

# MAINE STATE LEGISLATURE

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Date: 6/18/19

(Filing No. S-317 )

**TRANSPORTATION**

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**STATE OF MAINE**

**SENATE**

**129TH LEGISLATURE**

**FIRST REGULAR SESSION**

COMMITTEE AMENDMENT " A " to S.P. 52, L.D. 165, Bill, "An Act To Prohibit the Use of Handheld Phones and Devices While Driving"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 4 MRSA §20, as amended by PL 2011, c. 131, §1, is further amended to read:

**§20. Provide for collection of fines and fees from money collected**

The Chief Justice of the Supreme Judicial Court shall plan and implement arrangements for the collection of overdue fines and fees due the state courts, the costs of which may be paid from money collected. These arrangements may include but are not limited to: Employing special project clerks, assistants and other staff; contracting with state agencies; contracting for special or private debt collection services; purchasing necessary equipment; and compensating state, county and municipal law enforcement agencies for services provided.

The Chief Justice of the Supreme Judicial Court may implement arrangements for the use of fines and fees collected under Title 29-A, section 2121 to pay the costs of processing traffic violations under that section and handling the fines or fees. These arrangements may include employing an assistant clerk.

Sec. 2. 23 MRSA §4210-G is enacted to read:

**§4210-G. Supplemental Transportation Fund**

**1. Fund created.** The Supplemental Transportation Fund, referred to in this section as "the fund," is established as a nonlapsing fund in the Department of Transportation.

**2. Use of funds.** Money deposited into the fund may be used by the Department of Transportation for transportation-related projects and services.

**COMMITTEE AMENDMENT**

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3. Source of funds. Money deposited in the fund includes, but is not limited to, fine revenue transferred into the fund pursuant to Title 29-A, section 2121, subsection 4. The Supplemental Transportation Fund may accept funds from other sources.

**Sec. 3. 29-A MRSA §101, sub-§§26-C, 35-B and 80-B** are enacted to read:

26-C. Handheld electronic device. "Handheld electronic device" means any handheld electronic device or portable electronic device that is not part of the operating equipment of the motor vehicle, including but not limited to an electronic game, a device for sending or receiving electronic mail, a text messaging device or a computer. "Handheld electronic device" does not include a:

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

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

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

80-B. Text messaging. "Text messaging" means reading or manually composing electronic communications, including text messages, instant messages and electronic mail, using a handheld electronic device. "Text messaging" does not include using a global positioning or navigation system.

**Sec. 4. 29-A MRSA §1304, sub-§1, ¶I**, as amended by PL 2015, c. 113, §1, is further amended to read:

I. A person who has been issued a learner's permit may not operate a motor vehicle on a public way while using, manipulating, talking into or otherwise interacting with a handheld electronic device or mobile telephone, including but not limited to when the motor vehicle is temporarily stationary because of traffic, a traffic light or a stop sign. For the purpose of this paragraph, the following terms have the following meanings.

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

~~(1) "Handheld electronic device" means any handheld electronic device that is not part of the operating equipment of the motor vehicle, including but not limited to an electronic game, device for sending or receiving electronic mail, text messaging device or computer.~~

~~(2) "Mobile telephone" means a device used to access a wireless telephone service.~~

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~~(3) "Operate" means driving a motor vehicle on a public way with the motor running, including while temporarily stationary because of traffic, a traffic light or a stop sign or otherwise stationary. "Operate" does not include operating a motor vehicle with or without the motor running when the operator has pulled the motor vehicle over to the side of, or off, a public way and has halted in a location where the motor vehicle can safely remain stationary.~~

~~(4) "Using" means manipulating, talking into or otherwise interacting with a mobile telephone or handheld electronic device.~~

A person who violates this paragraph commits a traffic infraction.

**Sec. 5. 29-A MRSA §1311, sub-§1, ¶C**, as amended by PL 2015, c. 113, §2, is further amended to read:

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

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

For the purpose of this paragraph, the following terms have the following meanings.

~~(1) "Handheld electronic device" means any handheld electronic device that is not part of the operating equipment of the motor vehicle, including but not limited to an electronic game, device for sending or receiving electronic mail, text messaging device or computer.~~

~~(2) "Mobile telephone" means a device used to access a wireless telephone service.~~

~~(3) "Operate" means driving a motor vehicle on a public way with the motor running, including while temporarily stationary because of traffic, a traffic light or a stop sign or otherwise stationary. "Operate" does not include operating a motor vehicle with or without the motor running when the operator has pulled the motor vehicle over to the side of, or off, a public way and has halted in a location where the motor vehicle can safely remain stationary.~~

~~(4) "Using" means manipulating, talking into or otherwise interacting with a mobile telephone or handheld electronic device.~~

**Sec. 6. 29-A MRSA §1311, sub-§2**, as amended by PL 2011, c. 654, §3, is further amended to read:

**2. Period of restrictions.** ~~Except as provided in section 2116 and subject~~ Subject to extension pursuant to subsection 3, the license restrictions in subsection 1 are in effect for a period of 270 days from license issuance. The period of license restrictions may extend beyond the person's 18th birthday.

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**Sec. 7. 29-A MRSA §1551, sub-§11-A**, as enacted by PL 2013, c. 72, §4, is amended to read:

**11-A. Portable electronic device.** "Portable electronic device" means an electronic device that is portable in nature, including but not limited to a device for sending or receiving e-mail, a text messaging device, a cellular mobile telephone and a computer.

**Sec. 8. 29-A MRSA §2116**, as amended by PL 2015, c. 113, §§4 and 5, is repealed.

**Sec. 9. 29-A MRSA §2119**, as amended by PL 2013, c. 188, §1 and c. 381, Pt. B, §28, is further amended to read:

**§2119. Text messaging while operating motor vehicle; prohibition**

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

- ~~A. "Cellular telephone" means a device used to access wireless telephone service.~~
- ~~B. "Portable electronic device" means any portable electronic device that is not part of the operating equipment of a motor vehicle, including but not limited to an electronic game, device for sending or receiving e-mail, text messaging device, cellular telephone and computer.~~
- ~~C. "Text messaging" means reading or manually composing electronic communications, including text messages, instant messages and e-mails, using a portable electronic device. "Text messaging" does not include using a global positioning or navigation system.~~
- ~~D. "Operate" means driving a motor vehicle on a public way with the motor running, including while temporarily stationary because of traffic, a traffic light or a stop sign or otherwise stationary. "Operate" does not include operating a motor vehicle with or without the motor running when the operator has pulled the motor vehicle over to the side of, or off, a public way and has halted in a location where the motor vehicle can safely remain stationary.~~

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

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

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

- 3. Penalties.** The following penalties apply to a violation of this section.
  - A. A person who violates this section commits a traffic infraction for which a fine of not less than \$250 may be adjudged.

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B. A person who violates this section after previously having been adjudicated as violating this section within a 3-year period commits a traffic infraction for which a fine of not less than \$500 may be adjudged, and the Secretary of State shall suspend the license of that person without right to hearing. The minimum periods of license suspension are:

(1) Thirty days, if the person has 2 adjudications for a violation of this section within a 3-year period;

(2) Sixty days, if the person has 3 adjudications for a violation of this section within a 3-year period; and

(3) Ninety days, if the person has 4 or more adjudications for a violation of this section within a 3-year period.

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

Sec. 10. 29-A MRSA §2121 is enacted to read:

**§2121. Use of mobile telephones and handheld electronic devices while operating motor vehicles prohibited**

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

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

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

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

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

**2. Hands-free mode.** A person who has attained 18 years of age and is not operating with an intermediate license issued pursuant to section 1311 or a learner's permit issued pursuant to section 1304 may use a mobile telephone or handheld electronic

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1 device while operating a motor vehicle if the mobile telephone or handheld electronic  
2 device is being used in hands-free mode.

3 The operator of a motor vehicle may use a hand to activate or deactivate a feature or  
4 function of a mobile telephone or handheld electronic device that is in hands-free mode  
5 and mounted or affixed to the vehicle in a location that does not interfere with the  
6 operator's view of the road if the feature or function activated requires only a single  
7 swipe, tap or push of the operator's finger.

8 For the purposes of this section, "hands-free mode" means the manner of use of a mobile  
9 telephone or handheld electronic device without use of either hand by employing an  
10 internal feature of, or an attachment to, the telephone or device.

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

14 **4. Supplemental Transportation Fund.** All fines collected under this section, other  
15 than amounts paid pursuant to Title 4, section 20, must be deposited into the  
16 Supplemental Transportation Fund established under Title 23, section 4210-G.

17 Nothing in this section requires the deposit into the Supplemental Transportation Fund of  
18 any penalty or surcharge imposed by a court, including but not limited to a surcharge  
19 imposed pursuant to Title 4, section 18-A or 1057.

20 **Sec. 11. Appropriations and allocations.** The following appropriations and  
21 allocations are made.

22 **JUDICIAL DEPARTMENT**

23 **Courts - Supreme, Superior and District 0063**

24 Initiative: Provides allocations for one limited-period Assistant Clerk position through  
25 June 19, 2021.

26	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2019-20</b>	<b>2020-21</b>
27	Personal Services	\$19,285	\$77,138
28	All Other	\$5,500	\$0
29			
30	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$24,785</u>	<u>\$77,138</u>

31	<b>JUDICIAL DEPARTMENT</b>		
32	<b>DEPARTMENT TOTALS</b>	<b>2019-20</b>	<b>2020-21</b>
33			
34	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$24,785</b>	<b>\$77,138</b>
35			
36	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u><b>\$24,785</b></u>	<u><b>\$77,138</b></u>

37 **TRANSPORTATION, DEPARTMENT OF**

# COMMITTEE AMENDMENT

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**Supplemental Transportation Fund N336**

Initiative: Establishes the Supplemental Transportation Fund with a base allocation.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2019-20</b>	<b>2020-21</b>
All Other	\$500	\$500
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$500</b>	<b>\$500</b>

<b>TRANSPORTATION, DEPARTMENT OF</b>		
<b>DEPARTMENT TOTALS</b>	<b>2019-20</b>	<b>2020-21</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$500</b>	<b>\$500</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$500</b>	<b>\$500</b>

<b>SECTION TOTALS</b>	<b>2019-20</b>	<b>2020-21</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$25,285</b>	<b>\$77,638</b>
<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$25,285</b>	<b>\$77,638</b>

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment makes the following changes to the bill.

1. It creates a fund within the Department of Transportation for fine revenue collected in the enforcement of the prohibition on the use of handheld electronic devices while operating a motor vehicle on a public way.

2. It makes definitions uniform across the Maine Revised Statutes, Title 29-A for restrictions on the use of handheld electronic devices and mobile telephones and on texting by drivers, drivers operating with an intermediate license and drivers operating with a learner's permit.

3. It clarifies that there is no exception for using a handheld electronic device or mobile telephone while a motor vehicle is stopped in traffic, but does permit use when a car is pulled over in a safe location.

4. It incorporates exceptions for radios, hands-free features, medical devices, ignition interlock devices, which are part of the operating equipment of the motor vehicle, and electronic logging devices and other equipment permitted under Federal Motor Carrier Safety Administration regulations.



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COMMITTEE AMENDMENT "A" to S.P. 52, L.D. 165 (S-317)

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5. It creates an exception for contacting emergency services personnel in emergency situations.

6. It defines and makes an exception for the use of handheld electronic devices and mobile telephones in hands-free mode for certain drivers.

7. It adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**

**(See attached)**



# 129th MAINE LEGISLATURE

LD 165

LR 89(02)

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

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-317)

Committee: Transportation

Fiscal Note Required: Yes

### Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$25,285	\$77,638	\$500	\$500
<b>Revenue</b>				
Other Special Revenue Funds	\$77,000	\$517,000	\$517,000	\$517,000

#### Fiscal Detail and Notes

The bill establishes a restriction on the use of handheld devices and mobile telephones while driving. The penalty for violating this restriction is no less than \$50 for the first infraction and no less than \$250 for subsequent infractions. Given the effective date of the bill, possible delays in implementing the infraction and time between when a ticket is issued and funds are collected, the judicial branch has estimated that there will be 1,100 infractions in fiscal year 2019-20 and 5,500 infractions in fiscal year 2020-21. Part of the revenues collected from this fine will be used to support one limited-period Assistant Clerk position to process the anticipated increase in traffic infractions and the bill includes allocations of \$24,785 in fiscal year 2019-20 and \$77,138 in fiscal year 2020-21. The remaining revenues, \$37,255 in fiscal year 2019-20 and \$357,142 in fiscal year 2020-21, will be credited to the Supplemental Transportation Fund established in the bill. The bill includes Other Special Revenue Funds allocations for the Fund of \$500 beginning in fiscal year 2019-20.

In addition to the fines of \$50 and \$250, there are several surcharges and fees that will be charged and credited into other funds across state government, including the County Jail Operations Fund, the County Jail Prisoner Support and Community Corrections Fund, the Maine Criminal Justice Academy, the State Police and the Civil Legal Services Fund. In total, an estimated \$14,960 will be credited across these funds in fiscal year 2019-20 and an additional \$82,720 in fiscal year 2020-21.