

ASSEMBLY, No. 1677

STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Assemblyman **PETER J. BARNES, JR.**

District 18 (Middlesex)

Assemblyman **MICHAEL J. PANTER**

District 12 (Mercer and Monmouth)

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Assemblyman **Gusciora**

SYNOPSIS

Establishes unlawful use of a hand-held wireless telephone while operating a motor vehicle as a primary offense.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/12/2006)

1 AN ACT establishing the use of wireless telephones in motor
2 vehicles as a primary offense and amending P.L.2003, c.310.

3

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

6

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

9 1. a. The use of a wireless telephone by an operator of a moving
10 motor vehicle on a public road or highway shall be unlawful except
11 when the telephone is a hands-free wireless telephone, provided that
12 its placement does not interfere with the operation of federally
13 required safety equipment and the operator exercises a high degree
14 of caution in the operation of the motor vehicle.

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

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

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

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

37 "Use" of a wireless telephone shall include, but not be limited to,
38 talking or listening to another person on the telephone.

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

45 d. A person who violates this section shall be fined no less than

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 \$100 or more than \$250.

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

5 f. The Chief Administrator of the New Jersey Motor Vehicle
6 Commission shall develop and undertake a program to notify and
7 inform the public as to the provisions of this act.
8 (cf: P.L.2003, c.310, s.1)

9

10 2. This act shall take effect immediately.

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STATEMENT

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15 Under current law, the use of a hand-held wireless telephone
16 while operating a moving motor vehicle is enforceable only as a
17 secondary offense in New Jersey. This means that an offender must
18 be stopped by a law enforcement officer for some other offense or
19 violation before a ticket may be issued for unlawfully using a hand-
20 held telephone.

21 This bill would establish the unlawful use of a hand-held
22 telephone while operating a motor vehicle a primary offense. This
23 change would authorize law enforcement officers to stop and ticket
24 motorists whenever they are observed unlawfully using a hand-held
25 telephone.