

HOUSE BILL 934

R5

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By: Delegates McIntosh, G. Clagett, Conaway, Barkley, Beidle, Bobo, Bronrott, Cane, Carr, V. Clagett, Conaway, Donoghue, Dumais, Frick, Frush, Glenn, Healey, Hecht, Howard, Huckler, Kullen, Love, Manno, Minnick, Montgomery, Morhaim, Niemann, Olszewski, Pendergrass, Reznik, Rice, Riley, Stein, and Weir ~~Weir~~, Holmes, Norman, Serafini, Shewell, Sossi, and Stull

Introduced and read first time: February 12, 2010

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 3, 2010

CHAPTER _____

1 AN ACT concerning

2 ~~Vehicle Laws – Use of Wireless Telephone While Driving – Prohibitions~~
3 Vehicle Laws – Commercial Vehicles – Handheld Telephones Utilizing
4 Push-to-Talk Technology

5 FOR the purpose of ~~prohibiting a driver of a certain school vehicle from using a certain~~
6 ~~wireless telephone under certain circumstances; prohibiting a holder of a~~
7 ~~learner's instructional permit or provisional driver's license who is 18 years of~~
8 ~~age or older from driving a motor vehicle while using a certain wireless~~
9 ~~telephone; prohibiting a certain driver of a motor vehicle that is in motion from~~
10 ~~using the driver's hands to use a certain wireless telephone except under certain~~
11 ~~circumstances; establishing penalties for a violation of this Act; authorizing the~~
12 ~~court to waive a certain penalty under certain circumstances; providing for~~
13 ~~exceptions to certain provisions of this Act relating to prohibitions on using a~~
14 ~~wireless telephone while driving; requiring a driver education program and~~
15 ~~driver's license examination to include curriculum and questions, respectively,~~
16 ~~concerning the use of a wireless telephone and other electronic devices while~~
17 ~~driving; defining certain terms; providing for a delayed effective date; and~~
18 ~~generally relating to prohibitions against the use of a wireless telephone while~~
19 ~~operating a motor vehicle~~ creating an exception for the use of a handheld
20 telephone utilizing push-to-talk technology by an individual operating a

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 commercial motor vehicle to certain prohibitions against using a handheld
 2 telephone while driving a motor vehicle; making this Act subject to a certain
 3 contingency; and generally relating to handheld telephones utilizing
 4 push-to-talk technology in a commercial motor vehicle.

5 ~~BY repealing and reenacting, without amendments,~~
 6 ~~Article – Health – General~~
 7 ~~Section 18–213.2(a)(7) and (8)~~
 8 ~~Annotated Code of Maryland~~
 9 ~~(2009 Replacement Volume)~~

10 ~~BY repealing and reenacting, without amendments,~~
 11 ~~Article – Transportation~~
 12 ~~Section 16–110(a) and (b) and 21–1124~~
 13 ~~Annotated Code of Maryland~~
 14 ~~(2009 Replacement Volume and 2009 Supplement)~~

15 ~~BY repealing and reenacting, with amendments,~~
 16 ~~Article – Transportation~~
 17 ~~Section 16–110(c) and 16–505~~
 18 ~~Annotated Code of Maryland~~
 19 ~~(2009 Replacement Volume and 2009 Supplement)~~

20 ~~BY adding to~~
 21 ~~Article – Transportation~~
 22 ~~Section 21–1124.2~~
 23 ~~Annotated Code of Maryland~~
 24 ~~(2009 Replacement Volume and 2009 Supplement)~~

25 BY repealing and reenacting, with amendments,
 26 Article – Transportation
 27 Section 21–1124.2(b)
 28 Annotated Code of Maryland
 29 (As enacted by Chapter _____ (S.B. 321) of the Acts of the General Assembly of
 30 2010)

31 BY repealing and reenacting, without amendments,
 32 Article – Transportation
 33 Section 21–1124.2(c) and (d)
 34 Annotated Code of Maryland
 35 (As enacted by Chapter _____ (S.B. 321) of the Acts of the General Assembly of
 36 2010)

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

39 ~~Article – Health – General~~

1 ~~18-213.2.~~

2 ~~(a) (7) "First responder" means a:~~

3 ~~(i) Fire fighter;~~

4 ~~(ii) Emergency medical technician;~~

5 ~~(iii) Rescue squad member;~~

6 ~~(iv) Law enforcement officer;~~

7 ~~(v) Correctional officer; or~~

8 ~~(vi) Sworn member of the State Fire Marshal's office.~~

9 ~~(8) "Law enforcement officer" means any individual who, in an official~~
10 ~~capacity, is authorized by law to make arrests and who is a member of one of the~~
11 ~~following law enforcement agencies:~~

12 ~~(i) The Department of State Police;~~

13 ~~(ii) The Baltimore City Police Department;~~

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

15 ~~(iv) The police department, bureau, or force of any incorporated~~
16 ~~city or town;~~

17 ~~(v) The office of the sheriff of any county;~~

18 ~~(vi) The police department, bureau, or force of any bicounty~~
19 ~~agency or constituent institution of the University System of Maryland, Morgan State~~
20 ~~University, St. Mary's College, or of any institution under the jurisdiction of the~~
21 ~~Maryland Higher Education Commission;~~

22 ~~(vii) The Maryland Aviation Administration police force of the~~
23 ~~Department of Transportation, the Maryland Transit Administration police force of~~
24 ~~the Department of Transportation, the Maryland Transportation Authority police~~
25 ~~force, and the Maryland Port Administration police force of the Department of~~
26 ~~Transportation;~~

27 ~~(viii) The law enforcement officers of the Department of Natural~~
28 ~~Resources;~~

1 ~~(ix) The Field Enforcement Bureau of the Comptroller's Office;~~
2 ~~or~~

3 ~~(x) The Internal Investigative Unit of the Department of Public~~
4 ~~Safety and Correctional Services.~~

5 ~~Article — Transportation~~

6 ~~16-110.~~

7 ~~(a) The Administration shall:~~

8 ~~(1) Establish qualifications for the safe operation of the various~~
9 ~~classes, types, sizes, or combinations of vehicles; and~~

10 ~~(2) Examine each applicant to determine the applicant's qualifications~~
11 ~~for the license class applied for.~~

12 ~~(b) Except as otherwise provided in this title, the Administration shall~~
13 ~~examine each applicant for an original driver's license or for a class of driver's license~~
14 ~~higher than that which the applicant currently holds.~~

15 ~~(c) The examination shall include:~~

16 ~~(1) A test of the applicant's:~~

17 ~~(i) Vision;~~

18 ~~(ii) Ability to read and understand highway signs regulating,~~
19 ~~warning, and directing traffic; and~~

20 ~~(iii) Knowledge of the traffic laws of this State and safe driving~~
21 ~~practices;~~

22 ~~(2) A demonstration of the applicant's ability to exercise reasonable~~
23 ~~control in driving a motor vehicle; [and]~~

24 ~~(3) QUESTIONS CONCERNING THE USE OF A WIRELESS~~
25 ~~TELEPHONE AND OTHER ELECTRONIC DEVICES WHILE DRIVING; AND~~

26 ~~(4) Any other additional physical or mental examination that the~~
27 ~~Administration considers necessary to determine an applicant's fitness to drive a~~
28 ~~motor vehicle safely.~~

29 ~~16-505.~~

1 ~~(a) The Administration shall, in consultation with the State Department of~~
2 ~~Education, adopt and enforce regulations not inconsistent with this subtitle to~~
3 ~~implement a standardized driver education program conducted by driver education~~
4 ~~schools under its jurisdiction.~~

5 ~~(b) Regulations adopted under this section shall be administered by the~~
6 ~~Administration and shall include:~~

7 ~~(1) Curriculum, equipment, and facility standards for classroom,~~
8 ~~laboratory, and on-road instruction phases;~~

9 ~~(2) Minimum student performance standards for an approved driver~~
10 ~~education program based upon the standardized curriculum approved by the~~
11 ~~Administration, consisting of at least 30 hours of classroom instruction and at least 6~~
12 ~~hours of highway driving instruction;~~

13 ~~(3) Standards for the certification of schools and instructors;~~

14 ~~(4) A system to evaluate the effectiveness of the driver education~~
15 ~~program;~~

16 ~~(5) Standards governing the required offering of the driver education~~
17 ~~program, INCLUDING CURRICULUM CONCERNING THE USE OF A WIRELESS~~
18 ~~TELEPHONE AND OTHER ELECTRONIC DEVICES WHILE DRIVING, based on the~~
19 ~~capacity, enrollment, staff, and facilities of the schools; and~~

20 ~~(6) Standards for the eligibility of individuals to enroll in the program.~~

21 ~~21-1124.~~

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

23 ~~(2) "9-1-1 system" has the meaning stated in § 1-301 of the Public~~
24 ~~Safety Article.~~

25 ~~(3) "Wireless communication device" means:~~

26 ~~(i) A handheld or hands-free device used to access a wireless~~
27 ~~telephone service; or~~

28 ~~(ii) A text messaging device.~~

29 ~~(b) This section does not apply to the use of a wireless communication device~~
30 ~~to contact a 9-1-1 system.~~

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

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

~~(e) (1) If the Administration receives satisfactory evidence that an individual 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) "9-1-1 SYSTEM" HAS THE MEANING STATED IN § 1-301 OF THE PUBLIC SAFETY ARTICLE.~~

~~(3) "WIRELESS TELEPHONE" MEANS A HANDHELD OR HANDS-FREE DEVICE USED TO ACCESS A WIRELESS TELEPHONE SERVICE.~~

~~(B) THIS SECTION DOES NOT APPLY TO:~~

~~(1) USE OF A WIRELESS TELEPHONE TO CALL A 9-1-1 SYSTEM FOR PURPOSES RELATED TO AN EMERGENCY THAT IS ONGOING AT THE TIME THE CALL IS MADE;~~

~~(2) USE OF A WIRELESS TELEPHONE BY THE FOLLOWING INDIVIDUALS, WHEN ACTING WITHIN THE SCOPE OF OFFICIAL DUTY:~~

1 ~~(I) FIRST RESPONDERS, AS DEFINED IN § 18 213.2 OF THE~~
2 ~~HEALTH GENERAL ARTICLE;~~

3 ~~(II) STATE HIGHWAY ADMINISTRATION EMPLOYEES OR~~
4 ~~CONTRACTORS ACTING UNDER THE AUTHORITY OF § 8 602 OF THIS ARTICLE IN~~
5 ~~AN EMERGENCY SITUATION; AND~~

6 ~~(III) AN INDIVIDUAL DRIVING FOR A TRANSPORTATION~~
7 ~~SERVICE OPERATING UNDER § 2 103.3 OF THIS ARTICLE; AND~~

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

11 ~~(C) THE FOLLOWING INDIVIDUALS MAY NOT USE A WIRELESS~~
12 ~~TELEPHONE WHILE OPERATING A MOTOR VEHICLE:~~

13 ~~(1) A DRIVER OF A CLASS H (SCHOOL) VEHICLE THAT IS~~
14 ~~CARRYING PASSENGERS AND IS IN MOTION; AND~~

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

17 ~~(D) (1) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL~~
18 ~~SPECIFIED IN SUBSECTION (C) OF THIS SECTION.~~

19 ~~(2) A DRIVER OF A MOTOR VEHICLE THAT IS IN MOTION MAY NOT~~
20 ~~USE THE DRIVER'S HANDS TO USE A WIRELESS TELEPHONE OTHER THAN TO~~
21 ~~INITIATE OR TERMINATE A WIRELESS TELEPHONE CALL OR TO TURN THE~~
22 ~~WIRELESS TELEPHONE ON OR OFF.~~

23 ~~(E) (1) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION IS~~
24 ~~SUBJECT TO THE FOLLOWING PENALTIES:~~

25 ~~(I) FOR A FIRST OFFENSE, A FINE OF NOT MORE THAN \$50;~~
26 ~~AND~~

27 ~~(II) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE OF~~
28 ~~\$100.~~

29 ~~(2) FOR A FIRST OFFENSE UNDER THIS SECTION, POINTS MAY~~
30 ~~NOT BE ASSESSED AGAINST THE INDIVIDUAL UNDER § 16 402 OF THIS ARTICLE~~
31 ~~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 WIRELESS TELEPHONE THAT WILL ALLOW THE PERSON TO OPERATE A MOTOR VEHICLE IN ACCORDANCE WITH THIS SECTION.~~

Article – Transportation

21-1124.2.

(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; [and]

(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 CFR PART 390.5 OF THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS.

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

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

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

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

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

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2010, contingent on the taking effect of Chapter _____ (S.B. 321) of the Acts
16 of the General Assembly of 2010, and if Chapter _____ (S.B. 321) does not become
17 effective, this Act shall be null and void without the necessity of further action by the
18 General Assembly.

Approved:

_____ Governor.

_____ Speaker of the House of Delegates.

_____ President of the Senate.