

Date: (Filing No. S-)

TRANSPORTATION

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
128TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 360, L.D. 1089, Bill, "An Act To Prohibit the Use of Handheld Phones and Devices While Driving"

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

Sec. 1. 29-A MRSA §1304, sub-§1, ¶I, as amended by PL 2015, c. 113, §1, is repealed.

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

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

Sec. 3. 29-A MRSA §2116, as amended by PL 2015, c. 113, §§4 and 5, is repealed.

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 B, §28, is repealed.

Sec. 5. 29-A MRSA §2120 is enacted to read:

§2120. Use of electronic devices while operating motor vehicles

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 a device used to access a wireless telephone service, electronic game, device for sending or receiving e-mail, text messaging device and computer. "Handheld electronic device" does not include a band radio or 2-way radio.

COMMITTEE AMENDMENT

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

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

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

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

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

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

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

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

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

27 B. A person may operate a motor vehicle while using a handheld electronic device if
28 the handheld electronic device allows for hands-free operation and the hands-free
29 feature of the device is in fact being used by the person and that person has attained
30 18 years of age and is not operating with an intermediate license issued pursuant to
31 section 1311 or a learner's permit issued pursuant to section 1304.

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

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

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

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

40 D. A person who violates subsection 2, paragraph B after previously having been
41 adjudicated as violating that paragraph within a 3-year period commits a traffic

1 infraction for which a fine of not less than \$500 must be adjudged, and the Secretary
2 of State shall suspend the license of that person without right to hearing. The
3 minimum periods of license suspension are:

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

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

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

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

13 **Sec. 6. Appropriations and allocations.** The following appropriations and
14 allocations are made.

15 **JUDICIAL DEPARTMENT**

16 **Courts - Supreme, Superior and District 0063**

17 Initiative: Provides funds for one part-time Assistant Clerk position in fiscal year 2017-18
18 and funds for one Assistant Clerk position in fiscal year 2018-19 and related costs.

19	GENERAL FUND	2017-18	2018-19
20	POSITIONS - LEGISLATIVE COUNT	0.500	1.000
21	Personal Services	\$16,341	\$65,362
22	All Other	\$5,500	\$0
23			
24	GENERAL FUND TOTAL	<u>\$21,841</u>	<u>\$65,362</u>
25			

26 **SUMMARY**

27 This amendment replaces the bill. The amendment repeals the provision of law that
28 prohibits a person who has been issued a learner's permit from operating a motor vehicle
29 while using a handheld electronic device or mobile telephone. The amendment repeals
30 the section of law that prohibits minors from operating a motor vehicle while using a
31 handheld electronic device and mobile telephone. The amendment also repeals the
32 section of law that prohibits any person from operating a motor vehicle while engaging in
33 text messaging.

34 The amendment incorporates the definition of "mobile telephone" into the definition
35 of "handheld electronic device." The amendment excludes text messaging from the
36 definition of "using" to reflect the different penalties for using a handheld electronic
37 device and for text messaging while operating a motor vehicle.

38 Like the bill, the amendment expands the prohibition on minors and a person who has
39 been issued a learner's permit operating a motor vehicle while using a handheld electronic

1 device to prohibit all persons operating a motor vehicle from using a handheld electronic
2 device.

3 Like the bill, the amendment includes exceptions to the prohibition against using a
4 handheld electronic device while operating a motor vehicle that allow for hands-free
5 operation of the device and for using a handheld electronic device to communicate with
6 law enforcement or emergency services personnel under emergency circumstances. The
7 exceptions do not apply to text messaging.

8 Like the bill, the amendment provides that the penalty for a first offense of the
9 prohibition against using a handheld electronic device while operating a motor vehicle is
10 \$75 and the penalty for a 2nd or subsequent offense within a 3-year period is \$150.

11 The amendment adds an appropriations and allocations section.

12 **FISCAL NOTE REQUIRED**

13 **(See attached)**