

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 1901

S.P. 653

In Senate, December 24, 2019

An Act To Amend the Laws Prohibiting the Use of Handheld Phones and Devices While Driving

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 20, 2019. Referred to the Committee on Transportation pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator DIAMOND of Cumberland.

Cosponsored by Senators: CHENETTE of York, FOLEY of York, HAMPER of Oxford,
Representatives: COREY of Windham, DOUDERA of Camden, EVANGELOS of Friendship,
FAY of Raymond, Speaker GIDEON of Freeport, HEPLER of Woolwich, HOBBS of Wells,
HUTCHINS of Penobscot, KESCHL of Belgrade, MARTIN of Sinclair, MORIARTY of
Cumberland, PEBWORTH of Blue Hill, WHITE of Waterville.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** Maine residents need and expect laws governing road safety to be clear
4 and consistent; and

5 **Whereas,** this legislation clarifies a new law setting the fines imposed upon a driver
6 who has violated the prohibition against using a handheld electronic device or mobile
7 telephone while operating a motor vehicle; and

8 **Whereas,** the new law was also intended to exempt all band and 2-way radios, but
9 included exceptions only for certain types of 2-way radios as defined by the Code of
10 Federal Regulations, creating confusion about what is and what is not permitted, and this
11 legislation clarifies that the intent is to exempt all band and 2-way radios; and

12 **Whereas,** this legislation must take effect as soon as possible in order to prevent
13 confusion about the new law; and

14 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
15 the meaning of the Constitution of Maine and require the following legislation as
16 immediately necessary for the preservation of the public peace, health and safety; now,
17 therefore,

18 **Be it enacted by the People of the State of Maine as follows:**

19 **Sec. 1. 29-A MRSA §101, sub-§26-C,** as enacted by PL 2019, c. 486, §3, is
20 amended to read:

21 **26-C. Handheld electronic device.** "Handheld electronic device" means any
22 handheld electronic device or portable electronic device that is not part of the operating
23 equipment of the motor vehicle, including but not limited to an electronic game, a device
24 for sending or receiving electronic mail, a text messaging device or a computer.
25 "Handheld electronic device" does not include a: citizen band radio or 2-way radio or a
26 personal medical device necessary to monitor or regulate a person's medical condition,
27 including but not limited to an insulin pump or heart monitor.

28 ~~A. Device for communication over a citizens band radio service as defined in 47~~
29 ~~Code of Federal Regulations, Section 95.303, the multi-use radio service as defined~~
30 ~~in 47 Code of Federal Regulations, Section 95.2703 or a land mobile radio service as~~
31 ~~defined in 47 Code of Federal Regulations, Section 90.7; or~~

32 ~~B. Personal medical device necessary to monitor or regulate a person's medical~~
33 ~~condition, including but not limited to an insulin pump or heart monitor.~~

34 **Sec. 2. 29-A MRSA §1304, sub-§1, ¶I,** as amended by PL 2019, c. 486, §4, is
35 further amended to read:

36 I. A person who has been issued a learner's permit may not operate a motor vehicle
37 on a public way or in a parking area while using, manipulating, talking into or
38 otherwise interacting with a handheld electronic device or mobile telephone,

1 including but not limited to when the motor vehicle is temporarily stationary because
2 of traffic, a traffic light or a stop sign.

3 A person who has been issued a learner's permit may use, manipulate, talk into or
4 otherwise interact with a handheld electronic device or mobile telephone while in the
5 operator's seat of a motor vehicle if the person has pulled the motor vehicle over to
6 the side of, or off, a public way or into a parking area and has halted in a location
7 where the motor vehicle can safely remain stationary.

8 A person who violates this paragraph commits a traffic infraction.

9 **Sec. 3. 29-A MRSA §1311, sub-§1, ¶C**, as amended by PL 2019, c. 486, §5, is
10 further amended to read:

11 C. Operate a motor vehicle on a public way or in a parking area while using,
12 manipulating, talking into or otherwise interacting with a handheld electronic device
13 or mobile telephone, including but not limited to when the motor vehicle is
14 temporarily stationary because of traffic, a traffic light or a stop sign.

15 A person under 18 years of age who has been issued a driver's license may use,
16 manipulate, talk into or otherwise interact with a handheld electronic device or
17 mobile telephone while in the operator's seat of a motor vehicle if the person has
18 pulled the motor vehicle over to the side of, or off, a public way or into a parking area
19 and has halted in a location where the motor vehicle can safely remain stationary.

20 **Sec. 4. 29-A MRSA §2119, sub-§2**, as amended by PL 2019, c. 486, §9, is
21 further amended to read:

22 **2. Prohibition.** A person may not operate a motor vehicle on a public way or in a
23 parking area while engaging in text messaging, including but not limited to when the
24 motor vehicle is temporarily stationary because of traffic, a traffic light or a stop sign.

25 A person may engage in text messaging while in the operator's seat of a motor vehicle if
26 the person has pulled the motor vehicle over to the side of, or off, a public way or into a
27 parking area and has halted in a location where the motor vehicle can safely remain
28 stationary.

29 Nothing in this section prohibits a person employed as a commercial driver or a school
30 bus driver from using a handheld electronic device or mobile telephone within the scope
31 of the person's employment as permitted under Federal Motor Carrier Safety
32 Administration regulations.

33 **Sec. 5. 29-A MRSA §2121, sub-§1**, as enacted by PL 2019, c. 486, §10, is
34 amended to read:

35 **1. Prohibition.** A person may not operate a motor vehicle on a public way or in a
36 parking area while using, manipulating, talking into or otherwise interacting with a
37 handheld electronic device or mobile telephone, including but not limited to the use of a
38 handheld electronic device or mobile telephone while the vehicle is temporarily
39 stationary because of traffic, a traffic light or a stop sign, unless:

1 A. The person, other than a person who is operating with a learner's permit issued
2 pursuant to section 1304, is using a mobile telephone or handheld electronic device in
3 order to communicate with law enforcement or emergency services personnel under
4 emergency circumstances. For the purposes of this paragraph, "emergency
5 circumstances" means circumstances in which there is an immediate threat to the
6 health or well-being of any person;

7 B. The person is using a mobile telephone or handheld electronic device in hands-
8 free mode as permitted under subsection 2; or

9 C. The person is employed as a commercial driver or a school bus driver and is using
10 a handheld electronic device or mobile telephone within the scope of the person's
11 employment as permitted under Federal Motor Carrier Safety Administration
12 regulations.

13 A person who has pulled a motor vehicle to the side of, or off, a public way or into a
14 parking area and has halted in a location where the motor vehicle can safely remain
15 stationary may use, manipulate, talk into or otherwise interact with a handheld electronic
16 device or mobile telephone.

17 **Sec. 6. 29-A MRSA §2121, sub-§3**, as enacted by PL 2019, c. 486, §10, is
18 amended to read:

19 **3. Penalty.** A person who violates this section commits a traffic infraction for which
20 a fine of ~~not less than~~ \$50 for the first offense and ~~not less than~~ \$250 for a 2nd or
21 subsequent offense may be adjudged.

22 **Emergency clause.** In view of the emergency cited in the preamble, this
23 legislation takes effect when approved.

24 SUMMARY

25 This bill simplifies the definition of "handheld electronic device" in recently enacted
26 law prohibiting the use of handheld electronic devices while driving. It adds parking
27 areas to the places where the use of mobile telephones and handheld electronic devices
28 while driving is prohibited. It changes the penalty provisions to provide a fine of \$50 for
29 the first offense and \$250 for a 2nd or subsequent offense.