

SENATE BILL 339

R5

3lr1868
CF HB 753

By: **Senators Robey, Kasemeyer, King, Madaleno, Montgomery, Peters, and Young**

Introduced and read first time: January 24, 2013

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2013

CHAPTER _____

1 AN ACT concerning

2 **Motor Vehicles – Use of Wireless Communication Device – Prohibited Acts,**
3 **Enforcement, and Penalties**

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

18 BY repealing and reenacting, with amendments,
19 Article – Transportation
20 Section 21–1124 and 21–1124.2
21 Annotated Code of Maryland
22 (2012 Replacement Volume)

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 27–101(a) and (b)
4 Annotated Code of Maryland
5 (2012 Replacement Volume)

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 21–1124.

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

11 (2) “9–1–1 system” has the meaning stated in § 1–301 of the Public
12 Safety Article.

13 (3) “Wireless communication device” means a handheld or hands–free
14 device used to access a wireless telephone service.

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

16 (1) To contact a 9–1–1 system; or

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

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

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

25 (e)] (1) If the Administration receives satisfactory evidence that an
26 individual has violated this section, the Administration:

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

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

31 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.

1 27-101.

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

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.