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Date: (Filing No. S- )

**TRANSPORTATION**

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**STATE OF MAINE  
SENATE  
127TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 60, L.D. 185, Bill, “An Act To Prohibit the Use of a Mobile Telephone When Operating a Motor Vehicle Except in Hands-free Mode”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**Sec. 1. 29-A MRSA §2116**, as enacted by PL 2007, c. 272, §1, is amended to read:

**§2116. Use of mobile telephones and handheld electronic devices while operating motor vehicles prohibited**

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

A. "Handheld electronic device" means any handheld electronic device that is not part of the operating equipment of the motor vehicle, including but not limited to an electronic game, device for sending or receiving electronic mail, text messaging device or computer. "Handheld electronic device" does not include a band radio or 2-way radio.

A-1. "Hands-free operation" means the use of a handheld electronic device without use of either hand by employing an internal feature of, or an attachment to, the device.

B. "Mobile telephone" means a device used to access a wireless telephone service.

B-1. "Operate" means driving a motor vehicle on a public way with the motor running, including while temporarily stationary because of traffic, a traffic light or a stop sign or otherwise stationary. "Operate" does not include operating a motor vehicle with or without the motor running when the operator has pulled the motor vehicle over to the side of, or off, a public way and has halted in a location where the motor vehicle can safely remain stationary.

**COMMITTEE AMENDMENT**

1 C. "Using" means manipulating, talking into or otherwise interacting with a mobile  
2 telephone or handheld electronic device but does not include passively listening to  
3 music or other recorded sounds emanating from a handheld electronic device.

4 **2. Prohibition.** A Except as provided in subsection 5, a person who has not attained  
5 18 years of age may not operate a motor vehicle while using a mobile telephone or  
6 handheld electronic device.

7 **3. Penalty.** A person who violates this section commits a traffic infraction for which  
8 a fine of not less than \$50 for the first offense and not less than \$250 for a 2nd or  
9 subsequent offense may be adjudged.

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

11 A. A person who violates this section commits a traffic infraction for which a fine of  
12 \$250 must be adjudged.

13 B. A person who violates this section after previously having been adjudicated as  
14 violating this section within a 3-year period commits a traffic infraction for which a  
15 fine of \$500 must be adjudged, and the Secretary of State shall suspend the license of  
16 that person without right to hearing. The minimum periods of license suspension are:

17 (1) Thirty days, if the person has 2 adjudications for a violation of this section  
18 within a 3-year period;

19 (2) Sixty days, if the person has 3 adjudications for a violation of this section  
20 within a 3-year period; and

21 (3) Ninety days, if the person has 4 or more adjudications for a violation of this  
22 section within a 3-year period.

23 For the purposes of this paragraph, an adjudication has occurred within a 3-year  
24 period if the date of the new conduct is within 3 years of the date of a docket entry of  
25 adjudication of a violation of this section.

26 **5. Exceptions.** A person may use a mobile telephone or a handheld electronic  
27 device while operating a motor vehicle:

28 A. If the mobile telephone or handheld electronic device allows for hands-free  
29 operation and the hands-free feature of the telephone or device is in fact being used  
30 by the person and that person has attained 18 years of age and is not operating with  
31 an intermediate license issued pursuant to section 1311; or

32 B. In order to communicate with law enforcement or emergency services personnel  
33 under emergency circumstances. For the purposes of this paragraph, "emergency  
34 circumstances" means circumstances in which there is an immediate threat to the  
35 health or well-being of any person.

36 **Sec. 2. 29-A MRS §2119, sub-§3,** as repealed and replaced by PL 2013, c. 188,  
37 §1, is amended to read:

38 **3. Penalties.** The following penalties apply to a violation of this section.

39 A. A person who violates this section commits a traffic infraction for which a fine of  
40 ~~not less than \$250~~ may must be adjudged.

1 B. A person who violates this section after previously having been adjudicated as  
2 violating this section within a 3-year period commits a traffic infraction for which a  
3 fine of ~~not less than~~ \$500 ~~may~~ must be adjudged, and the Secretary of State shall  
4 suspend the license of that person without right to hearing. The minimum periods of  
5 license suspension are:

6 (1) Thirty days, if the person has 2 adjudications for a violation of this section  
7 within a 3-year period;

8 (2) Sixty days, if the person has 3 adjudications for a violation of this section  
9 within a 3-year period; and

10 (3) Ninety days, if the person has 4 or more adjudications for a violation of this  
11 section within a 3-year period.

12 For the purposes of this paragraph, an adjudication has occurred within a 3-year  
13 period if the date of the new conduct is within 3 years of the date of a docket entry of  
14 adjudication of a violation of this section.'

## 15 SUMMARY

16 This amendment, which is the minority report of the committee, replaces the bill. It  
17 prohibits a person 18 years of age or older from using a mobile telephone or handheld  
18 electronic device while operating a motor vehicle unless the mobile telephone or  
19 handheld electronic device allows for hands-free operation and the hands-free feature of  
20 the mobile telephone or electronic handheld device is in fact being used by the person or  
21 the mobile telephone or handheld electronic device is being used in order to communicate  
22 with law enforcement or emergency services personnel under emergency circumstances.

23 The amendment does not affect the current prohibition against the use of a mobile  
24 telephone or handheld electronic device, both handheld and hands-free use, for a person  
25 who has been issued an intermediate driver's license or for a person under 18 years of  
26 age.

27 The amendment establishes penalties for a violation of using a mobile telephone or  
28 handheld electronic device while operating a motor vehicle similar to the penalties for a  
29 violation of text messaging while operating a motor vehicle. The amendment provides  
30 that the penalty for a first offense of the prohibition against using a mobile telephone or  
31 handheld electronic device while operating a motor vehicle is \$250. The amendment also  
32 provides that the penalty for a 2nd or subsequent offense within a 3-year period of the  
33 prohibition against using a mobile telephone or handheld electronic device while  
34 operating a motor vehicle is \$500. It also directs the Secretary of State to suspend the  
35 license of a person who has been previously adjudicated for a violation of the prohibition  
36 against using a mobile telephone or handheld electronic device while operating a motor  
37 vehicle.

38 The amendment also makes changes to the penalties for a violation of text messaging  
39 while operating a motor vehicle by providing that the current lower limit on the fine,

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1 \$250 for a first offense or \$500 for a 2nd or subsequent offense within a 3-year period, is  
2 the specific fine that must be adjudged.

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**FISCAL NOTE REQUIRED**

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**(See attached)**