

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 37 Session of 2019

INTRODUCED BY BROWN, READSHAW, STEPHENS, SCHLOSSBERG, MILLARD, HILL-EVANS, HELM, McNEILL, MURT, STAATS, TOPPER, B. MILLER, FLYNN, McCLINTON, DeLUCA, RYAN, ISAACSON, STRUZZI, TOOHL, CARROLL, KORTZ, CIRESI, MULLINS, NEILSON, T. DAVIS, BIZZARRO, MARSHALL, BOBACK, GAYDOS, WARNER, SCHLEGEL CULVER, HENNESSEY, NELSON, DeLISSIO, MOUL AND DONATUCCI, FEBRUARY 5, 2019

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 10, 2019

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in general provisions, further providing for
3 definitions; in licensing of drivers, further providing for
4 learners' permits; in rules of the road in general, REPEALING <--
5 PROVISIONS RELATING TO PROHIBITING TEXT-BASED COMMUNICATIONS,
6 prohibiting use of interactive wireless communications
7 devices, imposing penalties and establishing the Distracted
8 Driver Awareness Fund; and, in operation of vehicles
9 miscellaneous provisions, further providing for the offense
10 of homicide by vehicle and for the offense of aggravated
11 assault by vehicle.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The definition of "interactive wireless
15 communications device" in section 102 of Title 75 of the
16 Pennsylvania Consolidated Statutes is amended to read:

17 § 102. Definitions.

18 Subject to additional definitions contained in subsequent
19 provisions of this title which are applicable to specific
20 provisions of this title, the following words and phrases when

1 used in this title shall have, unless the context clearly
2 indicates otherwise, the meanings given to them in this section:

3 * * *

4 "Interactive wireless communications device." A wireless
5 telephone, personal digital assistant, smart phone, portable or
6 mobile computer or similar device which can be used for voice
7 communication, texting, e-mailing, browsing the Internet or
8 instant messaging. The term does not include any of the
9 following:

10 (1) a device being used exclusively as a global
11 positioning or navigation system;

12 (2) a system or device that is physically or
13 electronically integrated into the vehicle[; or], other than
14 being connected to the vehicle solely for the purpose of
15 charging the system or device;

16 (3) a communications device that is affixed to a mass
17 transit vehicle, bus or school bus[.]; or

18 (4) a hand-held radio being used by a person with an
19 amateur radio station license issued by the Federal
20 Communications Commission.

21 * * *

22 Section 2. Section 1505(e) (2) of Title 75 is amended to
23 read:

24 § 1505. Learners' permits.

25 * * *

26 (e) Authorization to test for driver's license and junior
27 driver's license.--A person with a learner's permit is
28 authorized to take the examination for a regular or junior
29 driver's license for the class of vehicle for which a permit is
30 held. Before a person under the age of 18 years may take the

1 examination for a junior driver's license, including a Class M
2 license to operate a motorcycle, the minor must:

3 * * *

4 (2) Present to the department a certification form
5 signed by the father, mother, guardian, person in loco
6 parentis or spouse of a married minor stating that the minor
7 applicant has:

8 (i) completed 65 hours of practical driving
9 experience accompanied as required under subsection (b);
10 [and]

11 (ii) except for a Class M license to operate a
12 motorcycle, the 65 hours included no less than ten hours
13 of nighttime driving and five hours of inclement weather
14 driving[.]; and

15 (iii) viewed educational materials on the dangers of
16 distracted driving, which may include, but are not
17 limited to, written, electronic or video materials.

18 * * *

19 SECTION 3. SECTION 3316 OF TITLE 75 IS REPEALED:

<--

20 [§ 3316. PROHIBITING TEXT-BASED COMMUNICATIONS.]

21 (A) PROHIBITION.--NO DRIVER SHALL OPERATE A MOTOR VEHICLE ON
22 A HIGHWAY OR TRAFFICWAY IN THIS COMMONWEALTH WHILE USING AN
23 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE TO SEND, READ OR
24 WRITE A TEXT-BASED COMMUNICATION WHILE THE VEHICLE IS IN MOTION.
25 A PERSON DOES NOT SEND, READ OR WRITE A TEXT-BASED COMMUNICATION
26 WHEN THE PERSON READS, SELECTS OR ENTERS A TELEPHONE NUMBER OR
27 NAME IN AN INTERACTIVE WIRELESS COMMUNICATIONS DEVICE FOR THE
28 PURPOSE OF ACTIVATING OR DEACTIVATING A VOICE COMMUNICATION OR A
29 TELEPHONE CALL.

30 (B) (RESERVED).

1 (C) SEIZURE.--THE PROVISIONS OF THIS SECTION SHALL NOT BE
2 CONSTRUED AS AUTHORIZING THE SEIZURE OR FORFEITURE OF AN
3 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE, UNLESS OTHERWISE
4 PROVIDED BY LAW.

5 (D) PENALTY.--A PERSON WHO VIOLATES SUBSECTION (A) COMMITS A
6 SUMMARY OFFENSE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY
7 A FINE OF \$50.

8 (E) PREEMPTION OF LOCAL ORDINANCES.--IN ACCORDANCE WITH
9 SECTION 6101 (RELATING TO APPLICABILITY AND UNIFORMITY OF
10 TITLE), THIS SECTION SUPERSEDES AND PREEMPTS ALL ORDINANCES OF
11 ANY MUNICIPALITY WITH REGARD TO THE USE OF AN INTERACTIVE
12 WIRELESS COMMUNICATIONS DEVICE BY THE DRIVER OF A MOTOR VEHICLE.

13 (F) DEFINITION.--AS USED IN THIS SECTION, THE TERM "TEXT-
14 BASED COMMUNICATION" MEANS A TEXT MESSAGE, INSTANT MESSAGE,
15 ELECTRONIC MAIL OR OTHER WRITTEN COMMUNICATION COMPOSED OR
16 RECEIVED ON AN INTERACTIVE WIRELESS COMMUNICATIONS DEVICE.]

17 Section 3 4. Title 75 is amended by adding sections to read: <--
18 § 3318. Prohibiting use of interactive wireless communications
19 devices.

20 (a) Prohibitions.--

21 (1) Except as otherwise provided in this section, no
22 person shall operate a motor vehicle on a highway or
23 trafficway in this Commonwealth while using an interactive
24 wireless communications device while the vehicle is in
25 motion.

26 (2) Any adult driver of a motor vehicle who holds a
27 valid driver's license may only use the driver's hands to
28 initiate or terminate a wireless telephone call or to turn
29 the handheld interactive wireless communications device on or
30 off. OR TO ENABLE THE FUNCTION OF A HANDS-FREE INTERACTIVE <--

1 WIRELESS COMMUNICATIONS DEVICE THAT ALLOWS THE USER TO ENGAGE
2 IN A CALL WITHOUT THE USE OF EITHER HAND.

3 (3) No person under 18 years of age shall use any
4 interactive wireless communications device, including one
5 with a hands-free accessory, OR OPERATE A HANDS-FREE WIRELESS <--
6 COMMUNICATIONS DEVICE while operating a moving motor vehicle
7 on a highway or trafficway in this Commonwealth. A person
8 under this paragraph is permitted to use a hand-held
9 interactive wireless communications device outside of a
10 roadway, provided the motor vehicle is stopped.

11 (b) Nonapplicability.--Subsection (a) shall not apply to:

12 (1) The use of an interactive wireless communications
13 device for the sole purpose of communicating with any of the
14 following regarding an emergency situation if the vehicle is
15 not equipped with hands-free technology:

16 (i) a fire department;

17 (ii) a police department; or

18 (iii) a public safety answering point, as defined in
19 35 Pa.C.S. § 5302 (relating to definitions).

20 (2) The use of a hands-free interactive wireless
21 communications device, except as prohibited under subsection
22 (a) (2) AND (3). <--

23 (3) The use of an interactive wireless communications
24 device, INCLUDING BY A PERSON UNDER 18 YEARS OF AGE, while <--
25 affixed to a vehicle's surface, not in violation of section
26 4524 (relating to windshield obstructions and wipers), while
27 being exclusively used as a global positioning system.

28 (c) Penalty.--

29 (1) A person who violates subsection (a) commits a
30 summary offense and shall, upon conviction, be sentenced to

1 pay a fine of \$200. No costs or surcharges imposed under
2 section 6506 (relating to surcharge) or 42 Pa.C.S. § 1725.1
3 (relating to costs) shall be assessed or imposed upon a
4 conviction under this section.

5 (2) Notwithstanding any other provision of law,
6 including 42 Pa.C.S. § 3733(a) (relating to deposits into
7 account):

8 (i) When prosecution under this section is the
9 result of Pennsylvania State Police action, \$25 of the
10 penalty assessed under paragraph (1) shall be payable to
11 the Commonwealth for credit to the Motor License Fund.

12 (ii) When prosecution under this section is the
13 result of local police action, \$12.50 of the penalty
14 assessed under paragraph (1) shall be payable to the
15 Commonwealth for credit to the Motor License Fund, and
16 \$12.50 shall be payable to the municipal corporation
17 under which the local police are organized.

18 (iii) After deposit of any amount under
19 subparagraphs (i) and (ii), the remaining portion of the
20 fine shall be deposited into the Distracted Driver <--
21 Awareness Fund. AS FOLLOWS: <--

22 (A) THE FIRST \$5,000,000 COLLECTED WITHIN ANY
23 FISCAL YEAR SHALL BE DEPOSITED INTO THE DISTRACTED
24 DRIVER AWARENESS FUND.

25 (B) AFTER THE DEPOSIT IN CLAUSE (A) IS MADE, THE
26 REMAINING AMOUNT SHALL BE DEPOSITED INTO THE
27 MULTIMODAL TRANSPORTATION FUND TO BE USED EXCLUSIVELY
28 FOR THE PURPOSES OF 74 PA.C.S. § 2104(A) (4) (RELATING
29 TO USE OF MONEY IN FUND).

30 (d) Official traffic-control devices.--The department shall

1 install official traffic-control devices to alert motorists of
2 the hand-held prohibition at entryways to this Commonwealth
3 along all Federal aid highways. The signs shall be installed and
4 maintained for a period no less than five years after the
5 effective date of this section. The department is permitted to
6 use funds from the fines collected under subsection (c) (2) (iii)
7 for costs associated with installation and maintenance of
8 official traffic-control devices under this section.

9 (E) SEIZURE.--THE PROVISIONS OF THIS SECTION SHALL NOT BE <--
10 CONSTRUED AS AUTHORIZING THE SEIZURE OR FORFEITURE OF AN
11 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE OR HANDS-FREE
12 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE, UNLESS OTHERWISE
13 PROVIDED BY LAW.

14 (F) PREEMPTION OF LOCAL ORDINANCES.--IN ACCORDANCE WITH
15 SECTION 6101 (RELATING TO APPLICABILITY AND UNIFORMITY OF
16 TITLE), THIS SECTION SUPERSEDES AND PREEMPTS ALL ORDINANCES OF
17 ANY MUNICIPALITY WITH REGARD TO THE USE OF AN INTERACTIVE
18 WIRELESS COMMUNICATIONS DEVICE OR HANDS-FREE INTERACTIVE
19 WIRELESS COMMUNICATIONS DEVICE BY THE DRIVER OF A MOTOR VEHICLE.

20 ~~(e)~~ (G) Definitions.--As used in this section, the following <--
21 words and phrases shall have the meanings given to them in this
22 subsection unless the context clearly indicates otherwise:

23 "Hands-free accessory." An attachment, add-on, built-in
24 feature or addition to an interactive wireless communications
25 device, whether or not permanently installed in a motor vehicle,
26 that when used allows the vehicle operator to maintain both
27 hands on the steering wheel.

28 "Hands-free interactive wireless communications device." A
29 hand-held interactive wireless communications device that has an
30 internal feature or function or that is equipped with an

1 attachment or addition, whether or not permanently part of the
2 hand-held interactive wireless communications device, by which a
3 user engages in a call without the use of either hand, whether
4 or not the use of either hand is necessary to activate,
5 deactivate or initiate a function of the ~~telephone~~ INTERACTIVE <--
6 WIRELESS COMMUNICATIONS DEVICE.

7 "Using." Holding an interactive wireless communications
8 device for the purpose of listening or talking on the device by
9 nonvoice or voice interpersonal communication, or while viewing,
10 taking or transmitting images, playing games or composing,
11 sending, reading, viewing, accessing, browsing, transmitting,
12 saving or retrieving e-mail, text messages or other electronic
13 data.

14 § 3319. Distracted Driver Awareness Fund.

15 (a) Fund established.--The Distracted Driver Awareness Fund
16 is established in the Motor License Fund as a special restricted
17 receipts account. The fund shall consist of deposits from the
18 following sources:

19 (1) The remaining money after deposit of any amount
20 under section 3318(c)(2)(i) and (ii) (relating to prohibiting
21 use of interactive wireless communications devices) in
22 accordance with section 3318(c)(2)(iii).

23 (2) Money donated to the fund.

24 (b) Use of fund.--The fund shall be used solely for the
25 purpose of the educational program established in subsection (c)
26 and for the installation and maintenance of official traffic
27 control devices under section 3318(d). Money in the fund is
28 appropriated to the department for the purposes of this section.

29 (c) Educational program.--The department shall establish an
30 educational program to begin immediately to alert the public to

1 the requirements and penalties under section 3318. The program
2 shall also encourage motorists to eliminate distractions in the
3 vehicle as a means of reducing the risk of harm to themselves
4 and others. The program shall be administered to the extent that
5 funding is available.

6 (D) UNUSED MONEY.--ANY MONEY IN THE FUND WHICH IS <--
7 UNEXPENDED, UNCOMMITTED AND UNENCUMBERED AT THE END OF A FISCAL
8 YEAR SHALL BE TRANSFERRED TO THE MULTIMODAL TRANSPORTATION FUND
9 FOR THE PURPOSES OF 74 PA.C.S. § 2104(A) (4) (RELATING TO USE OF
10 MONEY IN FUND).

11 ~~(d)~~ (E) Report.--The department shall submit to the General <--
12 Assembly a report on the efforts of the department regarding the
13 educational program in subsection (c) no later than three years
14 after the effective date of this subsection.

15 ~~(e)~~ (F) Definition.--As used in this section, the term <--
16 "fund" means the Distracted Driver Awareness Fund.

17 Section 4 5. Sections 3732(b) (1.1) and (3) and 3732.1(b) (2) <--
18 and (4) of Title 75, amended October 24, 2018 (P.L.925, No.153),
19 are amended to read:

20 § 3732. Homicide by vehicle.

21 * * *

22 (b) Sentencing.--

23 * * *

24 (1.1) In addition to any other penalty provided by law,
25 a person convicted of a violation of subsection (a) who is
26 also convicted of a violation of section 1501 (relating to
27 drivers required to be licensed), 1543 (relating to driving
28 while operating privilege is suspended or revoked), [3316 <--
29 (relating to prohibiting text-based communications),] 3318 <--
30 (relating to prohibiting use of interactive wireless

1 communications devices), 3325 (relating to duty of driver on
2 approach of emergency vehicle) or 3327 (relating to duty of
3 driver in emergency response areas) may be sentenced to an
4 additional term not to exceed five years' confinement.

5 * * *

6 (3) The Pennsylvania Commission on Sentencing, pursuant
7 to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for
8 sentencing), shall provide for a sentencing enhancement for
9 an offense under this section when the violation occurred in
10 an active work zone or the individual was also convicted of a
11 violation of section 1501, 1543, [3316,] 3318, 3325 or 3327. <--
12 § 3732.1. Aggravated assault by vehicle.

13 * * *

14 (b) Sentencing.--

15 * * *

16 (2) In addition to any other penalty provided by law, a
17 person convicted of a violation of subsection (a) who is also
18 convicted of a violation of section 1501 (relating to drivers
19 required to be licensed), 1543 (relating to driving while
20 operating privilege is suspended or revoked), [3316 (relating <--
21 to prohibiting text-based communications),] 3318 (relating to <--
22 prohibiting use of interactive wireless communications
23 devices), 3325 (relating to duty of driver on approach of
24 emergency vehicle) or 3327 (relating to duty of driver in
25 emergency response areas) may be sentenced to an additional
26 term not to exceed two years' confinement.

27 * * *

28 (4) The Pennsylvania Commission on Sentencing, under 42
29 Pa.C.S. § 2154 (relating to adoption of guidelines for
30 sentencing), shall provide for a sentencing enhancement for

1 an offense under this section when the violation occurred in
2 an active work zone or the individual was also convicted of a
3 violation of section 1501, 1543, [~~3316,~~] 3318, 3325 or 3327. <--
4 Section 5 6. This act shall take effect in 180 days. <--