

SENATE BILL 193

R5

3lr0914

By: **Senators King, Ferguson, Madaleno, Manno, McFadden, Montgomery, Peters, Pugh, Ramirez, and Robey**

Introduced and read first time: January 18, 2013

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Prohibition on Handheld Telephone Use – Primary Offense if**
3 **Child Is Passenger**

4 FOR the purpose of establishing that a certain prohibition on the use of a handheld
5 telephone while operating a motor vehicle may be enforced as a primary action
6 if a child under a certain age is a passenger in the motor vehicle; and generally
7 relating to the prohibition on the use of a handheld telephone while operating a
8 motor vehicle.

9 BY repealing and reenacting, with amendments,
10 Article – Transportation
11 Section 21–1124.2
12 Annotated Code of Maryland
13 (2012 Replacement Volume)

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

16 **Article – Transportation**

17 21–1124.2.

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

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

21 (3) “9–1–1 system” has the meaning stated in § 1–301 of the Public
22 Safety Article.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) This section does not apply to:

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

3 (i) A 9–1–1 system;

4 (ii) A hospital;

5 (iii) An ambulance service provider;

6 (iv) A fire department;

7 (v) A law enforcement agency; or

8 (vi) A first aid squad;

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

11 (i) Law enforcement personnel; and

12 (ii) Emergency personnel;

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

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

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

20 (1) A driver of a Class H (school) vehicle that is carrying passengers
21 and in motion; and

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

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

26 (2) A driver of a motor vehicle that is in motion may not use the
27 driver's hands to use a handheld telephone other than to initiate or terminate a
28 wireless telephone call or to turn on or turn off the handheld telephone.

1 (e) (1) [A] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
2 **SUBSECTION, A** police officer may enforce this section only as a secondary action
3 when the police officer detains a driver for a suspected violation of another provision of
4 the Code.

5 (2) **THIS SECTION MAY BE ENFORCED AS A PRIMARY ACTION IF A**
6 **CHILD UNDER THE AGE OF 8 YEARS IS A PASSENGER IN THE MOTOR VEHICLE.**

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

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

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

11 (2) For a first offense under this section, points may not be assessed
12 against the individual under § 16–402 of this article unless the offense contributes to
13 an accident.

14 (g) The court may waive a penalty under subsection (f) of this section for a
15 person who:

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

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2013.