

## Chapter 638

(Senate Bill 339)

AN ACT concerning

### Motor Vehicles – Use of Wireless Communication Device – Prohibited Acts, Enforcement, and Penalties

FOR the purpose of repealing certain provisions of law that require enforcement as a secondary offense of certain violations involving the use of a wireless communication device while operating a motor vehicle; ~~repealing certain provisions of law that apply certain prohibitions involving the use of a wireless communication device to certain operators of certain motor vehicles only if the motor vehicle is in motion; providing that certain prohibitions against the use of a wireless communication device while operating a motor vehicle apply only if the vehicle is in the travel portion of the roadway;~~ altering the penalty imposed for a violation of a certain prohibition on the use of a handheld telephone while operating a motor vehicle; ~~repealing a certain provision of law prohibiting, under certain circumstances, a certain assessment of points for a first second or subsequent violation of a certain prohibition on the use of a handheld telephone while operating a motor vehicle;~~ and generally relating to the use of wireless communication devices while operating a motor vehicle.

BY repealing and reenacting, with amendments,

Article – Transportation  
Section 21–1124 and 21–1124.2  
Annotated Code of Maryland  
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Transportation  
Section 27–101(a) and (b)  
Annotated Code of Maryland  
(2012 Replacement Volume)

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

#### Article – Transportation

21–1124.

(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 communication device” means a handheld or hands–free device used to access a wireless telephone service.

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

(1) To contact a 9–1–1 system; or

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

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

(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) “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~~ ~~THE TRAVEL PORTION OF THE ROADWAY~~; 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~~ ~~THE TRAVEL PORTION OF THE ROADWAY~~ 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) [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.]

(f) (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 ~~\$40~~ and **\$75**;

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

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

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

(g) The court may waive ~~a penalty under subsection (f)~~ ~~THE PENALTY FOR A VIOLATION~~ 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.

27-101.

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

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

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

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

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

**Approved by the Governor, May 16, 2013.**