

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1089

S.P. 360

In Senate, March 21, 2017

### **An Act To Prohibit the Use of Handheld Phones and Devices While Driving**

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Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator DIAMOND of Cumberland.  
Cosponsored by Representative PIERCE of Falmouth and  
Senators: BREEN of Cumberland, KATZ of Kennebec, ROSEN of Hancock, Representative:  
BRYANT of Windham.

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

2 **Sec. 1. 29-A MRSA §2116**, as amended by PL 2015, c. 113, §§4 and 5, is further  
3 amended to read:

4 **§2116. Use of mobile telephones and handheld electronic devices while operating**  
5 **motor vehicles prohibited**

6 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
7 following terms have the following meanings.

8 A. "Handheld electronic device" means any handheld electronic device that is not  
9 part of the operating equipment of the motor vehicle, including but not limited to an  
10 electronic game, device for sending or receiving electronic mail, text messaging  
11 device or computer. "Handheld electronic device" does not include a band radio or  
12 2-way radio.

13 A-1. "Hands-free operation" means the use of a handheld electronic device without  
14 use of either hand by employing an internal feature of, or an attachment to, the  
15 device.

16 B. "Mobile telephone" means a device used to access a wireless telephone service.

17 B-1. "Operate" means driving a motor vehicle on a public way with the motor  
18 running, including while temporarily stationary because of traffic, a traffic light or a  
19 stop sign or otherwise stationary. "Operate" does not include operating a motor  
20 vehicle with or without the motor running when the operator has pulled the motor  
21 vehicle over to the side of, or off, a public way and has halted in a location where the  
22 motor vehicle can safely remain stationary.

23 C. "Using" means manipulating, talking into or otherwise interacting with a mobile  
24 telephone or handheld electronic device.

25 **2. Prohibition.** ~~A~~ Except as provided in subsection 5, a person who has not attained  
26 ~~18 years of age~~ may not operate a motor vehicle while using a mobile telephone or  
27 handheld electronic device.

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

31 **4. Penalties.** The following penalties apply to a violation of this section.

32 A. A person who violates this section commits a traffic infraction for which a fine of  
33 \$75 must be adjudged.

34 B. A person who violates this section after previously having been adjudicated as  
35 violating this section within a 3-year period commits a traffic infraction for which a  
36 fine of \$150 must be adjudged.

1           For the purposes of this paragraph, an adjudication has occurred within a 3-year  
 2           period if the date of the new conduct is within 3 years of the date of a docket entry of  
 3           adjudication of a violation of this section.

4           **5. Exceptions.** A person may use a mobile telephone or a handheld electronic  
 5           device while operating a motor vehicle:

6           A. If the mobile telephone or handheld electronic device allows for hands-free  
 7           operation and the hands-free feature of the telephone or device is in fact being used  
 8           by the person and that person has attained 18 years of age and is not operating with  
 9           an intermediate license issued pursuant to section 1311; or

10           B. In order to communicate with law enforcement or emergency services personnel  
 11           under emergency circumstances. For the purposes of this paragraph, "emergency  
 12           circumstances" means circumstances in which there is an immediate threat to the  
 13           health or well-being of any person.

14    **SUMMARY**

15           This bill prohibits a person from using a mobile telephone or handheld electronic  
 16           device while operating a motor vehicle unless the mobile telephone or handheld  
 17           electronic device allows for hands-free operation and the hands-free feature of the mobile  
 18           telephone or electronic handheld device is in fact being used by a person 18 years of age  
 19           or older or the mobile telephone or handheld electronic device is being used in order to  
 20           communicate with law enforcement or emergency services personnel under emergency  
 21           circumstances.

22           The bill retains the prohibition in current law against the use of a mobile telephone or  
 23           handheld electronic device, both handheld and hands-free use, for a person who has been  
 24           issued an intermediate driver's license or for a person under 18 years of age.

25           The bill provides that the penalty for a first offense of the prohibition against using a  
 26           mobile telephone or handheld electronic device while operating a motor vehicle is \$75.  
 27           The bill also provides that the penalty for a 2nd or subsequent offense within a 3-year  
 28           period is \$150.