

SENATE BILL 2

R5

8lr0487

SB 44/07 – JPR

(PRE-FILED)

By: **Senator Lenett**

Requested: August 10, 2007

Introduced and read first time: January 9, 2008

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2008

CHAPTER _____

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; providing that a violation of this Act may only be enforced as a
11 secondary action; establishing penalties for a violation of this Act; authorizing
12 the court to waive a certain penalty under certain circumstances; providing for
13 exceptions to certain provisions of this Act relating to prohibitions on using
14 wireless communication devices while driving; defining certain terms; providing
15 for the termination of this Act; and generally relating to prohibitions against
16 the use of wireless communication devices while operating a motor vehicle.

17 BY repealing and reenacting, without amendments,

18 Article – Health – General

19 Section 18-213.2(a)(7) and (8)

20 Annotated Code of Maryland

21 (2005 Replacement Volume and 2007 Supplement)

22 BY repealing and reenacting, without amendments,

23 Article – Transportation

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 Section 21-1124
2 Annotated Code of Maryland
3 (2006 Replacement Volume and 2007 Supplement)

4 BY adding to
5 Article – Transportation
6 Section 21-1124.1
7 Annotated Code of Maryland
8 (2006 Replacement Volume and 2007 Supplement)

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

11 **Article – Health – General**

12 18-213.2.

13 (a) (7) “First responder” means a:

14 (i) Fire fighter;

15 (ii) Emergency medical technician;

16 (iii) Rescue squad member;

17 (iv) Law enforcement officer;

18 (v) Correctional officer; or

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

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

23 (i) The Department of State Police;

24 (ii) The Baltimore City Police Department;

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

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

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

29 (vi) The police department, bureau, or force of any bicounty
30 agency or constituent institution of the University System of Maryland, Morgan State

1 University, St. Mary's College, or of any institution under the jurisdiction of the
2 Maryland Higher Education Commission;

3 (vii) The Maryland Aviation Administration police force of the
4 Department of Transportation, the Maryland Transit Administration police force of
5 the Department of Transportation, the Maryland Transportation Authority police
6 force, and the Maryland Port Administration police force of the Department of
7 Transportation;

8 (viii) The law enforcement officers of the Department of Natural
9 Resources;

10 (ix) The Field Enforcement Bureau of the Comptroller's Office;
11 or

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

14 **Article – Transportation**

15 21–1124.

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

17 (2) “9–1–1 system” has the meaning stated in § 1–301 of the Public
18 Safety Article.

19 (3) “Wireless communication device” means:

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

22 (ii) A text messaging device.

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

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

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

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

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

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

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

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

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

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

11 **21-1124.1.**

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
13 MEANINGS INDICATED.

14 (2) "9-1-1 SYSTEM" HAS THE MEANING STATED IN § 1-301 OF
15 THE PUBLIC SAFETY ARTICLE.

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

18 (B) THIS SECTION DOES NOT APPLY TO:

19 (1) ~~EMERGENCY USE~~ USE OF A WIRELESS COMMUNICATION
20 ~~DEVICE, INCLUDING CALLS TO:~~

21 ~~(I) A TO CALL 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; AND FOR PURPOSES RELATED TO~~
27 AN EMERGENCY THAT IS ONGOING AT THE TIME THE CALL IS MADE;

1 (2) USE OF A WIRELESS COMMUNICATION DEVICE BY THE
2 FOLLOWING INDIVIDUALS, WHEN ACTING WITHIN THE SCOPE OF OFFICIAL
3 DUTY:

4 (I) ~~LAW ENFORCEMENT PERSONNEL; AND~~

5 ~~(H) EMERGENCY PERSONNEL~~ FIRST RESPONDERS, AS
6 DEFINED IN § 18-213.2 OF THE HEALTH - GENERAL ARTICLE;

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

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

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

15 (C) THE FOLLOWING INDIVIDUALS MAY NOT USE A WIRELESS
16 COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE:

17 (1) A DRIVER OF A CLASS H (SCHOOL) VEHICLE THAT IS
18 CARRYING PASSENGERS AND IS IN MOTION; AND

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

21 (D) (1) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL
22 SPECIFIED IN SUBSECTION (C) OF THIS SECTION.

23 (2) A DRIVER OF A MOTOR VEHICLE THAT IS IN MOTION MAY NOT
24 USE THE DRIVER'S HANDS TO USE A WIRELESS COMMUNICATION DEVICE OTHER
25 THAN TO INITIATE OR TERMINATE A WIRELESS TELEPHONE CALL OR TO TURN
26 THE WIRELESS COMMUNICATION DEVICE ON OR OFF.

27 (E) A POLICE OFFICER MAY ENFORCE THIS SECTION ONLY AS A
28 SECONDARY ACTION WHEN THE POLICE OFFICER DETAINS A DRIVER FOR A
29 SUSPECTED VIOLATION OF ANOTHER PROVISION OF THE CODE.

30 (F) (1) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION IS
31 SUBJECT TO THE FOLLOWING PENALTIES:

1 (I) FOR A FIRST OFFENSE, A FINE OF NOT MORE THAN ~~\$100~~
2 \$50; AND

3 (II) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE OF
4 ~~\$250~~ \$100.

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

8 ~~(F)~~ (G) THE COURT MAY WAIVE A PENALTY UNDER SUBSECTION ~~(E)~~
9 (F) OF THIS SECTION FOR A PERSON WHO:

10 (1) IS CONVICTED OF A FIRST OFFENSE UNDER THIS SECTION;
11 AND

12 (2) PROVIDES PROOF THAT THE PERSON HAS ACQUIRED A
13 HANDS-FREE ACCESSORY, AN ATTACHMENT OR ADD-ON, A BUILT-IN FEATURE,
14 OR AN ADDITION FOR THE PERSON'S WIRELESS COMMUNICATION DEVICE THAT
15 WILL ALLOW THE PERSON TO OPERATE A MOTOR VEHICLE IN ACCORDANCE
16 WITH THIS SECTION.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 ~~October 1, 2008~~ July 1, 2008. It shall remain effective for a period of 2 years and, at
19 the end of June 30, 2010, with no further action required by the General Assembly,
20 this Act shall be abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.