SENATE, No. 2255

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:
Senator RICHARD J. CODEY
District 27 (Essex and Morris)

SYNOPSIS

Increases penalties for talking or texting on hand-held device while driving.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning talking or texting on a hand-held device while driving and amending P.L.2003, c.310.

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

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

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

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

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

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

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

As used in this act:

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

"Hands-free wireless telephone" means a mobile telephone that 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 <u>thus</u> is new matter.

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

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

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

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

d. **[**A**]** The following penalties shall be imposed on a person who violates the provisions of this section **[**shall be fined as follows**]**:

(1) for a first offense, a fine of not less than **[**$200**]** $250 or more than $400 and suspension of the person's driver's license for 90 days;

(2) for a second offense, a fine of not less than **[**$400**]** $500 or more than **[**$600**]** $1,000 and suspension of the person's driver's license for two years; and

(3) for a third or subsequent offense, **[**not less than $600 or more than $800**]** a fine of $1,000 and suspension of the person's driver's license for ten years.

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

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

e. **[**Except as provided in subsection d. of this section, no motor vehicle penalty points or automobile insurance eligibility points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall be assessed for this offense**]** (Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)

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

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

(cf: P.L.2013, c.70, s.1)

2. This act shall take effect immediately.

STATEMENT

This bill increases the penalties for first, second and subsequent offenses of talking on a hand-held wireless telephone or texting a message with a hand-held wireless electronic communication device while driving.

P.L.2013, c.70 increased fines for first, second and subsequent offenses of talking on a hand-held wireless telephone or texting a message with a hand-held wireless electronic communication device while driving. Under current law, the fine for this offense is $200 to $400 for a first offense, $400 to $600 for a second offense, and $600 to $800 for third and subsequent offenses. Current law also permits the court, at its discretion, to impose a 90-day driver’s license suspension for persons convicted of the offense for a third or subsequent time. In addition, third and subsequent offenders receive three motor vehicle penalty points.

Under the provisions of this bill, the following penalties would be imposed: (1) for a first offense, a fine of $250 to $400 and suspension of the person’s driver’s license for 90 days; (2) for a second offense, a fine of $500 to $1,000 and suspension of the person’s driver’s license for two years; and (3) for a third or

subsequent offense, a fine of $1,000 and suspension of the person's driver's license for 10 years.

The bill also removes language from current law providing that violators are not assessed motor vehicle points or insurance eligibility points.