

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, DONATUCCI, BRIGGS, EMRICK, JAMES, KOSIEROWSKI, SAPPEY, MALAGARI, SCHWEYER, ULLMAN, HAHN AND WEBSTER, FEBRUARY 5, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JANUARY 14, 2020

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 AND FOR EXAMINATION OF APPLICANT FOR <--
5 DRIVER'S LICENSE; in rules of the road in general, repealing
6 provisions relating to prohibiting text-based communications,
7 prohibiting use of interactive wireless communications
8 devices, AND imposing penalties and establishing the <--
9 Distracted Driver Awareness Fund; and, in operation of
10 vehicles miscellaneous provisions, further providing for the
11 offense of homicide by vehicle and for the offense of
12 aggravated assault by vehicle.

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

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

18 § 102. Definitions.

19 Subject to additional definitions contained in subsequent

1 provisions of this title which are applicable to specific
2 provisions of this title, the following words and phrases when
3 used in this title shall have, unless the context clearly
4 indicates otherwise, the meanings given to them in this section:

5 * * *

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

12 (1) a device being used exclusively as a global
13 positioning or navigation system;

14 (2) a system or device that is physically or
15 electronically integrated into the vehicle~~;~~ ~~or~~, ~~other than~~ <--
16 ~~being connected to the vehicle solely for the purpose of~~
17 ~~charging the system or device;~~

18 (3) a communications device that is affixed to a mass
19 transit vehicle, bus or school bus~~.~~ ~~or~~ <--

20 ~~(4) a hand held radio being used by a person with an~~
21 ~~amateur radio station license issued by the Federal~~
22 ~~Communications Commission.~~

23 * * *

24 Section 2. Section 1505(e)(2) of Title 75 is amended to
25 read:

26 § 1505. Learners' permits.

27 * * *

28 (e) Authorization to test for driver's license and junior
29 driver's license.--A person with a learner's permit is
30 authorized to take the examination for a regular or junior

1 driver's license for the class of vehicle for which a permit is
2 held. Before a person under the age of 18 years may take the
3 examination for a junior driver's license, including a Class M
4 license to operate a motorcycle, the minor must:

5 * * *

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

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

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

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

20 * * *

21 SECTION 2.1. SECTION 1508 OF TITLE 75 IS AMENDED BY ADDING A <--
22 SUBSECTION TO READ:

23 § 1508. EXAMINATION OF APPLICANT FOR DRIVER'S LICENSE.

24 * * *

25 (C.1) DISTRACTED DRIVING INFORMATION.--THE TRAFFIC LAWS
26 EXAMINATION SHALL CONTAIN AT LEAST ONE QUESTION RELATING TO THE
27 DRIVER'S ABILITY TO UNDERSTAND THE EFFECTS OF DISTRACTED DRIVING
28 ON HIGHWAY SAFETY OR THE PROVISIONS OF SECTION 3318 (RELATING TO
29 PROHIBITING USE OF INTERACTIVE WIRELESS COMMUNICATIONS DEVICES).
30 THE DRIVER'S MANUAL SHALL INCLUDE A SECTION RELATING TO

1 DISTRACTED DRIVING, ALONG WITH RELATED PENALTIES.

2 * * *

3 Section 3. Section 3316 of Title 75 is repealed:

4 [§ 3316. Prohibiting text-based communications.

5 (a) Prohibition.--No driver shall operate a motor vehicle on
6 a highway or trafficway in this Commonwealth while using an
7 interactive wireless communications device to send, read or
8 write a text-based communication while the vehicle is in motion.
9 A person does not send, read or write a text-based communication
10 when the person reads, selects or enters a telephone number or
11 name in an interactive wireless communications device for the
12 purpose of activating or deactivating a voice communication or a
13 telephone call.

14 (b) (Reserved).

15 (c) Seizure.--The provisions of this section shall not be
16 construed as authorizing the seizure or forfeiture of an
17 interactive wireless communications device, unless otherwise
18 provided by law.

19 (d) Penalty.--A person who violates subsection (a) commits a
20 summary offense and shall, upon conviction, be sentenced to pay
21 a fine of \$50.

22 (e) Preemption of local ordinances.--In accordance with
23 section 6101 (relating to applicability and uniformity of
24 title), this section supersedes and preempts all ordinances of
25 any municipality with regard to the use of an interactive
26 wireless communications device by the driver of a motor vehicle.

27 (f) Definition.--As used in this section, the term "text-
28 based communication" means a text message, instant message,
29 electronic mail or other written communication composed or
30 received on an interactive wireless communications device.]

1 Section 4. Title 75 is amended by adding sections to read: <--

2 ~~§ 3318. Prohibiting use of interactive wireless communications~~
3 ~~devices.~~

4 ~~(a) Prohibitions.~~

5 ~~(1) Except as otherwise provided in this section, no~~
6 ~~person shall operate a motor vehicle on a highway or~~
7 ~~trafficway in this Commonwealth while using an interactive~~
8 ~~wireless communications device while the vehicle is in~~
9 ~~motion.~~

10 ~~(2) Any adult driver of a motor vehicle who holds a~~
11 ~~valid driver's license may only use the driver's hands to~~
12 ~~initiate or terminate a wireless telephone call or to turn~~
13 ~~the handheld interactive wireless communications device on or~~
14 ~~off or to enable the function of a hands free interactive~~
15 ~~wireless communications device that allows the user to engage~~
16 ~~in a call without the use of either hand.~~

17 ~~(3) No person under 18 years of age shall use any~~
18 ~~interactive wireless communications device, including one~~
19 ~~with a hands free accessory, or operate a hands free wireless~~
20 ~~communications device while operating a moving motor vehicle~~
21 ~~on a highway or trafficway in this Commonwealth. A person~~
22 ~~under this paragraph is permitted to use a hand held~~
23 ~~interactive wireless communications device outside of a~~
24 ~~roadway, provided the motor vehicle is stopped.~~

25 ~~(b) Nonapplicability. Subsection (a) shall not apply to:~~

26 ~~(1) The use of an interactive wireless communications~~
27 ~~device for the sole purpose of communicating with any of the~~
28 ~~following regarding an emergency situation if the vehicle is~~
29 ~~not equipped with hands free technology:~~

30 ~~(i) a fire department;~~

1 ~~(ii) a police department, or~~

2 ~~(iii) a public safety answering point, as defined in~~
3 ~~35 Pa.C.S. § 5302 (relating to definitions).~~

4 ~~(2) The use of a hands free interactive wireless~~
5 ~~communications device, except as prohibited under subsection~~
6 ~~(a) (2) and (3).~~

7 ~~(3) The use of an interactive wireless communications~~
8 ~~device, including by a person under 18 years of age, while~~
9 ~~affixed to a vehicle's surface, not in violation of section~~
10 ~~4524 (relating to windshield obstructions and wipers), while~~
11 ~~being exclusively used as a global positioning system.~~

12 ~~(c) Penalty.~~

13 ~~(1) A person who violates subsection (a) commits a~~
14 ~~summary offense and shall, upon conviction, be sentenced to~~
15 ~~pay a fine of \$200. No costs or surcharges imposed under~~
16 ~~section 6506 (relating to surcharge) or 42 Pa.C.S. § 1725.1~~
17 ~~(relating to costs) shall be assessed or imposed upon a~~
18 ~~conviction under this section.~~

19 ~~(2) Notwithstanding any other provision of law,~~
20 ~~including 42 Pa.C.S. § 3733(a) (relating to deposits into~~
21 ~~account):~~

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

26 ~~(ii) When prosecution under this section is the~~
27 ~~result of local police action, \$12.50 of the penalty~~
28 ~~assessed under paragraph (1) shall be payable to the~~
29 ~~Commonwealth for credit to the Motor License Fund, and~~
30 ~~\$12.50 shall be payable to the municipal corporation~~

1 ~~under which the local police are organized.~~

2 ~~(iii) After deposit of any amount under~~
3 ~~subparagraphs (i) and (ii), the remaining portion of the~~
4 ~~fine shall be deposited as follows:~~

5 ~~(A) The first \$5,000,000 collected within any~~
6 ~~fiscal year shall be deposited into the Distracted~~
7 ~~Driver Awareness Fund.~~

8 ~~(B) After the deposit in clause (A) is made, the~~
9 ~~remaining amount shall be deposited into the~~
10 ~~Multimodal Transportation Fund to be used exclusively~~
11 ~~for the purposes of 74 Pa.C.S. § 2104(a)(4) (relating~~
12 ~~to use of money in fund).~~

13 ~~(d) Official traffic control devices. The department shall~~
14 ~~install official traffic control devices to alert motorists of~~
15 ~~the hand held prohibition at entryways to this Commonwealth~~
16 ~~along all Federal aid highways. The signs shall be installed and~~
17 ~~maintained for a period no less than five years after the~~
18 ~~effective date of this section. The department is permitted to~~
19 ~~use funds from the fines collected under subsection (c)(2)(iii)~~
20 ~~for costs associated with installation and maintenance of~~
21 ~~official traffic control devices under this section.~~

22 ~~(e) Seizure. The provisions of this section shall not be~~
23 ~~construed as authorizing the seizure or forfeiture of an~~
24 ~~interactive wireless communications device or hands free~~
25 ~~interactive wireless communications device, unless otherwise~~
26 ~~provided by law.~~

27 ~~(f) Preemption of local ordinances. In accordance with~~
28 ~~section 6101 (relating to applicability and uniformity of~~
29 ~~title), this section supersedes and preempts all ordinances of~~
30 ~~any municipality with regard to the use of an interactive~~

~~1 wireless communications device or hands free interactive
2 wireless communications device by the driver of a motor vehicle.~~

~~3 (g) Definitions. As used in this section, the following
4 words and phrases shall have the meanings given to them in this
5 subsection unless the context clearly indicates otherwise:~~

~~6 "Hands free accessory." An attachment, add on, built in
7 feature or addition to an interactive wireless communications
8 device, whether or not permanently installed in a motor vehicle,
9 that when used allows the vehicle operator to maintain both
10 hands on the steering wheel.~~

~~11 "Hands free interactive wireless communications device." A
12 hand held interactive wireless communications device that has an
13 internal feature or function or that is equipped with an
14 attachment or addition, whether or not permanently part of the
15 hand held interactive wireless communications device, by which a
16 user engages in a call without the use of either hand, whether
17 or not the use of either hand is necessary to activate,
18 deactivate or initiate a function of the interactive wireless
19 communications device.~~

~~20 "Using." Holding an interactive wireless communications
21 device for the purpose of listening or talking on the device by
22 nonvoice or voice interpersonal communication, or while viewing,
23 taking or transmitting images, playing games or composing,
24 sending, reading, viewing, accessing, browsing, transmitting,
25 saving or retrieving e mail, text messages or other electronic
26 data.~~

~~27 § 3319. Distracted Driver Awareness Fund.~~

~~28 (a) Fund established. The Distracted Driver Awareness Fund
29 is established in the Motor License Fund as a special restricted
30 receipts account. The fund shall consist of deposits from the~~

1 following sources:

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

6 (2) Money donated to the fund.

7 (b) Use of fund. The fund shall be used solely for the
8 purpose of the educational program established in subsection (c)
9 and for the installation and maintenance of official traffic
10 control devices under section 3318(d). Money in the fund is
11 appropriated to the department for the purposes of this section.

12 (c) Educational program. The department shall establish an
13 educational program to begin immediately to alert the public to
14 the requirements and penalties under section 3318. The program
15 shall also encourage motorists to eliminate distractions in the
16 vehicle as a means of reducing the risk of harm to themselves
17 and others. The program shall be administered to the extent that
18 funding is available.

19 (d) Unused money. Any money in the fund which is
20 unexpended, uncommitted and unencumbered at the end of a fiscal
21 year shall be transferred to the Multimodal Transportation Fund
22 for the purposes of 74 Pa.C.S. § 2104(a) (4) (relating to use of
23 money in fund).

24 (e) Report. The department shall submit to the General
25 Assembly a report on the efforts of the department regarding the
26 educational program in subsection (c) no later than three years
27 after the effective date of this subsection.

28 (f) Definition. As used in this section, the term "fund"
29 means the Distracted Driver Awareness Fund.

30 SECTION 4. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ: <--

1 § 3318. PROHIBITING USE OF INTERACTIVE WIRELESS COMMUNICATION
2 DEVICES.

3 (A) PROHIBITIONS.--EXCEPT AS PROVIDED UNDER SUBSECTION (B):

4 (1) A DRIVER 18 YEARS OF AGE OR OLDER MAY NOT USE AN
5 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE WHILE OPERATING A
6 MOTOR VEHICLE ON A HIGHWAY OR TRAFFICWAY.

7 (2) A DRIVER UNDER 18 YEARS OF AGE MAY NOT CONTROL AN
8 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE WHILE OPERATING A
9 MOTOR VEHICLE ON A HIGHWAY OR TRAFFICWAY.

10 (B) EXCEPTIONS.--

11 (1) A DRIVER 18 YEARS OF AGE OR OLDER MAY USE AN
12 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE WHILE OPERATING A
13 MOTOR VEHICLE ON A HIGHWAY OR TRAFFICWAY IF NECESSARY TO
14 COMMUNICATE WITH A LAW ENFORCEMENT OFFICIAL OR OTHER
15 EMERGENCY SERVICE.

16 (2) A DRIVER UNDER 18 YEARS OF AGE MAY CONTROL AN
17 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE WHILE OPERATING A
18 MOTOR VEHICLE ON A HIGHWAY OR TRAFFICWAY WHEN:

19 (I) NECESSARY TO COMMUNICATE WITH A LAW ENFORCEMENT
20 OFFICIAL OR OTHER EMERGENCY SERVICE;

21 (II) THE INTERACTIVE WIRELESS COMMUNICATIONS DEVICE
22 IS AFFIXED TO THE MOTOR VEHICLE NOT IN VIOLATION OF
23 SECTION 4524 (RELATING TO WINDSHIELD OBSTRUCTIONS AND
24 WIPERS) AND IS BEING USED EXCLUSIVELY AS A GLOBAL
25 POSITIONING OR NAVIGATION SYSTEM; OR

26 (III) THE MOTOR VEHICLE IS STOPPED OUTSIDE OF A
27 ROADWAY.

28 (C) SEIZURE.--THE PROVISIONS OF THIS SECTION SHALL NOT BE
29 CONSTRUED AS AUTHORIZING THE SEIZURE OR FORFEITURE OF AN
30 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE UNLESS OTHERWISE

1 PROVIDED BY LAW.

2 (D) PREEMPTION OF LOCAL ORDINANCES.--IN ACCORDANCE WITH
3 SECTION 6101 (RELATING TO APPLICABILITY AND UNIFORMITY OF
4 TITLE), THIS SECTION SUPERSEDES AND PREEMPTS ALL ORDINANCES OF
5 ANY MUNICIPALITY WITH REGARD TO THE USE OF AN INTERACTIVE
6 WIRELESS COMMUNICATIONS DEVICE BY THE DRIVER OF A MOTOR VEHICLE.

7 (E) PENALTY.--

8 (1) A PERSON WHO VIOLATES SUBSECTION (A) COMMITS A
9 SUMMARY OFFENSE AND SHALL, UPON CONVICTION, BE SENTENCED TO
10 PAY A FINE OF \$150. NO COSTS OR SURCHARGES IMPOSED UNDER
11 SECTION 6506 (RELATING TO SURCHARGE) OR 42 PA.C.S. § 1725.1
12 (RELATING TO COSTS) SHALL BE ASSESSED OR IMPOSED UPON A
13 CONVICTION UNDER THIS SECTION.

14 (2) NO PERSON SHALL BE CONVICTED OF A VIOLATION OF
15 SUBSECTION (A) (1) UNLESS THE PERSON IS ALSO CONVICTED OF
16 ANOTHER VIOLATION OF THIS TITLE WHICH OCCURRED AT THE SAME
17 TIME.

18 (F) DEPOSIT OF FINES.--NOTWITHSTANDING ANY OTHER PROVISION
19 OF LAW, INCLUDING 42 PA.C.S. § 3733 (RELATING TO DEPOSITS INTO
20 ACCOUNT), A FINE ASSESSED UNDER SUBSECTION (E) SHALL BE
21 DEPOSITED AS FOLLOWS:

22 (1) WHEN PROSECUTION UNDER THIS SECTION IS THE RESULT OF
23 PENNSYLVANIA STATE POLICE ACTION, THE FINE SHALL BE DEPOSITED
24 IN THE MOTOR LICENSE FUND.

25 (2) WHEN PROSECUTION UNDER THIS SECTION IS THE RESULT OF
26 LOCAL POLICE ACTION, \$12.50 OF THE PENALTY SHALL BE PAYABLE
27 TO THE MUNICIPAL CORPORATION UNDER WHICH THE LOCAL POLICE ARE
28 ORGANIZED, AND THE REMAINING AMOUNT OF THE FINE SHALL BE
29 DEPOSITED IN THE MOTOR LICENSE FUND.

30 (G) OFFICIAL TRAFFIC-CONTROL DEVICE.--THE DEPARTMENT SHALL

1 STRATEGICALLY INSTALL OFFICIAL TRAFFIC-CONTROL DEVICES TO ALERT
2 MOTORISTS OF THE PROHIBITION UNDER SUBSECTION (A) ALONG HIGHWAYS
3 DETERMINED BY THE DEPARTMENT TO BE HIGH-VOLUME, MAIN ENTRYWAYS
4 TO THIS COMMONWEALTH. THE OFFICIAL TRAFFIC-CONTROL DEVICES SHALL
5 BE INSTALLED AND MAINTAINED FOR A PERIOD NO LESS THAN FIVE YEARS
6 AFTER THE EFFECTIVE DATE OF THIS SECTION.

7 (H) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
8 CONSTRUED TO MAKE LAWFUL ANY ACTIVITY BY A DRIVER OF A
9 COMMERCIAL MOTOR VEHICLE OR MOTOR CARRIER VEHICLE PROHIBITED
10 UNDER SECTION 1621 (RELATING TO TEXTING WHILE DRIVING) OR 1622
11 (RELATING TO HANDHELD MOBILE TELEPHONE).

12 (I) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
13 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
14 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

15 "CONTROL AN INTERACTIVE WIRELESS COMMUNICATIONS DEVICE."
16 OPERATING THE FUNCTIONS OF AN INTERACTIVE WIRELESS
17 COMMUNICATIONS DEVICE, REGARDLESS OF WHETHER THE INDIVIDUAL
18 PHYSICALLY GRASPS, SUPPORTS OR TOUCHES THE INTERACTIVE WIRELESS
19 COMMUNICATIONS DEVICE.

20 "INTERACTIVE WIRELESS COMMUNICATIONS DEVICE." A WIRELESS
21 TELEPHONE, PERSONAL DIGITAL ASSISTANT, SMART PHONE, PORTABLE OR
22 MOBILE COMPUTER OR SIMILAR DEVICE THAT CAN BE USED FOR VOICE
23 COMMUNICATION, TEXTING, E-MAILING, BROWSING THE INTERNET,
24 INSTANT MESSAGING, PLAYING GAMES, TAKING OR TRANSMITTING IMAGES
25 OR OTHERWISE SENDING OR RECEIVING ELECTRONIC DATA. THE TERM DOES
26 NOT INCLUDE ANY OF THE FOLLOWING:

27 (1) A DEVICE THAT FUNCTIONS EXCLUSIVELY AS A GLOBAL
28 POSITIONING OR NAVIGATION SYSTEM;

29 (2) A SYSTEM OR DEVICE THAT IS PHYSICALLY OR
30 ELECTRONICALLY INTEGRATED INTO A VEHICLE, UNLESS CONNECTED TO

1 A VEHICLE SOLELY FOR THE PURPOSE OF CHARGING THE SYSTEM OR
2 DEVICE;

3 (3) A COMMUNICATIONS DEVICE THAT IS AFFIXED TO A MASS
4 TRANSIT VEHICLE, BUS OR SCHOOL BUS; OR

5 (4) A TWO-WAY OR CITIZENS BAND RADIO AFFIXED TO A
6 COMMERCIAL MOTOR VEHICLE OR MOTOR CARRIER VEHICLE.

7 "SMARTWATCH." A WEARABLE DIGITAL WRISTWATCH WITH THE ABILITY
8 TO CONNECT WIRELESSLY TO AN INTERACTIVE WIRELESS COMMUNICATIONS
9 DEVICE AND CONTROL ONE OR MORE FUNCTIONS OR APPLICATIONS OF THE
10 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE.

11 "TEXT-BASED COMMUNICATION." A TEXT MESSAGE, INSTANT MESSAGE,
12 ELECTRONIC MAIL OR OTHER WRITTEN COMMUNICATIONS COMPOSED OR
13 RECEIVED ON AN INTERACTIVE WIRELESS COMMUNICATIONS DEVICE.

14 "USE AN INTERACTIVE WIRELESS COMMUNICATIONS DEVICE." AS
15 FOLLOWS:

16 (1) TO GRASP AN INTERACTIVE WIRELESS COMMUNICATIONS
17 DEVICE WITH ONE OR BOTH HANDS.

18 (2) TO SUPPORT AN INTERACTIVE WIRELESS COMMUNICATIONS
19 DEVICE WITH ANY PART OF THE BODY, OTHER THAN WEARING AN
20 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE THAT IS A
21 SMARTWATCH.

22 (3) TO WRITE, SEND OR READ ANY TEXT-BASED COMMUNICATION
23 ON AN INTERACTIVE WIRELESS COMMUNICATIONS DEVICE.

24 (4) TO WATCH A VIDEO OR MOVIE ON AN INTERACTIVE WIRELESS
25 COMMUNICATIONS DEVICE.

26 (5) TO RECORD OR BROADCAST A VIDEO OR PICTURE ON AN
27 INTERACTIVE WIRELESS COMMUNICATIONS DEVICE.

28 "WRITE, SEND OR READ ANY TEXT-BASED COMMUNICATION." THE TERM
29 SHALL NOT INCLUDE SELECTING OR ENTERING A TELEPHONE NUMBER OR
30 NAME IN AN INTERACTIVE WIRELESS COMMUNICATIONS DEVICE FOR THE

1 PURPOSE OF ACTIVATING OR DEACTIVATING A VOICE COMMUNICATION OR A
2 TELEPHONE CALL.

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

6 § 3732. Homicide by vehicle.

7 * * *

8 (b) Sentencing.--

9 * * *

10 (1.1) In addition to any other penalty provided by law,
11 a person convicted of a violation of subsection (a) who is
12 also convicted of a violation of section 1501 (relating to
13 drivers required to be licensed), 1543 (relating to driving
14 while operating privilege is suspended or revoked), [3316
15 (relating to prohibiting text-based communications),] 3318
16 (relating to prohibiting use of interactive wireless
17 communications devices), 3325 (relating to duty of driver on
18 approach of emergency vehicle) or 3327 (relating to duty of
19 driver in emergency response areas) may be sentenced to an
20 additional term not to exceed five years' confinement.

21 * * *

22 (3) The Pennsylvania Commission on Sentencing, pursuant
23 to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for
24 sentencing), shall provide for a sentencing enhancement for
25 an offense under this section when the violation occurred in
26 an active work zone or the individual was also convicted of a
27 violation of section 1501, 1543, [3316,] 3318, 3325 or 3327.

28 § 3732.1. Aggravated assault by vehicle.

29 * * *

30 (b) Sentencing.--

1 * * *

2 (2) In addition to any other penalty provided by law, a
3 person convicted of a violation of subsection (a) who is also
4 convicted of a violation of section 1501 (relating to drivers
5 required to be licensed), 1543 (relating to driving while
6 operating privilege is suspended or revoked), [3316 (relating
7 to prohibiting text-based communications),] 3318 (relating to
8 prohibiting use of interactive wireless communications
9 devices), 3325 (relating to duty of driver on approach of
10 emergency vehicle) or 3327 (relating to duty of driver in
11 emergency response areas) may be sentenced to an additional
12 term not to exceed two years' confinement.

13 * * *

14 (4) The Pennsylvania Commission on Sentencing, under 42
15 Pa.C.S. § 2154 (relating to adoption of guidelines for
16 sentencing), shall provide for a sentencing enhancement for
17 an offense under this section when the violation occurred in
18 an active work zone or the individual was also convicted of a
19 violation of section 1501, 1543, [3316,] 3318, 3325 or 3327.
20 Section 6. This act shall take effect in 180 days.