

SENATE BILL 217

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CF HB 104

By: **Senators Robey, Conway, Ferguson, Forehand, Kasemeyer, Kelley, King, Klausmeier, Madaleno, McFadden, Montgomery, Peters, Pugh, Raskin, and Young**

Introduced and read first time: January 20, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

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 violation
15 of a certain prohibition on the use of a handheld telephone while operating a
16 motor vehicle; making a certain technical correction; and generally relating to
17 the use of wireless 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 (2009 Replacement Volume and 2011 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article – Transportation
25 Section 27–101(a) and (b)
26 Annotated Code of Maryland
27 (2009 Replacement Volume and 2011 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Transportation**

4 21-1124.

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

6 (2) “9-1-1 system” has the meaning stated in § 1-301 of the Public
7 Safety Article.

8 (3) “Wireless communication device” means:

9 (i) A handheld or hands-free device used to access a wireless
10 telephone service; or

11 (ii) A text messaging device.

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

14 (c) A [holder of a learner’s instructional permit or a provisional driver’s
15 license] **PERSON** who is under the age of 18 years may not use a wireless
16 communication device while operating a motor vehicle **IN THE TRAVEL PORTION OF**
17 **THE ROADWAY.**

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

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

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

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

27 1. In the course of the individual’s employment;

28 2. For the purpose of driving to or from a place of
29 employment; or

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

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

4 21–1124.2.

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

6 (2) “Handheld telephone” means a handheld device used to access
7 wireless telephone service.

8 (3) “9–1–1 system” has the meaning stated in § 1–301 of the Public
9 Safety Article.

10 (b) This section does not apply to:

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

12 (i) A 9–1–1 system;

13 (ii) A hospital;

14 (iii) An ambulance service provider;

15 (iv) A fire department;

16 (v) A law enforcement agency; or

17 (vi) A first aid squad;

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

20 (i) Law enforcement personnel; and

21 (ii) Emergency personnel;

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

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

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

1 (1) A driver of a Class H (school) vehicle that is carrying passengers
2 and in [motion] **THE TRAVEL PORTION OF THE ROADWAY**; and

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

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

7 (2) A driver of a motor vehicle that is in [motion] **THE TRAVEL**
8 **PORTION OF THE ROADWAY** may not use the driver's hands to use a handheld
9 telephone other than to initiate or terminate a wireless telephone call or to turn on or
10 turn off the handheld telephone.

11 (e) [A police officer may enforce this section only as a secondary action when
12 the police officer detains a driver for a suspected violation of another provision of the
13 Code.

14 (f) (1) A person convicted of a violation of this section is subject to the
15 following penalties:

16 (i) For a first offense, a fine of not more than \$40; and

17 (ii) For a second or subsequent offense, a fine of \$100.

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

21 (g) The court may waive [a penalty under subsection (f)] **THE PENALTY FOR**
22 **A VIOLATION** of this section for a person who:

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

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

28 27-101.

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

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

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

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

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2012.