

SENATE, No. 135

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator JAMES W. HOLZAPFEL

District 10 (Ocean)

SYNOPSIS

Establishes "Distracted Driver Enforcement and Education Fund."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning distracted driving and amending and
2 supplementing P.L.2003, c.310.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 1 of P.L.2003, c.310 (C.39:4-97.3) is amended to read
8 as follows:

9 1. a. The use of a wireless telephone or electronic
10 communication device by an operator of a moving motor vehicle on
11 a public road or highway shall be unlawful except when the
12 telephone is a hands-free wireless telephone or the electronic
13 communication device is used hands-free, provided that its
14 placement does not interfere with the operation of federally required
15 safety equipment and the operator exercises a high degree of
16 caution in the operation of the motor vehicle. For the purposes of
17 this section, an "electronic communication device" shall not include
18 an amateur radio.

19 Nothing in P.L.2003, c.310 (C.39:4-97.3 et seq.) shall apply to
20 the use of a citizen's band radio or two-way radio by an operator of
21 a moving commercial motor vehicle or authorized emergency
22 vehicle on a public road or highway.

23 b. The operator of a motor vehicle may use a hand-held
24 wireless telephone while driving with one hand on the steering
25 wheel only if:

26 (1) The operator has reason to fear for his life or safety, or
27 believes that a criminal act may be perpetrated against himself or
28 another person; or

29 (2) The operator is using the telephone to report to appropriate
30 authorities a fire, a traffic accident, a serious road hazard or medical
31 or hazardous materials emergency, or to report the operator of
32 another motor vehicle who is driving in a reckless, careless or
33 otherwise unsafe manner or who appears to be driving under the
34 influence of alcohol or drugs. A hand-held wireless telephone
35 user's telephone records or the testimony or written statements from
36 appropriate authorities receiving such calls shall be deemed
37 sufficient evidence of the existence of all lawful calls made under
38 this paragraph.

39 As used in this act:

40 "Citizen's band radio" means a mobile communication device
41 designed to allow for the transmission and receipt of radio
42 communications on frequencies allocated for citizen's band radio
43 service use.

44 "Hands-free wireless telephone" means a mobile telephone that
45 has an internal feature or function, or that is equipped with an

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 attachment or addition, whether or not permanently part of such
2 mobile telephone, by which a user engages in a conversation
3 without the use of either hand; provided, however, this definition
4 shall not preclude the use of either hand to activate, deactivate, or
5 initiate a function of the telephone.

6 "Two-way radio" means two-way communications equipment
7 that uses VHF frequencies approved by the Federal
8 Communications Commission.

9 "Use" of a wireless telephone or electronic communication
10 device shall include, but not be limited to, talking or listening to
11 another person on the telephone, text messaging, or sending an
12 electronic message via the wireless telephone or electronic
13 communication device.

14 c. (Deleted by amendment, P.L.2007, c.198).

15 d. A person who violates this section shall be fined as follows:

16 (1) for a first offense, not less than \$200 or more than \$400;

17 (2) for a second offense, not less than \$400 or more than \$600;
18 and

19 (3) for a third or subsequent offense, not less than \$600 or more
20 than \$800.

21 For a third or subsequent violation, the court, in its discretion,
22 may order the person to forfeit the right to operate a motor vehicle
23 over the highways of this State for a period of 90 days. In addition,
24 a person convicted of a third or subsequent violation shall be
25 assessed three motor vehicle penalty points pursuant to section 1 of
26 P.L.1982, c.43 (C.39:5-30.5).

27 A person who violates this section by text messaging shall be
28 fined \$600 for a first offense, \$800 for a second offense, and \$1,000
29 for a third or subsequent offense and, pursuant to section 1 of
30 P.L.1982, c.43 (C.39:5-30.5), shall be assessed two motor vehicle
31 penalty points for a first offense, three motor vehicle penalty points for
32 a second offense, and four motor vehicle penalty points for a third or
33 subsequent offense. In addition, a person who violates this section
34 by sending a text message and as a direct result of that violation is
35 involved in a motor vehicle accident resulting in death or serious
36 bodily injury, upon conviction, also shall forfeit the right to operate
37 a motor vehicle for two years.

38 A person who has been convicted of a previous violation of this
39 section need not be charged as a second or subsequent offender in
40 the complaint made against him in order to render him liable to the
41 punishment imposed by this section on a second or subsequent
42 offender, but if the second offense occurs more than 10 years after
43 the first offense, the court shall treat the second conviction as a first
44 offense for sentencing purposes and if a third offense occurs more
45 than 10 years after the second offense, the court shall treat the third
46 conviction as a second offense for sentencing purposes.

47 e. Except as provided in subsection d. of this section, no motor
48 vehicle penalty points or automobile insurance eligibility points

1 pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall be
2 assessed for this offense.

3 f. The Chief Administrator of the New Jersey Motor Vehicle
4 Commission shall develop and undertake a program to notify and
5 inform the public as to the provisions of this act. Notwithstanding
6 the provisions of R.S.39:5-41, the fines assessed pursuant to
7 subsection d. of this section shall be collected by the court and
8 distributed as follows: 50 percent of the fine imposed shall be paid
9 to the county and municipality wherein the violation occurred, to be
10 divided equally, and 50 percent of the fine imposed shall be paid to
11 the State Treasurer, who shall allocate the fine monies to the chief
12 administrator to be used for this public education program, which
13 shall include informing motorists of the dangers of texting while
14 driving.

15 g. Whenever this section is used as an alternative offense in a
16 plea agreement to any other offense in Title 39 of the Revised
17 Statutes that would result in the assessment of motor vehicle points,
18 the penalty shall be the same as the penalty for a violation of
19 section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge
20 imposed pursuant to subsection f. of that section, and a conviction
21 under this section shall be considered a conviction under section 1
22 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining
23 subsequent enhanced penalties under that section.

24 h. Of each fine imposed and collected pursuant to subsection d. of
25 this section, \$100 shall be forwarded to the State Treasurer who shall
26 annually deposit the moneys into the "Distracted Driver Enforcement
27 and Education Fund" created by section 2 of P.L. , c. (C.)
28 (pending before the Legislature as this bill).
29 (cf: P.L.2013, c.70, s.1)

30
31 2. (New section) a. There is created in the Division of
32 Highway Traffic Safety in the Department of Law and Public Safety
33 a nonlapsing revolving fund to be known as the "Distracted Driver
34 Enforcement and Education Fund." This fund shall be a repository
35 for moneys provided pursuant to subsection h. of section 1 of
36 P.L.2003, c.310 (C.39:4-97.3) and shall be administered by the
37 Division of Highway Traffic Safety. Purposes for which the
38 moneys deposited in the fund, and any interest earned thereon, shall
39 be used include, but are not limited to:

40 (1) making grants to municipalities and counties with
41 demonstrated distracted driver safety problems to enforce the
42 provisions of section 1 of P.L.2003, c.310 (C.39:4-97.3); and

43 (2) establishing a public education campaign on the dangers of
44 distracted driving, which shall include cell phone use and text
45 messaging while driving.

46 b. For the purposes of this section, "distracted driving" means
47 the inattention of a motor vehicle operator that occurs when the
48 operator diverts attention away from the driving task to focus on

1 another activity including, but not limited to, using a wireless
2 telephone, electronic communication device, or navigation system;
3 interacting with passengers; eating, drinking, or smoking; and
4 adjusting controls and other equipment within the vehicle.

5
6 3. This act shall take effect on the first day of the sixth month
7 following enactment.

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10 STATEMENT

11
12 This bill increases the fines for talking on a hand-held cell phone
13 or texting while driving and establishes the "Distracted Driver
14 Enforcement and Education Fund."

15 Under the bill, a person who unlawfully talks or texts on a hand
16 held wireless communications device while driving is to be fined
17 \$600 and assessed two motor vehicle penalty points for a first
18 offense; \$800 and three penalty points for a second offense; and
19 \$1,000 and four penalty points for a third offense. In addition, a
20 person who causes an accident resulting in death or serious bodily
21 injury as a result of sending a text message is subject to a two-year
22 license suspension.

23 The bill also establishes the "Distracted Driver Enforcement and
24 Education Fund" to be funded by fines for unlawfully talking on a
25 hand-held cell phone or texting while driving. Specifically, \$100 of
26 each fine imposed and collected for a violation is to be forwarded to
27 the State Treasurer to deposit in the fund. The fund is to be
28 administered by the Division of Highway Traffic Safety. The division
29 is to use monies from the fund to provide grants to municipalities and
30 counties with demonstrated distracted driver safety problems and to
31 establish an education campaign on the dangers of cell phone use
32 and text messaging while driving.

33 The bill defines "distracted driving" as the inattention of a motor
34 vehicle operator that occurs when the operator diverts attention
35 away from the driving task to focus on another activity including,
36 but not limited to, using a wireless telephone, electronic
37 communication device, or navigation system; interacting with
38 passengers; eating, drinking, or smoking; and adjusting controls and
39 other equipment within the vehicle

40 The number of injuries and deaths caused by motor vehicle
41 accidents involving distracted drivers is on the rise. It is the
42 sponsor's intent to deter this dangerous behavior by increasing the
43 fines for unlawfully talking or texting while driving and to use these
44 monies to educate drivers about this growing threat to the safety of
45 the motoring public.