

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

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

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

"Use" of a wireless telephone ²or electronic communication device² shall include, but not be limited to, talking or listening to another person on the telephone ², text messaging, or sending an electronic message via the wireless telephone or electronic communication device².

c. [Enforcement of this act by State or local law enforcement officers shall be accomplished only as a secondary action when the operator of a motor vehicle has been detained for a violation of Title 39 of the Revised Statutes or another offense] Deleted by amendment, P.L. , c. ²[now]² pending before the Legislature as this bill).

d. A person who violates this section shall be fined ²[no less than]² \$100 ²[or more than \$250]².

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

f. The Chief Administrator of the New Jersey Motor Vehicle Commission shall develop and undertake a program to notify and inform the public as to the provisions of this act.

g. Whenever this section is used as an alternative offense in a plea agreement to any other offense in Title 39 of the Revised Statutes that would result in the assessment of motor vehicle points, the penalty shall be the same as the penalty for a violation of section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge imposed pursuant to subsection f. of that section, and a conviction under this section shall be considered a conviction under section 1 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining subsequent enhanced penalties under that section. (cf: P.L.2003, c.310, s.1)

²2. Section 3 of P.L.2003, c.310 (C.39:4-97.5) is amended to read as follows:

3. This act supersedes and preempts all ordinances of any county or municipality with regard to the use of a wireless telephone or electronic communication device by an operator of a motor vehicle.²

(cf: P.L.2003, c.310, s.3)

²[2] ³3. This act shall take effect ¹[immediately] on the first day of the fourth month ²[after] following² enactment¹.