

Many states across the country have passed laws restricting the use of wireless communication devices while operating a vehicle. Exceptions for these laws include the use of two-way communication devices while acting within the scope of the person's occupation. Other exemptions include but are not limited to, summoning help in cases of emergency and to report the perpetration or possible perpetration of crimes. Although no state bans the use of mobile electronic devices entirely, some do restrict their use to "novice" drivers. The definition of novice drivers varies by state but it typically refers to drivers under the age of 18. Penalties for violations of distracted driving laws vary as well. The fines each state implement for first time violators varies and so does the penalty for each additional violation.

California ([text law](#), [hands free law](#), [teen wireless law](#)) [New York](#), [Washington D.C](#) and New Jersey are among the states with entirely hands free ordinances.

Delaware's law also prohibits the usage of mobile electronic devices and includes not only cell phones but also:

- personal digital assistants
- electronic devices with mobile data access
- laptop computer
- pager
- broadband personal communication device
- two-way messaging devices
- electronic games
- or portable computing device pagers
- laptops

Delaware's laws also specify the penalties for first time and repeat violators. Violators would not be assessed points nor would it be made part of their driving record.

First time offenders in Maryland are also not assessed any points unless their actions resulted in an accident. The court may waive penalties for first time offenders and for offenders who can verify the installation of hands-free accessories in their vehicles.

Most state's laws regarding hands-free devices allow for the use of hands only to activate or deactivated those devices.

Indiana's law prohibits officers from confiscating electronics after violations to determine compliance or to use it as evidence of violations.

Kentucky's law bans texting while driving but does allow the use global positioning features of mobile communication devices.

Colorado's law has a comprehensive definitions section which helps driver's exactly what conduct is illegal and when a phone may be used.

Illinois's law would be an excellent model for any government looking to pass a distracted driving law. It has good definitions of "electronic communication device" and "electronic message" and the exceptions to the law include use of the device in hands-free mode.

Utah added enhanced penalty to its distracted driving law for drivers who commit other moving violations while using an electronic device.

Minnesota included accessing the internet to its distracted driving law as prohibited conduct.

New York's definition of "Using" portable electronic devices includes: viewing, taking or transmitting images, playing games, or composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages, or other electronic data.

The State of Texas has yet to pass a statewide ordinance banning hand held wireless devices but cities such as [Amarillo](#) and [El Paso](#) have already done so. Both El Paso and Amarillo allow for defenses for individuals acting in official capacity and individuals trying to communicate with emergency personnel in order to report an emergency and the perpetration or possible perpetration of a crime. Amarillo also clarifies that an offense may not be deemed a moving violation and may not go on a driver's record.

Other Texas cities that have passed ordinances regarding the use of wireless communications devices include:

ALAMO

[AMARILLO](#)

ARLINGTON

AUSTIN

[BELLAIRE](#)- Chapter 30 §30-34

[Brownsville](#)- Chapter 98 §98-14

[Canyon](#)- Chapter 70 §70.07

[El Paso](#)- Chapter 12 §12-22

[Gavelston](#)- Chapter 34 §34-76

[Harlingen](#)- Chapter 70 §70.04

[Magnolia](#)-Chapter 90 §90.8

[McAllen](#)-Chapter 102 §102-160

[Mission](#)- Chapter 110 §110-4

[Missouri City](#)- Chapter 58 §138

[Mount Vernon](#)-Chapter 19 §19-83

[Nacogdoches](#)- Chapter 102 §102-125

[Peñitas](#)-2011-1

[San Antonio](#)- Chapter 19 §19-255

[Shoreacres](#)- Chapter 62 §62-6

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[Stephenville](#)- Chapter 71 §71-08

[Tomball](#)- Ordinance No. 2010-25

[Universal City](#)- Chapter 3-4 §10.2

[West University Place](#)- Chapter 46 §46-55

For the most part these ordinances are very similar. Only some of these ordinances specify that it is an offense to use a wireless communication device when stopped including at traffic lights and stop signs unless you are pulled over to the far right of the road and out of traffic lanes. The other variation is the range of fines, for the most part offenders may be fined up to \$200 but most ordinances do not specify their fines.

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CALIFORNIA

SECTION 23123 HAND HELD WIRELESS TELEPHONE PROHIBITED USE

Hand-Held Wireless Telephone: Prohibited Use

23123. (a) A person shall not drive a motor vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving.

(b) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense.

(c) This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

(d) This section does not apply to an emergency services professional using a wireless telephone while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties.

(e) This section does not apply to a person driving a school bus or transit vehicle that is subject to Section 23125.

(f) This section does not apply to a person while driving a motor vehicle on private property.

(g) This section shall become operative on July 1, 2011.

DELAWARE

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 21 of the Delaware Code by adding a new §4176C to read as follows:

“§ 4176C. Electronic communication devices; penalties.

(a) No driver shall operate a motor vehicle on any highway while using an electronic communication device while such vehicle is in motion.

(b) For the purposes of this section, the following terms shall mean:

(1) ‘cell telephone’ shall mean a cellular, analog, wireless or digital telephone.

(2) ‘electronic communication device’ shall mean a cell phone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device.

(3) ‘hands-free electronic communication device’ shall mean an electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such electronic communication device, by which a user engages in a call without the use of either or both hand.

(4) ‘hands-free equipment’ shall mean the internal feature or function of a hands-free electronic communication device or the attachment or addition to a hands-free electronic communication device by which a user may engage in a call without the use of either or both hand.

(5) ‘engages or engaging in a call’ shall mean when a person dials or punches a phone number on, talks into or listens on an electronic communication device.

(6) ‘using’ shall mean holding an electronic communication device while:

a. Viewing or transmitting images or data;

b. Playing games;

c. Composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages or other electronic data; or

d. Engaging in a call.

(c) Subsection (a) of this section shall not apply to:

(1) a law-enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;

(2) a person using an electronic communication device to report to appropriate authorities a fire, a traffic accident, a serious road hazard, or medical or hazardous materials emergency, or to report the operator of another motor vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs or any other crime.

(3) a person using a cell phone who is operating a school bus and covered under §4176B of this title;

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(4) a person using a hands-free electronic communication device and its hand-free equipment when such person engages in a call; and

(5) the activation or deactivation of hands-free equipment or a function of hands-free equipment.

(d) Whoever violates this section shall for the 1st offense be subject to a civil penalty of \$50. For each subsequent offense the person shall be subject to a civil penalty of not less than \$100 nor more than \$200.

(e) No motor vehicle points shall be assessed for a violation of this section. Additionally, a violation of this section shall not be made a part of a person's driving record."

Section 2. The provisions of this Act shall preempt the provisions of a municipal or county enactment regulating the use of any electronic communication device by a person operating a vehicle as defined in §101 (80) of this title.

Section 3. This Act shall take effect 90 days after its enactment into law.

GEORGIA HOUSE BILL 31

By: Representatives Mayo of the 84th, Greene of the 151st, Drenner of the 85th, Gordon of the

163rd, and Waites of the 60th

A BILL TO BE ENTITLED

AN ACT

To amend Article 11 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to miscellaneous provisions of the uniform rules of the road, so as to provide that only hands-free communications devices shall be used in motor vehicles; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:
SECTION 1.

Article 11 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to miscellaneous provisions of the uniform rules of the road, is amended by revising Code Section 40-6-241, relating to the exercise of due care by drivers while operating a motor vehicle, as follows:

"40-6-241.

A driver shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions which shall distract such driver from the safe operation of such vehicle, provided that, except as prohibited by Code Sections 40-6-241.1 and 40-6-241.2, the proper use of a radio, citizens band radio, hands-free mobile telephone, or amateur or ham radio shall not be a violation of this Code section. The use of a hand-held mobile telephone by any driver while operating a motor vehicle on the highways of this state shall be a violation of this Code section."

SECTION 2.

Said article is further amended in Code Section 40-6-241.1, relating to the prohibition of certain persons operating a motor vehicle while engaging in wireless communications, by revising subsection (c) as follows:

"(c) The provisions of this Code section shall not apply to a person who has an instruction permit or a Class D license and is under 18 years of age who engages in a wireless communication using a hands-free wireless telecommunications device to do any of the following:

- (1) Report a traffic accident, medical emergency, or serious road hazard;
- (2) Report a situation in which the person believes his or her personal safety is in jeopardy;

- (3) Report or avert the perpetration or potential perpetration of a criminal act against the driver or another person; or
- (4) Engage in a wireless communication while the motor vehicle is lawfully parked."

34 SECTION 3.

Said article is further amended in Code Section 40-6-241.2, relating to the prohibition of writing, sending, or reading text based communications while operating a motor vehicle, by revising subsection (c) as follows:

(c) The provisions of this Code section shall not apply to:

- (1) A person using a hands-free wireless telecommunications device reporting a traffic accident, medical emergency, fire, serious road hazard, or a situation in which the person reasonably believes a person's health or safety is in immediate jeopardy;
- (2) A person using a hands-free wireless telecommunications device reporting the Perpetration or potential perpetration of a crime;
- (3) A public utility employee or contractor acting within the scope of his or her employment when responding to a public utility emergency;
- (4) A law enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety first responder during the performance of his or her official duties; or
- (5) A person engaging in wireless communication using a hands-free wireless telecommunications device while in a motor vehicle which is lawfully parked."

SECTION 4.

This Act shall become effective on July 1, 2013.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.

Maryland
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 \$40; AND**
- (II) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE OF \$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**

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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.

New Jersey
P.L. 2007, CHAPTER 198, *approved November 2, 2007*
Senate, No. 1099 (*Second Reprint*)

AN ACT concerning the use of wireless telephones ²and electronic communication devices² in motor vehicles and amending P.L.2003, c.310.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.2003, c.310 (C.39:4-97.3) is amended to read as follows:

1. a. The use of a wireless telephone ²or electronic communication device² by an operator of a moving motor vehicle on a public road or highway shall be unlawful except when the telephone is a hands-free wireless telephone ²or the electronic communication device is used hands-free², provided that its placement does not interfere with the operation of federally required safety equipment and the operator exercises a high degree of caution in the operation of the motor vehicle. ²For the purposes of this section, an "electronic communication device" shall not include an amateur radio.²

b. The operator of a motor vehicle may use a hand-held wireless telephone while driving with one hand on the steering wheel only if:

(1) The operator has reason to fear for his life or safety, or believes that a criminal act may be perpetrated against himself or another person; or

(2) The operator is using the telephone to report to appropriate authorities a fire, a traffic accident, a serious road hazard or medical or hazardous materials emergency, or to report the operator of another motor vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs. A hand-held wireless telephone user's telephone records or the testimony or written statements from appropriate authorities receiving such calls shall be deemed sufficient evidence of the existence of all lawful calls made under this paragraph.

As used in this act, "hands-free wireless telephone" means a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a conversation without the use of either hand; provided, however, this definition shall not preclude the use of either hand to activate, deactivate, or initiate a function of the telephone.

"Use" of a wireless telephone ²or electronic communication device² shall include, but not be limited to, talking or listening to another person on the telephone ², text messaging, or sending an electronic message via the wireless telephone or electronic communication device².

c. [Enforcement of this act by State or local law enforcement officers shall be accomplished only as a secondary action when the operator of a motor vehicle has been detained for a violation of Title 39 of the Revised Statutes or another offense] Deleted by amendment, P.L. , c. (²[now]² pending before the Legislature as this bill).

d. A person who violates this section shall be fined ²[no less than]² \$100 ²[or more than \$250]².

e. No motor vehicle points or automobile insurance eligibility points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall be assessed for this offense.

f. The Chief Administrator of the New Jersey Motor Vehicle Commission shall develop and undertake a program to notify and inform the public as to the provisions of this act.

g. Whenever this section is used as an alternative offense in a plea agreement to any other offense in Title 39 of the Revised Statutes that would result in the assessment of motor vehicle points, the penalty shall be the same as the penalty for a violation of section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge imposed pursuant to subsection f. of that section, and a conviction under this section shall be considered a conviction under section 1 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining subsequent enhanced penalties under that section.

(cf: P.L.2003, c.310, s.1)

²2. Section 3 of P.L.2003, c.310 (C.39:4-97.5) is amended to read as follows:

3. This act supersedes and preempts all ordinances of any county or municipality with regard to the use of a wireless telephone or electronic communication device by an operator of a motor vehicle.²

(cf: P.L.2003, c.310, s.3)

²[2] ³². This act shall take effect ¹[immediately] on the first day of the fourth month ²[after] following² enactment¹.

NEW YORK STATE'S MOBILE PHONE and PORTABLE ELECTRONIC DEVICE LAWS

New York prohibits all drivers from using portable electronic devices.

Illegal activity includes holding a portable electronic device and:

- Talking on a handheld mobile telephone
- Composing, sending, reading, accessing, browsing, transmitting, saving, or retrieving electronic data such as e-mail, text messages, or webpages
- Viewing, taking, or transmitting images
- Playing games

The law defines the following terms as:

(a) "Portable electronic device" shall mean any hand-held mobile telephone, as defined by subdivision one of section twelve hundred twenty-five-c of this article, personal digital assistant (PDA), handheld device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device.

(b) "Using" shall mean holding a portable electronic device while viewing, taking or transmitting images, playing games, or composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages, or other electronic data.

Exceptions to the Laws

- When the driver uses a hands-free mobile telephone, which allows the user to communicate without the use of either hand.
- Using a handheld electronic device that is affixed to a vehicle surface.
- Using a GPS device that is attached to the vehicle.
- When the purpose of the phone call is to communicate an emergency to a police or fire department, a hospital or physician's office, or an ambulance corps.
- When operating an authorized emergency vehicle in the performance of official duties.

Violation Penalties and Fines — The penalty for a violation of this law shall be 5 driver violation points and a fine, as described below. This is a primary law, which means an officer may stop you if you are observed using a hand held device. It is illegal for drivers to use handheld electronic devices while their vehicle is in motion.

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- For offenses committed between October 5, 2011 and May 31, 2013, the violation carried three driver violation points.
- For offenses committed on or after June 1, 2013, this violation carries five driver violation points.

On July 1, 2013, the following changes to the cell phone/texting laws for drivers with a probationary license, Class DJ, Class MJ or a learner permit took effect:

- Conviction will result in a mandatory **60-day driver license or permit suspension**.
- A second such conviction within six months will result in:
 - a revocation of **at least 6 months** of a **probationary license**, or
 - a revocation of **at least 60 days** for a Class DJ or MJ driver license or learner permit.

Effective, July 26, 2013 fines for mobile phone/portable electronic device use while driving increased.

- For a first offense, \$50 to \$150.
- For a second offense committed within 18 months, \$50 to \$200.
- For a third or subsequent offense committed within 18 months, \$50 to \$400.

The surcharge for these violations that occur on or after July 26th is up to \$93.

For texting and cell phone violations that occurred before July 26, 2013, the fines were:

Cell phone violation - Up to \$100

Texting violation - Up to \$100

The surcharge for these violations that occurred before July 26th was up to \$85.

On October 28, 2013 the following changes to the mobile phone/portable electronic device use law for Commercial Drivers (CDL) take effect:

- A motor carrier must not allow or require their drivers to use mobile phones/portable electronic devices while driving.
- A mobile telephone used by a person operating a commercial motor vehicle shall not be deemed a "hands-free mobile telephone" when the driver dials or answers the mobile telephone by pressing more than a single button.
- Commercial drivers are prohibited from making a phone call or using a portable electronic device while the vehicle is temporarily stationary because of traffic, a traffic control device, or other momentary delays.

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- An operator of a commercial motor vehicle who holds a mobile telephone to, or in the immediate proximity of, his or her ear while the vehicle is temporarily stationary because of traffic, a traffic control device, or other momentary delays is also presumed to be engaged in a call.
- An operator of a commercial motor vehicle who holds a portable electronic device in a conspicuous manner while such vehicle is temporarily stationary because of traffic, a traffic control device, or other momentary delays is presumed to be using the device.