

HOUSE BILL 1212

R5

4r1174
CF SB 348

By: **Delegates Clippinger, Waldstreicher, Anderson, Arora, Cluster, Dumais,
Hammen, McDermott, McHale, Valderrama, and Valentino-Smith**

Introduced and read first time: February 7, 2014

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2014

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of prohibiting a person from committing a violation of a certain
5 prohibition against using a text messaging device or a handheld telephone while
6 driving that substantially contributes to an accident that directly results in the
7 death or serious bodily injury of another; requiring a person who is involved in a
8 motor vehicle accident that results in the death of or a life threatening injury to
9 another person and who is detained by a police officer who has reasonable
10 grounds to believe that the person has been driving while using a text
11 messaging device or a handheld telephone in violation of a certain provision of
12 law to provide the officer with certain information regarding the device;
13 establishing certain criminal penalties for a certain violation of this Act;
14 providing that a sentence imposed under this Act shall be separate from and
15 concurrent with a sentence for a certain other crime; providing for the
16 assessment of certain points for a violation of a certain provision of this Act; and
17 generally relating to the prohibitions on using a text messaging device and a
18 handheld telephone while driving.

19 BY adding to

20 Article – Transportation

21 Section 16-402(a)(39), 21-1124.3, and 27-115

22 Annotated Code of Maryland

23 (2012 Replacement Volume and 2013 Supplement)

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 BY repealing and reenacting, without amendments,
 2 Article – Transportation
 3 Section 21–1124.1 and 21–1124.2
 4 Annotated Code of Maryland
 5 (2012 Replacement Volume and 2013 Supplement)

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

8 **Article – Transportation**

9 16–402.

10 (a) After the conviction of an individual for a violation of Title 2, Subtitle 5, §
 11 2–209, or § 3–211 of the Criminal Law Article, or of the vehicle laws or regulations of
 12 this State or of any local authority, points shall be assessed against the individual as
 13 of the date of violation and as follows:

14 **(39) A VIOLATION OF § 21–1124.3(A) OF THIS**
 15 **ARTICLE 12 POINTS**

16 21–1124.1.

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

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

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

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

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

27 (1) A global positioning system; or

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

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

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 21-1124.2.

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

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

15 (3) "9-1-1 system" has the meaning stated in § 1-301 of the Public
16 Safety Article.

17 (b) This section does not apply to:

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

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

20 (ii) A hospital;

21 (iii) An ambulance service provider;

22 (iv) A fire department;

23 (v) A law enforcement agency; or

24 (vi) A first aid squad;

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

27 (i) Law enforcement personnel; and

1 (ii) Emergency personnel;

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

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

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

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

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

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

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

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

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

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

22 (iii) For a third or subsequent offense, a fine of not more than
23 \$175.

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

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

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

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

1 **21-1124.3.**

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

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

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

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

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

19 **27-115.**

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

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

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