



129th MAINE LEGISLATURE

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Legislative Document

No. 165

S.P. 52

In Senate, January 17, 2019

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

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator DIAMOND of Cumberland.
Cosponsored by Representative PIERCE of Falmouth, Representative PERKINS of Oakland
and Senators: CHIPMAN of Cumberland, CYRWAY of Kennebec, Representatives:
BRYANT of Windham, COREY of Windham, MARTIN of Eagle Lake, McLEAN of Gorham,
WHITE of Waterville.

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

2 **Sec. 1. 29-A MRSA §1304, sub-§1, ¶I,** as amended by PL 2015, c. 113, §1, is
3 repealed.

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

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

10 **Sec. 3. 29-A MRSA §2116,** as amended by PL 2015, c. 113, §§4 and 5, is
11 repealed.

12 **Sec. 4. 29-A MRSA §2119,** as amended by PL 2013, c. 188, §1 and c. 381, Pt. B,
13 §28, is repealed.

14 **Sec. 5. 29-A MRSA §2121** is enacted to read:

15 **§2121. Use of electronic devices while operating motor vehicles**

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

18 A. "Handheld electronic device" means any handheld electronic device that is not
19 part of the operating equipment of the motor vehicle, including but not limited to a
20 device used to access a wireless telephone service, electronic game, device for
21 sending or receiving e-mail, text messaging device and computer. "Handheld
22 electronic device" does not include a band radio or 2-way radio.

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

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

31 D. "Text messaging" means reading or manually composing electronic
32 communications, including text messages, instant messages and e-mails, using a
33 handheld electronic device. "Text messaging" does not include using a global
34 positioning or navigation system.

35 E. "Using" means manipulating, talking into or otherwise interacting with a handheld
36 electronic device but does not include text messaging.

1 2. Prohibitions. The following prohibitions apply to using a handheld electronic
2 device while operating a motor vehicle.

3 A. Except as provided in subsection 3, a person may not operate a motor vehicle
4 while using a handheld electronic device.

5 B. A person may not operate a motor vehicle while engaging in text messaging.

6 3. Exceptions. The following exceptions apply to subsection 2, paragraph A.

7 A. A person, other than a person who is operating with a learner's permit issued
8 pursuant to section 1304, may operate a motor vehicle while using a handheld
9 electronic device in order to communicate with law enforcement or emergency
10 services personnel under emergency circumstances. For the purposes of this
11 paragraph, "emergency circumstances" means circumstances in which there is an
12 immediate threat to the health or well-being of any person.

13 B. A person may operate a motor vehicle while using a handheld electronic device if
14 the handheld electronic device allows for hands-free operation and the hands-free
15 feature of the device is in fact being used by the person and that person has attained
16 18 years of age and is not operating with an intermediate license issued pursuant to
17 section 1311 or a learner's permit issued pursuant to section 1304.

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

19 A. A person who violates subsection 2, paragraph A commits a traffic infraction for
20 which a fine of \$75 must be adjudged.

21 B. A person who violates subsection 2, paragraph A after previously having been
22 adjudicated as violating that paragraph within a 3-year period commits a traffic
23 infraction for which a fine of \$150 must be adjudged.

24 C. A person who violates subsection 2, paragraph B commits a traffic infraction for
25 which a fine of not less than \$250 must be adjudged.

26 D. A person who violates subsection 2, paragraph B after previously having been
27 adjudicated as violating that paragraph within a 3-year period commits a traffic
28 infraction for which a fine of not less than \$500 must be adjudged, and the Secretary
29 of State shall suspend the license of that person without right to hearing. The
30 minimum periods of license suspension are:

31 (1) Thirty days, if the person has 2 adjudications for a violation of subsection 2,
32 paragraph B within a 3-year period;

33 (2) Sixty days, if the person has 3 adjudications for a violation of subsection 2,
34 paragraph B within a 3-year period; and

35 (3) Ninety days, if the person has 4 or more adjudications for a violation of
36 subsection 2, paragraph B within a 3-year period.

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

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SUMMARY

2 This bill repeals the provision of law that prohibits a person who has been issued a
3 learner's permit from operating a motor vehicle while using a handheld electronic device
4 or mobile telephone. It repeals the section of law that prohibits minors from operating a
5 motor vehicle while using a handheld electronic device or mobile telephone and also
6 repeals the section of law that prohibits any person from operating a motor vehicle while
7 engaging in text messaging.

8 The bill incorporates the definition of "mobile telephone" into the definition of
9 "handheld electronic device." It excludes text messaging from the definition of "using" to
10 reflect the different penalties for using a handheld electronic device and for text
11 messaging while operating a motor vehicle.

12 The bill expands the prohibition on minors and a person who has been issued a
13 learner's permit operating a motor vehicle while using a handheld electronic device to
14 prohibit all persons operating a motor vehicle from using a handheld electronic device.

15 The bill includes exceptions to the prohibition against using a handheld electronic
16 device while operating a motor vehicle that allow for hands-free operation of the device
17 and for using a handheld electronic device to communicate with law enforcement or
18 emergency services personnel under emergency circumstances. The exceptions do not
19 apply to text messaging.

20 The bill provides that the penalty for a first offense of the prohibition against using a
21 handheld electronic device while operating a motor vehicle is \$75 and the penalty for a
22 2nd or subsequent offense within a 3-year period is \$150.