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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1289 Session of  
2014

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INTRODUCED BY TEPLITZ, SMITH, SCHWANK, COSTA, ERICKSON AND  
BLAKE, MARCH 14, 2014

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REFERRED TO TRANSPORTATION, MARCH 14, 2014

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AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, in rules of the road in general, further  
3 prohibiting text-based communications; and prohibiting  
4 certain calls on hand-held mobile telephones.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 3316(b) of Title 75 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 3316. Prohibiting text-based communications.

10 \* \* \*

11 (b) [(Reserved).] Records.--A record of any violation of  
12 this section shall appear on the driving history record or motor  
13 vehicle record of any person who commits the violation and the  
14 record of the violation shall be available to any motor vehicle  
15 insurer.

16 \* \* \*

17 Section 2. Title 75 is amended by adding a section to read:

18 § 3317. Prohibiting calls on hand-held mobile telephones.

19 (a) Prohibitions.--

1           (1) Except as otherwise provided in this section, no  
2 person shall operate a motor vehicle on a highway or  
3 trafficway in this Commonwealth while using a hand-held  
4 mobile telephone to engage in a call while such vehicle is in  
5 motion.

6           (2) No person under 18 years of age shall use any hand-  
7 held mobile telephone, including one with a hands-free  
8 accessory while operating a moving motor vehicle on a highway  
9 or trafficway in this Commonwealth.

10 (b) Presumption.--

11           (1) An operator of a motor vehicle who holds a hand-held  
12 mobile telephone to or in the immediate proximity of the  
13 operator's ear while the motor vehicle is in motion is  
14 presumed to be engaging in a call within the meaning of this  
15 section.

16           (2) The presumption established by this subsection is  
17 rebuttable by evidence which shows that the operator was not  
18 engaged in a call.

19           (3) The provisions of this subsection shall not be  
20 construed as authorizing the seizure or forfeiture of a hand-  
21 held mobile telephone or a mobile electronic device, unless  
22 otherwise provided by law.

23 (c) Nonapplicability.--Subsection (a) shall not apply to:

24           (1) The use of a hand-held mobile telephone for the sole  
25 purpose of communicating with any of the following regarding  
26 an emergency situation:

27           (i) an emergency response operator;

28           (ii) a hospital, physician's office or health  
29 clinic;

30           (iii) an ambulance company;

1           (iv) a fire department; or

2           (v) a police department.

3           (2) Any of the following persons while in the  
4 performance of their official duties and within the scope of  
5 their employment:

6           (i) a law enforcement officer;

7           (ii) a firefighter or an operator of an ambulance or  
8 authorized emergency vehicle; or

9           (iii) a member of the armed forces of the United  
10 States while operating a military vehicle.

11          (3) The use of a hand-held radio by a person with an  
12 amateur radio station license issued by the Federal  
13 Communications Commission.

14          (4) The use of a hands-free mobile telephone.

15          (d) Penalty.--A person who violates subsection (a) commits a  
16 summary offense and shall, upon conviction, be sentenced to pay  
17 a fine of \$100 for the first violation, \$200 for a second  
18 violation and \$300 for a third or subsequent violation.

19          (e) Records.--A record of any violation of this section  
20 shall appear on the driving history record or motor vehicle  
21 record of any person who commits the violation and the record of  
22 the violation shall be available to any motor vehicle insurer.

23          (f) Preemption of local ordinances.--In accordance with  
24 section 6101 (relating to applicability and uniformity of  
25 title), this section supersedes and preempts all ordinances of  
26 any municipality with regard to the use of a hand-held mobile  
27 telephone by the operator of a motor vehicle.

28          (g) Definitions.--As used in this section, the following  
29 words and phrases shall have the meanings given to them in this  
30 subsection unless the context clearly indicates otherwise:

1 "Engage in a call." Talking into or listening on a hand-held  
2 mobile telephone. The term does not include holding a hand-held  
3 mobile telephone to activate, deactivate or initiate a function  
4 of such telephone.

5 "Hands-free accessory." An attachment, add-on, built-in  
6 feature or addition to a mobile telephone, whether or not  
7 permanently installed in a motor vehicle, that when used allows  
8 the vehicle operator to maintain both hands on the steering  
9 wheel.

10 "Hands-free mobile telephone." A hand-held mobile telephone  
11 that has an internal feature or function or that is equipped  
12 with an attachment or addition, whether or not permanently part  
13 of such hand-held mobile telephone, by which a user engages in a  
14 call without the use of either hand, whether or not the use of  
15 either hand is necessary to activate, deactivate or initiate a  
16 function of such telephone.

17 "Hand-held mobile telephone." A mobile telephone with which  
18 a user engages in a call using at least one hand.

19 "Immediate proximity." The distance that permits an operator  
20 of a hand-held mobile telephone to hear telecommunications  
21 transmitted over such hand-held mobile telephone, but does not  
22 require physical contact with the operator's ear.

23 "Mobile electronic device." Any hand-held or other portable  
24 electronic equipment capable of providing data communication  
25 between two or more persons, including a text messaging device,  
26 a paging device, a personal digital assistant, a laptop  
27 computer, equipment that is capable of playing a video game or a  
28 digital video disk or equipment on which digital photographs are  
29 taken or transmitted, or any combination thereof. The term does  
30 not include any audio equipment or equipment installed in a

1 motor vehicle for the purpose of providing navigation, emergency  
2 assistance to the operator of such motor vehicle or video  
3 entertainment to the passengers in the rear seats of such motor  
4 vehicle.

5 "Mobile telephone." A cellular, analog, wireless or digital  
6 telephone capable of sending or receiving telephone  
7 communications without an access line for service.

8 "Using" or "use." Holding a hand-held mobile telephone to or  
9 in the immediate proximity of the user's ear.

10 Section 3. This act shall take effect in 60 days.