

Chapter 538

(Senate Bill 321)

AN ACT concerning

The Delegate John Arnick Electronic Communications Traffic Safety Act of 2010

FOR the purpose of prohibiting a driver of a certain school vehicle from using a handheld telephone under certain circumstances; prohibiting a holder of a learner's instructional permit or provisional driver's license who is 18 years of age or older from driving a motor vehicle while using a handheld telephone; prohibiting a certain driver of a motor vehicle that is in motion from using the driver's hands to use a handheld telephone except under certain circumstances; providing that a violation of this Act may be enforced only as a secondary action; establishing penalties for a violation of this Act; authorizing the court to waive a certain penalty under certain circumstances; providing for exceptions to certain provisions of this Act relating to prohibitions on using handheld telephones while driving; defining certain terms; and generally relating to prohibitions against the use of handheld telephones while operating a motor vehicle.

BY adding to

Article – Transportation

Section 21-1124.2

Annotated Code of Maryland

(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

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; ~~AND~~**

(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; AND**

(3) USE OF A HANDHELD TELEPHONE AS A TEXT MESSAGING DEVICE AS DEFINED IN § 21-1124.1 OF THIS SUBTITLE.

(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; 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 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 ~~\$100~~ \$40; AND

(II) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE OF ~~\$250~~ \$100.

(2) FOR A FIRST OFFENSE UNDER THIS SECTION, 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) 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.