

(UPDATED THROUGH P.L. 2007, ch. 351 and J.R. 16)

TITLE 39 MOTOR VEHICLES AND TRAFFIC REGULATION

39:4-97.3 Use of wireless telephone, electronic communication device in moving vehicle; definitions; enforcement.

▶▶39:4-97.3◀◀ Use of wireless telephone, electronic communication device in moving vehicle; definitions; enforcement.

1. a. The use of a wireless telephone or electronic communication device by an operator of a moving motor vehicle on a public road or highway shall be unlawful except when the telephone is a hands-free wireless telephone or the electronic communication device is used hands-free, provided that its placement does not interfere with the operation of federally required safety equipment and the operator exercises a high degree of caution in the operation of the motor vehicle. For the purposes of this section, an "electronic communication device" shall not include an amateur radio.

b. The operator of a motor vehicle may use a hand-held wireless telephone while driving with one hand on the steering wheel only if:

(1) The operator has reason to fear for his life or safety, or believes that a criminal act may be perpetrated against himself or another person; or

(2) The operator is using the telephone to report to appropriate authorities a fire, a traffic accident, a serious road hazard or medical or hazardous materials emergency, or to report the operator of another motor vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs. A hand-held wireless telephone user's telephone records or the testimony or written statements from appropriate authorities receiving such calls shall be deemed sufficient evidence of the existence of all lawful calls made under this paragraph.

As used in this act, "hands-free wireless telephone" means a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a conversation without the use of either hand; provided, however, this definition shall not preclude the use of either hand to activate, deactivate, or initiate a function of the telephone.

"Use" of a wireless telephone or electronic communication device shall include, but not be limited to, talking or listening to another person on the telephone, text messaging, or sending an electronic message via the wireless telephone or electronic communication device.

c. (Deleted by amendment, P.L.2007, c.198).

d. A person who violates this section shall be fined \$100.

e. No motor vehicle points or automobile insurance eligibility points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall be assessed for this offense.

f. The Chief Administrator of the New Jersey Motor Vehicle Commission shall develop and undertake a program to notify and inform the public as to the provisions of this act.

g. Whenever this section is used as an alternative offense in a plea agreement to any other offense in Title 39 of the Revised Statutes that would result in the assessment of motor vehicle points, the penalty shall

be the same as the penalty for a violation of section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge imposed pursuant to subsection f. of that section, and a conviction under this section shall be considered a conviction under section 1 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining subsequent enhanced penalties under that section.

L.2003, c.310, s.1; amended 2007, c.198, s.1.

39:4-97.4 Inapplicability of act to certain officials.

2. The prohibitions set forth in this act shall not be applicable to any of the following persons while in the actual performance of their official duties: a law enforcement officer; a member of a paid, part-paid, or volunteer fire department or company; or an operator of an authorized emergency vehicle.

L.2003,c.310,s.2.

39:4-97.5 Supersedure, preemption of local ordinances.

3. This act supersedes and preempts all ordinances of any county or municipality with regard to the use of a wireless telephone or electronic communication device by an operator of a motor vehicle.

L.2003, c.310, s.3; amended 2007, c.198, s.2.

