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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 459 Session of  
2009

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INTRODUCED BY FERLO, COSTA, FONTANA, PIPPY, ERICKSON, MUSTO,  
RAFFERTY, WILLIAMS AND STACK, MARCH 2, 2009

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REFERRED TO TRANSPORTATION, MARCH 2, 2009

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AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, prohibiting the use of mobile telephones and hand-  
3 held communication devices.

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

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

8 § 3316. Prohibiting the use of mobile telephones and hand-held  
9 communication devices.

10 (a) Prohibition.--Except as otherwise provided in this  
11 section, no person shall operate a motor vehicle upon a highway  
12 while using a mobile telephone or hand-held communication device  
13 to engage in a call or wireless communication while the vehicle  
14 is in motion.

15 (b) Presumption.--An operator of a motor vehicle who uses a  
16 mobile telephone or hand-held communication device while the  
17 vehicle is in motion is presumed to be engaging in a call or  
18 wireless communication within the meaning of this section. The

1 presumption established by this subsection is rebuttable by  
2 evidence tending to show that the operator was not engaged in a  
3 call or wireless communication.

4 (c) Seizure.--The provisions of this section shall not be  
5 construed as authorizing the seizure or forfeiture of a mobile  
6 telephone or hand-held communication device, unless otherwise  
7 provided by law.

8 (d) Applicability.--This section shall not apply to:

9 (1) the use of a mobile telephone or hand-held  
10 communication device for the sole purpose of communicating  
11 with any of the following regarding an emergency situation:  
12 an emergency response operator; a hospital, physician's  
13 office or health clinic; an ambulance company or corps; a  
14 fire department, district or company; or a police department;

15 (2) any of the following persons while in the  
16 performance of their official duties: a police officer or  
17 peace officer; a member of a fire department, district or  
18 company; or

19 (3) the use of a hands-free mobile telephone.

20 (e) Penalty.--A violation of subsection (a) is a summary  
21 offense punishable by a fine of not more than \$100.

22 (f) Definitions.--As used in this section, the following  
23 words and phrases shall have the meanings given to them in this  
24 subsection:

25 "Engage in a call." Talking into or listening on a hand-held  
26 mobile telephone or hand-held communication device, but shall  
27 not include holding a mobile telephone or hand-held  
28 communication device to activate, deactivate or initiate a  
29 function of the telephone or device.

30 "Hand-held communication device." An electronic device that

1 provides mobile telephone service or other wireless  
2 communication functions. The term includes a two-way radio  
3 device that provides radio communication between mobile and land  
4 stations or between mobile stations. The term does not include a  
5 voice-activated global positioning or navigation system that is  
6 permanently affixed to a motor vehicle.

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

14 "Immediate proximity." That distance as permits the operator  
15 of a mobile telephone or hand-held communication device to hear  
16 telecommunications transmitted over the mobile telephone or  
17 hand-held communication device, but shall not require physical  
18 contact with the operator's ear.

19 "Mobile telephone." The device used by subscribers and other  
20 users of wireless telephone service to access service.

21 "Text message." Short messaging service or the process by  
22 which users send or receive messages on wireless handsets. For  
23 purposes of this definition, an e-mail shall be considered a  
24 text message.

25 "Using." Holding a mobile telephone or hand-held  
26 communication device to, or in the immediate proximity of, the  
27 operator's ear or performing a wireless communication function.

28 "Wireless communication." Includes a text message, e-mail,  
29 push e-mail, Internet fax and Web browsing.

30 Section 2. This act shall take effect in 60 days.