 OR § 21–1124.2 OF THIS SUBTITLE THAT ~~SUBSTANTIALLY CONTRIBUTES TO~~ *CAUSES* AN ACCIDENT THAT DIRECTLY RESULTS IN THE DEATH OR, AS DEFINED IN § 27–113 OF THIS ARTICLE, SERIOUS BODILY INJURY OF ANOTHER.

~~(B) IF A PERSON IS INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTS IN THE DEATH OF OR A LIFE–THREATENING INJURY TO ANOTHER PERSON AND THE PERSON IS DETAINED BY A POLICE OFFICER WHO HAS REASONABLE GROUNDS TO BELIEVE THAT THE PERSON HAS BEEN DRIVING WHILE USING A TEXT MESSAGING DEVICE OR A HANDHELD TELEPHONE IN VIOLATION OF § 21–1124.1 OR § 21–1124.2 OF THIS SUBTITLE, THE PERSON SHALL PROVIDE THE OFFICER WITH THE FOLLOWING INFORMATION REGARDING THE DEVICE:~~

~~(1) THE TELEPHONE NUMBER ASSOCIATED WITH THE DEVICE;~~

~~(2) THE IDENTITY OF THE SERVICE CARRIER FOR THE DEVICE; AND~~

~~(3) ANY ELECTRONIC MAIL ADDRESS ASSOCIATED WITH THE DEVICE.~~

27–115.

(A) A PERSON WHO VIOLATES ~~§ 21–1124.3(A)~~ *§ 21–1124.3* OF THIS ARTICLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT MORE THAN ~~3 YEARS~~ 1 YEAR OR A FINE OF NOT MORE THAN $5,000 OR BOTH.

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.