

# 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;

1  
2 For the purpose of driving to or from a place of  
employment; or

3 For the purpose of driving to or from school.

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

6 21–1124.2.

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

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

10 (3) “9–1–1 system” has the meaning stated in § 1–301 of the Public  
11 Safety Article.

12 (b) This section does not apply to:

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

14 (i) A 9–1–1 system;

15 (ii) A hospital;

16 (iii) An ambulance service provider;

17 (iv) A fire department;

18 (v) A law enforcement agency; or

19 (vi) A first aid squad;

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

22 (i) Law enforcement personnel; and

23 (ii) Emergency personnel;

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

26 (4) Use of a handheld telephone as a communication device utilizing  
27 push–to–talk technology by an individual operating a commercial motor vehicle, as  
28 defined in 49 C.F.R. 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~~ ~~THE TRAVEL PORTION OF THE ROADWAY~~; 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~~ ~~THE TRAVEL~~  
10 ~~PORTION OF THE ROADWAY~~ may not use the driver's hands to use a handheld  
11 telephone other than to initiate or terminate a wireless telephone call or to turn on or  
12 turn off the handheld telephone.

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

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

18 (i) For a first offense, a fine of not more than ~~\$40~~ and \$75;

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

21 (III) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE OF NOT  
22 MORE THAN \$175.

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

26 (g) ~~The court may waive [a penalty under subsection (f)]~~ ~~THE PENALTY FOR~~  
27 ~~A VIOLATION~~ of this section for a 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 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.