

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 146 Session of 2011

INTRODUCED BY KORTZ, BARRAR, DeLUCA, FABRIZIO, HALUSKA, HESS,  
KULA, M. O'BRIEN, READSHAW, K. SMITH, SWANGER, VULAKOVICH,  
WAGNER, YOUNGBLOOD, RAVENSTAHL, SANTARSIERO AND QUINN,  
JANUARY 21, 2011

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 22, 2011

## AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, in rules of the road in general, prohibiting USE OF  
3 interactive wireless communications devices BY JUNIOR DRIVERS  
4 AND in work zones; FURTHER PROVIDING FOR THE OFFENSE OF  
5 CARELESS DRIVING; ESTABLISHING THE DRIVER DISTRACTION  
6 AWARENESS FUND; AND PROVIDING FOR ADDITIONAL DUTIES OF THE  
7 DEPARTMENT OF TRANSPORTATION. ← ← ←

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Title 75 of the Pennsylvania Consolidated  
11 Statutes is amended by adding a section to read:

12 § 3316. Prohibiting USE OF interactive wireless communications ←  
13 devices BY JUNIOR DRIVERS AND in work zones. ←

14 (A) JUNIOR DRIVERS.--NO DRIVER WITH A LEARNER'S PERMIT OR ←  
15 JUNIOR DRIVER'S LICENSE SHALL OPERATE A MOTOR VEHICLE ON A  
16 HIGHWAY OR TRAFFICWAY IN THIS COMMONWEALTH WHILE USING AN  
17 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE.

18 ~~(a) General rule~~ (B) WORK ZONES.--No driver shall operate a ←  
19 motor vehicle on a highway or trafficway within a work zone

while using an interactive wireless communications device.

~~(b)~~ (C) Exceptions.--This section shall not apply to:

(1) Law enforcement officers and operators of emergency vehicles when on duty and acting in their official capacities.

(2) Persons who are reporting an accident or emergency.

~~(3) Drivers who are using a hands free interactive wireless communications device~~ PERSONS WHO USE AN INTERACTIVE WIRELESS COMMUNICATIONS DEVICE WHEN THE VEHICLE IS STOPPED AT AN INTERSECTION OR DUE TO A TRAFFIC OBSTRUCTION AND THE TRANSMISSION IS IN NEUTRAL OR PARK.

~~(e)~~ (D) Posting.--The department shall post a work zone with signs designating the restriction.

~~(d)~~ (E) Penalty.--

(1) A person who violates subsection (a) OR (B) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$100.

(2) A conviction under this section shall not constitute a moving violation unless:

~~(i) The offense involves an accident.~~ A MOVING VIOLATION UNLESS THE OFFENSE INVOLVES AN ACCIDENT.


~~(ii) The offense is a second or subsequent violation in less than one calendar year.~~

(F) SECONDARY ACTION.--A CONVICTION UNDER THIS SUBSECTION BY STATE OR LOCAL LAW ENFORCEMENT AGENCIES SHALL OCCUR ONLY AS A SECONDARY ACTION WHEN A DRIVER OF A MOTOR VEHICLE HAS BEEN CONVICTED OF ANY OTHER PROVISION OF THIS TITLE.

~~(e)~~ (G) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

1 "Interactive wireless communications device." A wireless  
2 electronic communications device that provides for voice or data  
3 communication between two or more parties, including, but not  
4 limited to, a mobile or cellular telephone, a text messaging  
5 device, a personal digital assistant that sends or receives  
6 messages or a laptop computer. The term does not include a  
7 citizens band radio, a two-way radio communication device or a  
8 device that is permanently affixed during operation to a bus or  
9 school bus.

10 "Hands-free interactive wireless communications device." An  
11 interactive wireless communications device that has an internal  
12 feature or is equipped with an attachment or addition, whether  
13 permanently part of the interactive wireless communications  
14 device, by which a user engages in a voice or data communication  
15 without the use of either hand and regardless of whether either  
16 hand is used to activate, deactivate or initiate a function of  
17 the interactive wireless communications device.

18 SECTION 2. SECTION 3714 OF TITLE 75 IS AMENDED TO READ: 

19 § 3714. CARELESS DRIVING.

20 (A) GENERAL RULE.--ANY PERSON WHO DRIVES A VEHICLE IN  
21 CARELESS DISREGARD FOR THE SAFETY OF PERSONS OR PROPERTY IS  
22 GUILTY OF CARELESS DRIVING, A SUMMARY OFFENSE.

23 (B) UNINTENTIONAL DEATH.--IF THE PERSON WHO VIOLATES THIS  
24 SECTION UNINTENTIONALLY CAUSES THE DEATH OF ANOTHER PERSON AS A  
25 RESULT OF THE VIOLATION, THE PERSON SHALL, UPON CONVICTION, BE  
26 SENTENCED TO PAY A FINE OF \$500.

27 (C) SERIOUS BODILY INJURY.--IF THE PERSON WHO VIOLATES THIS  
28 SECTION UNINTENTIONALLY CAUSES THE SERIOUS BODILY INJURY OF  
29 ANOTHER PERSON AS A RESULT OF THE VIOLATION, THE PERSON SHALL,  
30 UPON CONVICTION, BE SENTENCED TO PAY A FINE OF \$250.

1 (C.1) ADDITIONAL FINE FOR DISTRACTED DRIVER.--

2 (1) ANY PERSON WHO VIOLATES THIS SECTION AND AT THE TIME  
3 OF THE VIOLATION IS DISTRACTED BY THE USE OF ANY OF THE  
4 FOLLOWING, INCLUDING, BUT NOT LIMITED TO:

5 (I) AN INTERACTIVE WIRELESS COMMUNICATIONS DEVICE;

6 (II) AN ELECTRONIC, ELECTRICAL OR MECHANICAL DEVICE;

7 (III) A PERSONAL GROOMING DEVICE;

8 (IV) FOOD;

9 (V) DRINK; OR

10 (VI) ANY PRINTED MATERIAL,

11 SHALL IN ADDITION TO ANY OTHER PENALTY IMPOSED BE SENTENCED  
12 TO PAY A FINE OF \$50.

13 (2) THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO  
14 ANY PERSON UNLESS THE PERSON IS CONVICTED UNDER SUBSECTION  
15 (A) FOR A VIOLATION WHICH OCCURRED AT THE SAME TIME. NO COSTS  
16 AS DESCRIBED UNDER 42 PA.C.S. § 1725.1 (RELATING TO COSTS)  
17 SHALL BE IMPOSED ON ACCOUNT OF ANY INCREASED FINE UNDER THIS  
18 SUBSECTION. APPLICATION OF THIS SUBSECTION SHALL NOT  
19 CONSTITUTE A MOVING VIOLATION.

20 (3) FINES COLLECTED UNDER THIS SUBSECTION SHALL BE PAID  
21 TO THE COMMONWEALTH FOR DEPOSIT INTO THE DRIVER DISTRACTION  
22 AWARENESS FUND.

23 (C.2) REPORT.--THE DEPARTMENT SHALL SUBMIT TO THE GENERAL  
24 ASSEMBLY A REPORT ON THE EFFECTS OF SUBSECTION (C.1) BY AUGUST  
25 31, 2012.

26 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
27 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
28 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

29 "DISTRACTED." HAVING A PERSON'S ATTENTION DIVERTED FROM  
30 OPERATING A VEHICLE BY ANY TASK OR ITEM, INCLUDING, BUT NOT

1 LIMITED TO, AN ELECTRONIC, ELECTRICAL, MECHANICAL OR PERSONAL  
2 GROOMING DEVICE, FOOD, DRINK, BOOK OR PRINTED MATERIAL.

3 "INTERACTIVE WIRELESS COMMUNICATIONS DEVICE." A WIRELESS  
4 TELEPHONE, PERSONAL DIGITAL ASSISTANT, SMART PHONE, PORTABLE OR  
5 MOBILE COMPUTER OR SIMILAR DEVICE WHICH CAN BE USED FOR VOICE  
6 COMMUNICATION, TEXTING, E-MAILING, BROWSING THE INTERNET OR  
7 INSTANT MESSAGING. THE TERM DOES NOT INCLUDE ANY OF THE  
8 FOLLOWING:

9 (1) A DEVICE BEING USED EXCLUSIVELY AS A GLOBAL  
10 POSITIONING OR NAVIGATION SYSTEM;

11 (2) A SYSTEM OR DEVICE THAT IS PHYSICALLY OR  
12 ELECTRONICALLY INTEGRATED INTO THE VEHICLE; OR

13 (3) A COMMUNICATION DEVICE THAT IS AFFIXED TO A MASS  
14 TRANSIT VEHICLE, BUS OR SCHOOL BUS.

15 SECTION 3. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ:  
16 § 3714.1. DRIVER DISTRACTION AWARENESS FUND.

17 (A) FUND ESTABLISHED.--THE DRIVER DISTRACTION AWARENESS FUND  
18 IS ESTABLISHED IN THE MOTOR LICENSE FUND AS A SPECIAL RESTRICTED  
19 RECEIPTS ACCOUNT HEREBY EARMARKED FOR AND APPROPRIATED TO THE  
20 DEPARTMENT. THIS FUND SHALL CONSIST OF ALL FINES DEPOSITED  
21 PURSUANT TO SECTION 3714(C.1) (RELATING TO CARELESS DRIVING),  
22 ALL FEDERAL FUNDS GRANTED FOR THAT USE AND ANY MONEYS DONATED  
23 INTO THE FUND. ALL SUCH FUNDS SHALL BE USED SOLELY FOR THE  
24 PURPOSE OF THE EDUCATIONAL PROGRAM ESTABLISHED IN SUBSECTION  
25 (B).

26 (B) EDUCATIONAL PROGRAM.--THE DEPARTMENT SHALL INITIATE AN  
27 EDUCATIONAL PROGRAM TO BEGIN IMMEDIATELY TO ALERT THE PUBLIC TO  
28 THE PROVISIONS OF SECTION 3714(C.1) AND THE REQUIREMENTS AND  
29 PENALTIES SPECIFIED IN SECTION 3714(C.1). THE PROGRAM SHALL ALSO  
30 ENCOURAGE MOTORISTS TO ELIMINATE DISTRACTIONS IN THE VEHICLE AS

1 A MEANS OF REDUCING THE RISK OF HARM TO THEMSELVES AS WELL AS TO  
2 OTHERS.

3 Section ~~2~~ 4. This act shall take effect in 60 days.

