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

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

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

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

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

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

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

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

Sec. 1. 29-A MRSA §101, sub-§26-C, as enacted by PL 2019, c. 486, §3, is amended 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 citizen band radio or 2-way radio or a personal medical device necessary to monitor or regulate a person's medical condition, including but not limited to an insulin pump or heart monitor.

~~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.~~

Sec. 2. 29-A MRSA §1304, sub-§1, ¶I, as amended by PL 2019, c. 486, §4, 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 or in a parking area 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 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 or into a parking area and has halted in a location where the motor vehicle can safely remain stationary.

A person who violates this paragraph commits a traffic infraction.

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

C. Operate a motor vehicle on a public way or in a parking area 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 or into a parking area and has halted in a location where the motor vehicle can safely remain stationary.

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

2. Prohibition. A person may not operate a motor vehicle on a public way or in a parking area 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 or into a parking area 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.

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

1. Prohibition. A person may not operate a motor vehicle on a public way or in a parking area 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 or into a parking area 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.

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

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.

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

SUMMARY

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