

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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

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

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

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

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

A. "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. "Handheld electronic device" does not include a band radio or 2-way radio.

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

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

B-1. "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.

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

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

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

**4. 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 \$75 must be adjudged.

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 \$150 must be adjudged.

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.

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

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

B. 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.

## SUMMARY

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

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

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