

HOUSE BILL 934

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By: **Delegates McIntosh, Barkley, Beidle, Bobo, Bronrott, Cane, Carr, V. Clagett, Conaway, Donoghue, Dumais, Frick, Frush, Glenn, Healey, Hecht, Howard, Hucker, Kullen, Love, Manno, Minnick, Montgomery, Morhaim, Niemann, Olszewski, Pendergrass, Reznik, Rice, Riley, Stein, and Weir**

Introduced and read first time: February 12, 2010

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Use of Wireless Telephone While Driving – Prohibitions**

3 FOR the purpose of prohibiting a driver of a certain school vehicle from using a certain
4 wireless telephone under certain circumstances; prohibiting a holder of a
5 learner's instructional permit or provisional driver's license who is 18 years of
6 age or older from driving a motor vehicle while using a certain wireless
7 telephone; prohibiting a certain driver of a motor vehicle that is in motion from
8 using the driver's hands to use a certain wireless telephone except under certain
9 circumstances; establishing penalties for a violation of this Act; authorizing the
10 court to waive a certain penalty under certain circumstances; providing for
11 exceptions to certain provisions of this Act relating to prohibitions on using a
12 wireless telephone while driving; requiring a driver education program and
13 driver's license examination to include curriculum and questions, respectively,
14 concerning the use of a wireless telephone and other electronic devices while
15 driving; defining certain terms; providing for a delayed effective date; and
16 generally relating to prohibitions against the use of a wireless telephone while
17 operating a motor vehicle.

18 BY repealing and reenacting, without amendments,
19 Article – Health – General
20 Section 18–213.2(a)(7) and (8)
21 Annotated Code of Maryland
22 (2009 Replacement Volume)

23 BY repealing and reenacting, without amendments,
24 Article – Transportation
25 Section 16–110(a) and (b) and 21–1124

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2009 Replacement Volume and 2009 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Transportation
5 Section 16–110(c) and 16–505
6 Annotated Code of Maryland
7 (2009 Replacement Volume and 2009 Supplement)

8 BY adding to
9 Article – Transportation
10 Section 21–1124.2
11 Annotated Code of Maryland
12 (2009 Replacement Volume and 2009 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Health – General**

16 18–213.2.

17 (a) (7) “First responder” means a:

18 (i) Fire fighter;

19 (ii) Emergency medical technician;

20 (iii) Rescue squad member;

21 (iv) Law enforcement officer;

22 (v) Correctional officer; or

23 (vi) Sworn member of the State Fire Marshal’s office.

24 (8) “Law enforcement officer” means any individual who, in an official
25 capacity, is authorized by law to make arrests and who is a member of one of the
26 following law enforcement agencies:

27 (i) The Department of State Police;

28 (ii) The Baltimore City Police Department;

29 (iii) The police department, bureau, or force of any county;

30 (iv) The police department, bureau, or force of any incorporated
31 city or town;

1 (v) The office of the sheriff of any county;

2 (vi) The police department, bureau, or force of any bicounty
3 agency or constituent institution of the University System of Maryland, Morgan State
4 University, St. Mary's College, or of any institution under the jurisdiction of the
5 Maryland Higher Education Commission;

6 (vii) The Maryland Aviation Administration police force of the
7 Department of Transportation, the Maryland Transit Administration police force of
8 the Department of Transportation, the Maryland Transportation Authority police
9 force, and the Maryland Port Administration police force of the Department of
10 Transportation;

11 (viii) The law enforcement officers of the Department of Natural
12 Resources;

13 (ix) The Field Enforcement Bureau of the Comptroller's Office;
14 or

15 (x) The Internal Investigative Unit of the Department of Public
16 Safety and Correctional Services.

17 **Article – Transportation**

18 16–110.

19 (a) The Administration shall:

20 (1) Establish qualifications for the safe operation of the various
21 classes, types, sizes, or combinations of vehicles; and

22 (2) Examine each applicant to determine the applicant's qualifications
23 for the license class applied for.

24 (b) Except as otherwise provided in this title, the Administration shall
25 examine each applicant for an original driver's license or for a class of driver's license
26 higher than that which the applicant currently holds.

27 (c) The examination shall include:

28 (1) A test of the applicant's:

29 (i) Vision;

30 (ii) Ability to read and understand highway signs regulating,
31 warning, and directing traffic; and

1 (iii) Knowledge of the traffic laws of this State and safe driving
2 practices;

3 (2) A demonstration of the applicant's ability to exercise reasonable
4 control in driving a motor vehicle; [and]

5 (3) **QUESTIONS CONCERNING THE USE OF A WIRELESS**
6 **TELEPHONE AND OTHER ELECTRONIC DEVICES WHILE DRIVING; AND**

7 (4) Any other additional physical or mental examination that the
8 Administration considers necessary to determine an applicant's fitness to drive a
9 motor vehicle safely.

10 16-505.

11 (a) The Administration shall, in consultation with the State Department of
12 Education, adopt and enforce regulations not inconsistent with this subtitle to
13 implement a standardized driver education program conducted by driver education
14 schools under its jurisdiction.

15 (b) Regulations adopted under this section shall be administered by the
16 Administration and shall include:

17 (1) Curriculum, equipment, and facility standards for classroom,
18 laboratory, and on-road instruction phases;

19 (2) Minimum student performance standards for an approved driver
20 education program based upon the standardized curriculum approved by the
21 Administration, consisting of at least 30 hours of classroom instruction and at least 6
22 hours of highway driving instruction;

23 (3) Standards for the certification of schools and instructors;

24 (4) A system to evaluate the effectiveness of the driver education
25 program;

26 (5) Standards governing the required offering of the driver education
27 program, **INCLUDING CURRICULUM CONCERNING THE USE OF A WIRELESS**
28 **TELEPHONE AND OTHER ELECTRONIC DEVICES WHILE DRIVING**, based on the
29 capacity, enrollment, staff, and facilities of the schools; and

30 (6) Standards for the eligibility of individuals to enroll in the program.

31 21-1124.

32 (a) (1) In this section the following words have the meanings indicated.

1 (2) “9–1–1 system” has the meaning stated in § 1–301 of the Public
2 Safety Article.

3 (3) “Wireless communication device” means:

4 (i) A handheld or hands–free device used to access a wireless
5 telephone service; or

6 (ii) A text messaging device.

7 (b) This section does not apply to the use of a wireless communication device
8 to contact a 9–1–1 system.

9 (c) A holder of a learner’s instructional permit or a provisional driver’s
10 license who is under the age of 18 years may not use a wireless communication device
11 while operating a motor vehicle.

12 (d) A police officer may enforce this section only as a secondary action when
13 the police officer detains a driver for a suspected violation of another provision of the
14 Code.

15 (e) (1) If the Administration receives satisfactory evidence that an
16 individual has violated this section, the Administration:

17 (i) May suspend the individual’s driver’s license for not more
18 than 90 days; and

19 (ii) May issue a restricted license for the period of suspension
20 that is limited to driving a motor vehicle:

21 1. In the course of the individual’s employment;

22 2. For the purpose of driving to or from a place of
23 employment; or

24 3. For the purpose of driving to or from school.

25 (2) An individual may request a hearing as provided for a suspension
26 or revocation under Title 12, Subtitle 2 of this article.

27 **21–1124.2.**

28 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
29 **MEANINGS INDICATED.**

30 **(2) “9–1–1 SYSTEM” HAS THE MEANING STATED IN § 1–301 OF**
31 **THE PUBLIC SAFETY ARTICLE.**

1 **(3) “WIRELESS TELEPHONE” MEANS A HANDHELD OR**
2 **HANDS-FREE DEVICE USED TO ACCESS A WIRELESS TELEPHONE SERVICE.**

3 **(B) THIS SECTION DOES NOT APPLY TO:**

4 **(1) USE OF A WIRELESS TELEPHONE TO CALL A**
5 **9-1-1 SYSTEM FOR PURPOSES RELATED TO AN EMERGENCY THAT IS ONGOING**
6 **AT THE TIME THE CALL IS MADE;**

7 **(2) USE OF A WIRELESS TELEPHONE BY THE FOLLOWING**
8 **INDIVIDUALS, WHEN ACTING WITHIN THE SCOPE OF OFFICIAL DUTY:**

9 **(I) FIRST RESPONDERS, AS DEFINED IN § 18-213.2 OF THE**
10 **HEALTH – GENERAL ARTICLE;**

11 **(II) STATE HIGHWAY ADMINISTRATION EMPLOYEES OR**
12 **CONTRACTORS ACTING UNDER THE AUTHORITY OF § 8-602 OF THIS ARTICLE IN**
13 **AN EMERGENCY SITUATION; AND**

14 **(III) AN INDIVIDUAL DRIVING FOR A TRANSPORTATION**
15 **SERVICE OPERATING UNDER § 2-103.3 OF THIS ARTICLE; AND**

16 **(3) USE OF A TWO-WAY RADIO THAT OPERATES WITH**
17 **PUSH-TO-TALK TECHNOLOGY BY AN INDIVIDUAL OPERATING A COMMERCIAL**
18 **MOTOR VEHICLE, AS DEFINED IN § 16-803 OF THIS ARTICLE.**

19 **(C) THE FOLLOWING INDIVIDUALS MAY NOT USE A WIRELESS**
20 **TELEPHONE WHILE OPERATING A MOTOR VEHICLE:**

21 **(1) A DRIVER OF A CLASS H (SCHOOL) VEHICLE THAT IS**
22 **CARRYING PASSENGERS AND IS IN MOTION; AND**

23 **(2) A HOLDER OF A LEARNER’S INSTRUCTIONAL PERMIT OR A**
24 **PROVISIONAL DRIVER’S LICENSE WHO IS 18 YEARS OF AGE OR OLDER.**

25 **(D) (1) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL**
26 **SPECIFIED IN SUBSECTION (C) OF THIS SECTION.**

27 **(2) A DRIVER OF A MOTOR VEHICLE THAT IS IN MOTION MAY NOT**
28 **USE THE DRIVER’S HANDS TO USE A WIRELESS TELEPHONE OTHER THAN TO**
29 **INITIATE OR TERMINATE A WIRELESS TELEPHONE CALL OR TO TURN THE**
30 **WIRELESS TELEPHONE ON OR OFF.**

1 **(E) (1) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION IS**
2 **SUBJECT TO THE FOLLOWING PENALTIES:**

3 **(I) FOR A FIRST OFFENSE, A FINE OF NOT MORE THAN \$50;**
4 **AND**

5 **(II) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE OF**
6 **\$100.**

7 **(2) FOR A FIRST OFFENSE UNDER THIS SECTION, POINTS MAY**
8 **NOT BE ASSESSED AGAINST THE INDIVIDUAL UNDER § 16-402 OF THIS ARTICLE**
9 **UNLESS THE OFFENSE CONTRIBUTES TO AN ACCIDENT.**

10 **(F) THE COURT MAY WAIVE A PENALTY UNDER SUBSECTION (E) OF THIS**
11 **SECTION FOR A PERSON WHO:**

12 **(1) IS CONVICTED OF A FIRST OFFENSE UNDER THIS SECTION;**
13 **AND**

14 **(2) PROVIDES PROOF THAT THE PERSON HAS ACQUIRED A**
15 **HANDS-FREE ACCESSORY, AN ATTACHMENT OR ADD-ON, A BUILT-IN FEATURE,**
16 **OR AN ADDITION FOR THE PERSON'S WIRELESS TELEPHONE THAT WILL ALLOW**
17 **THE PERSON TO OPERATE A MOTOR VEHICLE IN ACCORDANCE WITH THIS**
18 **SECTION.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2012.