

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 89

(Delegates Ebersole and Atterbeary)

Environment and Transportation

Judicial Proceedings

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Vehicle Laws - Use of Handheld Telephone While Driving - Penalty

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This bill increases to \$500 the maximum fine for the unlawful use of a handheld telephone while driving; the bill applies to licensed, adult drivers, including adult learner's permit holders. Accordingly, the bill repeals the existing, tiered maximum fines for a violation – \$75 for a first offense, \$125 for a second offense, and \$175 for a third or subsequent offense.

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Fiscal Summary

**State Effect:** Alteration of the maximum fine is not expected to materially impact State finances, as discussed below. Enforcement can be handled with existing resources.

**Local Effect:** Enforcement can be handled with existing resources. Revenues are not affected.

**Small Business Effect:** None.

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Analysis

**Current Law:**

*Handheld Telephones*

A “handheld telephone” means a handheld device used to access a wireless telephone service.

The driver of a school vehicle that is carrying passengers and is in motion is prohibited from using a handheld telephone while operating a motor vehicle. The prohibition against using a handheld telephone while operating a motor vehicle also applies to the holder of a learner's instructional permit or provisional driver's license who is age 18 or older. Any other adult driver of a motor vehicle that is in motion may only use the driver's hands to initiate or terminate a wireless telephone call or to turn the handheld telephone on or off; otherwise, the driver may not use a handheld telephone.

These prohibitions do not apply to the emergency use of a handheld telephone, including calls to a 9-1-1 system, hospital, ambulance service provider, fire department, law enforcement agency, or first aid squad. These prohibitions also do not apply to law enforcement or emergency personnel when acting within the scope of official duty or the use of push-to-talk technology by a commercial operator. A court may waive the penalty for a first offender who provides proof that the person has acquired hands-free equipment to comply with State law.

A violation of the above provisions is a misdemeanor, subject to a maximum fine of \$175 for a third or subsequent offense; the maximum fines for a first and second offense are \$75 and \$125, respectively. The prepayment penalty established by the District Court is (1) \$83 for a first offense; (2) \$140 for a second offense; and (3) \$160 for a third or subsequent offense. The Motor Vehicle Administration (MVA) does not assess points for this offense unless the violation contributes to an accident, in which case three points are assessed against the violator's license.

Except as otherwise specified, a violation of the Maryland Vehicle Law is a misdemeanor, and a violator is subject to a maximum fine of \$500.

#### *Use of Other Wireless Devices while Driving*

No individual may, except to access a global positioning system or contact a 9-1-1 system, use a text messaging device to write, send, or read a text message or other electronic message while operating a motor vehicle on the roadway. In addition, an individual younger than age 18 may not, except to contact a 9-1-1 system, use a wireless communication device while operating a motor vehicle. A "wireless communication device" is a handheld or hands-free device used to access wireless telephone service.

A violation of these provisions is a misdemeanor, and a violator is subject to a maximum fine of \$500. MVA may suspend, for up to 90 days, the driver's license of a minor who unlawfully uses a wireless communication or text messaging device while operating a motor vehicle, and MVA may issue a restricted license, as specified, for the period of suspension. The prepayment penalty established by the District Court for a violation of these provisions is \$70 or, if the offense contributes to an accident, \$110. MVA assesses one point or, if the offense contributes to an accident, three points against a violator's license.

### *Accidents Resulting in Death or Serious Bodily Harm*

If an individual uses a handheld telephone or text messaging device while operating a motor vehicle and causes an accident that results in death or serious bodily injury, the maximum penalty increases to one year imprisonment and/or a \$5,000 fine. This offense requires an appearance in court to answer the charge, so there is no prepayment penalty available. MVA is required to assess 12 points against the violator's license for this offense, which subjects the driver to license revocation.

**Background:** The District Court reports that, in fiscal 2018, 31,855 citations were issued to fully licensed adult drivers for unlawful use of a handheld telephone while driving. Another 46 citations were issued for unlawful use of a handheld telephone while driving a school vehicle, and 114 citations were issued to adult holders of learner's instructional permits and provisional licenses for unlawful use of a handheld telephone while driving.

**State Revenues:** For misdemeanors under the Maryland Vehicle Law, the District Court has discretion to set the prepayment penalty. The existing prepayment penalties for the unlawful use of a handheld telephone are \$83, \$140, and \$160 for first, second, and third or subsequent offenses, respectively. The District Court reports that, in fiscal 2018, 21,921 of the 32,015 citations issued under the Communications Traffic Safety Act – approximately 68% – were prepaid.

General fund revenues may increase or decrease depending on (1) the prepayment penalties set by the District Court and (2) the extent to which the increased maximum penalty for the offenses encourages more violators to opt for prepayment. Due to the unavailability of data on the collection of prepaid fines under each offense tier and the District Court's discretion in determining prepayment penalties, any impact cannot be reliably quantified at this time. However, the Department of Legislative Services advises that the bill's alteration of the maximum fine is not expected to materially impact State finances.

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### **Additional Information**

**Prior Introductions:** HB 42 of 2018 passed the House and passed the Senate with amendments; a conference committee was appointed, but no further action was taken. HB 242 of 2017 passed the House but received an unfavorable report from the Senate Judicial Proceedings Committee. HB 212 of 2016 passed the House as amended and received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 6, 2019  
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