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**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Legislation increasing penalties for driving while using a cellphone signed into law," South Jersey Times, 6-28-13

"Readers doubt stiffer penalties will cut drivers' cellphone use," The Record, 6-28-13

"Penalties stiffened for texting, talking," The Press, 6-28-13

"Fines raised for cell use in car," The Philadelphia Inquirer, 6-28-13

"Stiffer penalties for those who text and drive," The Star-Ledger, 6-28-13

LAW/RWH

P.L.2013, CHAPTER 70, *approved June 27, 2013*  
Senate, No. 69 (*Third Reprint*)

1 AN ACT concerning the use of wireless telephones and electronic  
2 communication devices in motor vehicles and amending P.L.2003,  
3 c.310.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 1 of P.L.2003, c.310 (C.39:4-97.3) is amended to  
9 read as follows:

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

20 Nothing in P.L.2003, c.310 (C.39:4-97.3 et seq.) shall apply to  
21 the use of a citizen's band radio or two-way radio by an operator of  
22 a moving commercial motor vehicle or authorized emergency  
23 vehicle on a public road or highway.

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

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

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

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SLP committee amendments adopted June 4, 2012.

<sup>2</sup>Assembly ALP committee amendments adopted December 13, 2012.

<sup>3</sup>Assembly floor amendments adopted February 14, 2013.

1 As used in this act:

2 "Citizen's band radio" means a mobile communication device  
3 designed to allow for the transmission and receipt of radio  
4 communications on frequencies allocated for citizen's band radio  
5 service use.

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

13 "Two-way radio" means two-way communications equipment  
14 that uses VHF frequencies approved by the Federal  
15 Communications Commission.

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

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

22 d. A person who violates this section shall be fined **[\$100]**  
23 **2[\$200 for a first offense, \$400 for a second offense, and \$600 for a**  
24 **third or subsequent offense]** as follows:

25 (1) for a first offense, not less than \$200 or more than \$400;

26 (2) for a second offense, not less than \$400 or more than \$600;  
27 and

28 (3) for a third or subsequent offense, not less than \$600 or more  
29 than \$800<sup>2</sup> .

30 For a third or subsequent violation, the court, in its discretion,  
31 may order the person to forfeit the right to operate a motor vehicle  
32 over the highways of this State for a period of 90 days. In addition,  
33 a person convicted of a third or subsequent violation shall be  
34 assessed three motor vehicle penalty points pursuant to section 1 of  
35 P.L.1982, c.43 <sup>1</sup>[(C.39:5-30.5) (C.39:5-30.5)]<sup>1</sup> .

36 A person who has been convicted of a previous violation of this  
37 section need not be charged as a second <sup>1</sup>[of] or<sup>1</sup> subsequent  
38 offender in the complaint made against him in order to render him  
39 liable to the punishment imposed by this section on a second or  
40 subsequent offender, but if the second offense occurs more than 10  
41 years after the first offense, the court shall treat the second  
42 conviction as a first offense for sentencing purposes and if a third  
43 offense occurs more than 10 years after the second offense, the  
44 court shall treat the third conviction as a second offense for  
45 sentencing purposes.

46 e. **[No]** Except as provided in subsection d. of this section, no  
47 motor vehicle penalty points or automobile insurance eligibility

1 points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall  
2 be assessed for this offense.

3 f. The Chief Administrator of the New Jersey Motor Vehicle  
4 Commission shall develop and undertake a program to notify and  
5 inform the public as to the provisions of this act. <sup>1</sup>Notwithstanding  
6 the provisions of R.S.39:5-41, the fines assessed pursuant to  
7 subsection d. of this section shall be collected by the court and  
8 <sup>3</sup>distributed as follows: 50 percent of the fine imposed shall be paid  
9 to the county and municipality wherein the violation occurred, to be  
10 divided equally, and 50 percent of the fine imposed shall be<sup>3</sup> paid to  
11 the State Treasurer, who shall allocate the fine monies to the chief  
12 administrator to be used for this public education program, which  
13 shall include informing motorists of the dangers of texting while  
14 driving.<sup>1</sup>

15 g. Whenever this section is used as an alternative offense in a  
16 plea agreement to any other offense in Title 39 of the Revised  
17 Statutes that would result in the assessment of motor vehicle points,  
18 the penalty shall be the same as the penalty for a violation of  
19 section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge  
20 imposed pursuant to subsection f. of that section, and a conviction  
21 under this section shall be considered a conviction under section 1  
22 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining  
23 subsequent enhanced penalties under that section.

24 (cf: P.L.2010, c.40, s.1)

25

26 2. This act shall take effect on the first day of the thirteenth  
27 month following enactment.

28

29

30

31

32 \_\_\_\_\_  
33 Increases fine and imposes license suspension for talking or  
texting on hand-held device while driving.

# SENATE, No. 69

## STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

**Senators Scutari and Turner**

**SYNOPSIS**

Increases fine and imposes license suspension for talking or texting on hand-held device while driving.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 6/5/2012)**

1 AN ACT concerning the use of wireless telephones and electronic  
2 communication devices in motor vehicles and amending P.L.2003,  
3 c.310.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

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8 1. Section 1 of P.L.2003, c.310 (C.39:4-97.3) is amended to  
9 read as follows:

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

20 Nothing in P.L.2003, c.310 (C.39:4-97.3 et seq.) shall apply to  
21 the use of a citizen's band radio or two-way radio by an operator of  
22 a moving commercial motor vehicle or authorized emergency  
23 vehicle on a public road or highway.

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

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

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

40 As used in this act:

41 "Citizen's band radio" means a mobile communication device  
42 designed to allow for the transmission and receipt of radio  
43 communications on frequencies allocated for citizen's band radio  
44 service use.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

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

8 "Two-way radio" means two-way communications equipment  
9 that uses VHF frequencies approved by the Federal  
10 Communications Commission.

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

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

17 d. A person who violates this section shall be fined **[\$100]**  
18 \$200 for a first offense, \$400 for a second offense, and \$600 for a  
19 third or subsequent offense. For a third or subsequent violation, the  
20 court, in its discretion, may order the person to forfeit the right to  
21 operate a motor vehicle over the highways of this State for a period  
22 of 90 days. In addition, a person convicted of a third or subsequent  
23 violation shall be assessed three motor vehicle penalty points  
24 pursuant to section 1 of P.L.1982, c.43 (C39:5-30.5).

25 A person who has been convicted of a previous violation of this  
26 section need not be charged as a second or subsequent offender in  
27 the complaint made against him in order to render him liable to the  
28 punishment imposed by this section on a second or subsequent  
29 offender, but if the second offense occurs more than 10 years after  
30 the first offense, the court shall treat the second conviction as a first  
31 offense for sentencing purposes and if a third offense occurs more  
32 than 10 years after the second offense, the court shall treat the third  
33 conviction as a second offense for sentencing purposes.

34 e. **[No]** Except as provided in subsection d. of this section, no  
35 motor vehicle penalty points or automobile insurance eligibility  
36 points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall  
37 be assessed for this offense.

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

41 g. Whenever this section is used as an alternative offense in a  
42 plea agreement to any other offense in Title 39 of the Revised  
43 Statutes that would result in the assessment of motor vehicle points,  
44 the penalty shall be the same as the penalty for a violation of  
45 section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge  
46 imposed pursuant to subsection f. of that section, and a conviction  
47 under this section shall be considered a conviction under section 1



1 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining  
2 subsequent enhanced penalties under that section.  
3 (cf: P.L.2010, c.40, s.1)

4  
5 2. This act shall take effect on the first day of the thirteenth  
6 month following enactment.

7  
8  
9 STATEMENT

10  
11 This bill imposes increased fines for multiple offenses of talking  
12 on a hand-held wireless telephone or texting a message with a hand-  
13 held wireless electronic communication device while driving.

14 Under current law, the fine for this motor vehicle violation is  
15 \$100. This bill would increase that fine to \$200 for a first offense,  
16 \$400 for a second offense, and \$600 for third or subsequent  
17 offenses.

18 The bill also permits the court at its discretion to impose a 90-  
19 day driver's license suspension for persons convicted of the offense  
20 for a third or subsequent time. In addition, third and subsequent  
21 offenders would receive three motor vehicle penalty points.

22 Under the bill, a person convicted of a second offense of driving  
23 while talking or texting on a hand-held device would be treated as a  
24 first time offender for sentencing purposes if the second offense  
25 occurs more than 10 years after the first offense. Similarly, a  
26 person convicted of a third offense would be treated as a second-  
27 time offender for sentencing purposes if the third offense occurs  
28 more than ten years after the second offense.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **SENATE, No. 69**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 4, 2012

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 69.

This bill increases the fine for a first offense of talking on a hand-held wireless telephone or texting a message with a hand-held wireless electronic communication device while driving and provides for increased fines for multiple offenses.

Under current law, the fine for this motor vehicle violation is \$100. This bill increases that fine to \$200 for a first offense, \$400 for a second offense, and \$600 for third or subsequent offenses.

The bill also permits the court, in its discretion, to impose a 90 day driver's license suspension for persons convicted of the offense for a third or subsequent time. In addition, third and subsequent offenders would receive three motor vehicle penalty points.

Under this bill, a person convicted of a second offense of driving while talking or texting on a hand-held device would be treated as a first-time offender for sentencing purposes if the second offense occurs more than 10 years after the first offense. Similarly, a person convicted of a third offense would be treated as a second-time offender for sentencing purposes if the third offense occurs more than 10 years after the second offense.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

The committee amended the bill to include a provision that requires the fines imposed on violators to be used for the public education program to inform motorists of the dangers of texting and driving. The Chief Administrator of the New Jersey Motor Vehicle Commission was required to develop and undertake a public education program pursuant to the legislation that was enacted in 2003 which permitted the use of only hands-free wireless devices while driving. The committee also made technical amendments to the bill.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## SENATE, No. 69

# STATE OF NEW JERSEY

DATED: JUNE 18, 2012

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 69 (1R).

The bill imposes increased fines for first and subsequent offenses of talking on a hand-held wireless telephone or texting a message with a hand-held wireless electronic communication device while driving.

Under current law, the fine for this motor vehicle violation is \$100. This bill would increase that fine to \$200 for a first offense, \$400 for a second offense, and \$600 for third or subsequent offenses. All fines collected will be paid to the State Treasurer for allocation to the Chief Administrator of the Motor Vehicle Commission (MVC) for use in the commission's public education program on this offense, which will include informing motorists of the dangers of texting while driving.

The bill also permits the court at its discretion to impose a 90-day driver's license suspension for persons convicted of the offense for a third or subsequent time. In addition, third and subsequent offenders would receive three motor vehicle penalty points.

Under the bill, a person convicted of a second offense of driving while talking or texting on a hand-held device would be treated as a first time offender for sentencing purposes if the second offense occurs more than 10 years after the first offense. Similarly, a person convicted of a third offense would be treated as a second-time offender for sentencing purposes if the third offense occurs more than ten years after the second offense.

It is the committee's understanding that this bill commemorates victims who were killed or seriously injured by the illegal use of a cell phone while driving: Helen Kulesh, who was tragically killed by a person who was using a cell phone while driving; David and Linda Kubert, who were both severely injured by a driver who was illegally using a cell phone; and Toni Bolis and her son Ryan Jeffery Bolis, who died in a motor vehicle accident that was allegedly caused by a person who was using a cell phone while driving.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that this bill will provide an increase in revenue for the State by redirecting collected fine money from the counties and municipalities to the N.J. Motor Vehicle Commission for an anti-texting public education program and by increasing fines where the State is issuing the fine. County and municipalities may experience an increase in expenditures based on the mandatory court appearance requirement and a decrease in revenues as the fines have been redirected to the State.

The bill also increases State expenditures by requiring the fines collected by the court and redirected to the State Treasurer be used by the MVC for a State public relations campaign. The Administrative Office of the Courts noted that from June 2011 to May 2012 there were 81,133 guilty pleas. At present, the county and the municipality split the fine revenue. Under current law the fine is \$100 and would have provided an estimated \$8,113,300 in total revenue in this same duration.

If the offenses occur at a similar rate of the past year and assuming that all 80,000 pleas were first offenses, OLS estimates that the fines would raise \$16,226,600 million for the MVC public education campaign in the first year.

During a Senate Law and Public Safety committee hearing on a similar bill (Senate Bill No. 2181 of 2010), a representative from the Administrative Office of the Courts noted that any graduation in fines, such as in this bill, requires a mandatory court appearance. It is the understanding of OLS, however, that a court fee could be assessed in addition to the fine money to offset the increase in the number of hearings.

According to information provided informally by the MVC, implementation of the increased fines will require system and programming changes, and will also involve additional materials and staff costs relating to the changes. The MVC estimates these costs will total approximately \$110,000.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 69

### STATE OF NEW JERSEY 215th LEGISLATURE

DATED: JUNE 20, 2012

#### SUMMARY

- Synopsis:** Increases fine and imposes license suspension for talking or texting on hand-held device while driving.
- Type of Impact:** State Revenue Gain. General Fund.  
County and Municipal Revenue Loss and Expenditure Increase.
- Agencies Affected:** New Jersey Motor Vehicle Commission.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate Expenditure Increase – See Below		
<b>State Revenue</b>	Indeterminate Revenue Increase – See Below		
<b>Local Cost</b>	Indeterminate Expenditure Increase – See Below		
<b>Local Revenue</b>	Indeterminate Revenue Decrease – See Below		

- The Office of Legislative Services (OLS) notes that this bill will provide an increase in revenue for the State by redirecting collected fine money from the counties and municipalities to the New Jersey Motor Vehicle Commission (MVC) for an anti-texting public education program and by increasing fines in cases where the State is issuing the fine. County and municipalities may experience an increase in expenditures based on the mandatory court appearance requirement and a decrease in revenues as the fines have been redirected to the State.
- State expenditures will increase due to required spending for an anti texting education program, by an amount up to the increase in State revenue resulting from this bill.
- Increases fine from \$100 to \$200 for a first offense, \$400 for a second offense, and \$600 for third or subsequent offenses. Upon the third or subsequent offense, three motor vehicle penalty points are assessed.

- The Administrative Office of the Courts noted that from June 2011 to May 2012 there were 81,133 guilty pleas for this offense.

## **BILL DESCRIPTION**

Senate Bill No. 69 (1R) of 2012 increases the fine for a first offense of talking on a handheld wireless telephone or texting a message with a hand-held wireless electronic communication device while driving and provides for increased fines for multiple offenses.

Under current law, the fine for this motor vehicle violation is \$100. This bill increases that fine to \$200 for a first offense, \$400 for a second offense, and \$600 for third or subsequent offenses.

The bill also permits the court, in its discretion, to impose a 90 day driver's license suspension for persons convicted of the offense for a third or subsequent time. In addition, third and subsequent offenders would receive three motor vehicle penalty points.

Under this bill, a person convicted of a second offense of driving while talking or texting on a hand-held device would be treated as a first-time offender for sentencing purposes if the second offense occurs more than 10 years after the first offense. Similarly, a person convicted of a third offense would be treated as a second-time offender for sentencing purposes if the third offense occurs more than 10 years after the second offense.

The bill requires the fines imposed on violators to be used for the public education program to inform motorists of the dangers of texting and driving. The Chief Administrator of the MVC was required to develop and undertake a public education program pursuant to the legislation that was enacted in 2003 which permitted the use of only hands-free wireless devices while driving.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that this bill will provide an increase in revenue for the State by redirecting collected fine money from the counties and municipalities to the MVC for an anti-texting public education program and by increasing fines where the State is issuing the fine. County and municipalities may experience an increase in expenditures based on the mandatory court appearance requirement and a decrease in revenues as the fines have been redirected to the State.

The bill also increases State expenditures by requiring the fines collected by the court and redirected to the State Treasurer be used by the MVC for a State public relations campaign. The Administrative Office of the Courts noted that from June 2011 to May 2012 there were 81,133 guilty pleas. At present, the county and the municipality split the fine revenue. Under current law the fine is \$100 and would have provided an estimated \$8,113,300 in total revenue in this same duration.

If the offenses occur at a similar rate of the past year and assuming that all 80,000 pleas were first offenses, the OLS estimates that the fines would raise \$16,226,600 million for the MVC public education campaign in the first year.

During a Senate Law and Public Safety committee hearing on a similar bill (Senate Bill No. 2181 of 2010), a representative from the Administrative Office of the Courts noted that any graduation in fines, such as in this bill, requires a mandatory court appearance. It is the understanding of the OLS, however, that a court fee could be assessed in addition to the fine money to offset the increase in the number of hearings.

According to information provided informally by the MVC, implementation of the increased fines will require system and programming changes, and will also involve additional materials and staff costs relating to the changes. The MVC estimates these costs will total approximately \$110,000.

*Section: Law and Public Safety*  
*Analyst: Kristin Brunner Santos*  
*Senior Fiscal Analyst*  
*Approved: David J. Rosen*  
*Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

[First Reprint]

## SENATE, No. 69

with committee amendments

# STATE OF NEW JERSEY

DATED: DECEMBER 13, 2012

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 69 (1R).

As amended and reported by the committee, Senate Bill No. 69 (1R), imposes increased fines for first, second and subsequent offenses of talking on a hand-held wireless telephone or texting a message with a hand-held wireless electronic communication device while driving.

Under current law, the fine for this motor vehicle violation is \$100. As introduced, the bill increased the fines to \$200 for a first offense, \$400 for a second offense, and \$600 for third or subsequent offenses. As amended, this bill increases the fines to \$200 to \$400 for a first offense, \$400 to \$600 for a second offense, and \$600 to \$800 for third or subsequent offenses. All fines collected are to be paid to the State Treasurer for allocation to the Chief Administrator of the Motor Vehicle Commission (MVC) for use in the MVC's public education program on this offense, which will include informing motorists of the dangers of texting while driving.

The amended bill also permits the court, at its discretion, to impose a 90-day driver's license suspension for persons convicted of the offense for a third or subsequent time. In addition, third and subsequent offenders would receive three motor vehicle penalty points.

Under the amended bill, a person convicted of a second offense of driving while talking or texting on a hand-held device would be treated as a first time offender for sentencing purposes if the second offense occurs more than 10 years after the first offense. Similarly, a person convicted of a third offense would be treated as a second-time offender for sentencing purposes if the third offense occurs more than 10 years after the second offense.

It is the committee's understanding that this bill commemorates victims who were killed or seriously injured by the illegal use of a cell phone while driving: Helen Kulesh, who was tragically killed by a person who was using a cell phone while driving; David and Linda Kubert, who were both severely injured by a driver who was illegally



using a cell phone; and Toni Bolis and her son Ryan Jeffery Bolis, who died in a motor vehicle accident that was allegedly caused by a person who was using a cell phone while driving.

As amended, this bill is identical to Assembly Bill No. 1080, as amended and reported by the committee on this same date.

COMMITTEE AMENDMENTS

The committee amended the bill to increase the fine for a first offense from \$200 to a range of \$200 to \$400, increase the fine for a second offense from \$400 to a range of \$400 to \$600, and increase the fine for a third or subsequent offense from \$600 to a range of \$600 to \$800.

# STATEMENT TO

## [Second Reprint] **SENATE, No. 69**

with Assembly Floor Amendments  
(Proposed by Assemblywoman QUIJANO)

ADOPTED: FEBRUARY 14, 2013

Senate Bill No. 69 (2R) imposes increased fines for first, second and subsequent offenses of talking on a hand-held wireless telephone or texting a message with a hand-held wireless electronic communication device while driving. Specifically, this bill increases the fines to \$200 to \$400 for a first offense, \$400 to \$600 for a second offense, and \$600 to \$800 for third or subsequent offenses.

Under the provisions of this bill, all fines collected are to be paid to the State Treasurer for allocation to the Chief Administrator of the Motor Vehicle Commission (MVC) for use in the MVC's public education program on this offense, which will include informing motorists of the dangers of texting while driving.

These Assembly amendments change the distribution of the fines collected pursuant to this bill. Under these amendments, 50 percent of the fines collected are to be paid to and divided equally between the county and municipality where the violation occurred, and 50 percent of the fines collected are to be paid to the State Treasurer for allocation to the MVC for use in the public education program.

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## SENATE, No. 69

### STATE OF NEW JERSEY 215th LEGISLATURE

DATED: MARCH 25, 2013

#### SUMMARY

- Synopsis:** Increases fine and imposes license suspension for talking or texting on hand-held device while driving.
- Type of Impact:** State Revenue Gain, General Fund.  
County and Municipal Revenue and Expenditure Increase.
- Agencies Affected:** New Jersey Motor Vehicle Commission; Department of the Treasury; County and Municipalities.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate Expenditure Increase – See comments below		
<b>State Revenue</b>	Indeterminate Revenue Increase – See comments below		
<b>Local Cost</b>	Indeterminate Expenditure Increase – See comments below		
<b>Local Revenue</b>	Indeterminate Revenue Increase – See comments below		

- The Office of Legislative Services (OLS) notes that this bill will provide an increase in revenue for the State, county, and municipalities as the assessed fines, which are divided, increase. Counties and municipalities may experience an increase in expenditures as a result of increased mandatory court appearances.
- The New Jersey Motor Vehicle Commission expenditures will increase to provide the required anti-texting education program, by an amount up to the increase in State revenue resulting from this bill.
- Increases fine from \$100 to the following: between \$200 and \$400 for a first offense; between \$400 and \$600 for a second offense; and between \$600 and \$800 for third or subsequent offenses. Upon the third or subsequent offense, three motor vehicle penalty points are to be assessed.

- The Administrative Office of the Courts noted that from June 2011 to May 2012 there were 81,133 guilty pleas for this offense.

## **BILL DESCRIPTION**

Senate Bill No. 69 (3R) of 2012 increases the fine for a first offense of talking on a hand-held wireless telephone or texting a message with a hand-held wireless electronic communication device while driving and provides for increased fines for multiple offenses.

Under current law, the fine for this motor vehicle violation is \$100. This bill increases that fine to between \$200 and \$400 for a first offense, \$400 to \$600 for a second offense, and \$600 to \$800 for third or subsequent offenses in the courts discretion.

The bill also permits the court, in its discretion, to impose a 90 day driver's license suspension for persons convicted of the offense for a third or subsequent time. In addition, third and subsequent offenders would receive three motor vehicle penalty points.

Under this bill, a person convicted of a second offense of driving while talking or texting on a hand-held device would be treated as a first-time offender for sentencing purposes if the second offense occurs more than 10 years after the first offense. Similarly, a person convicted of a third offense would be treated as a second-time offender for sentencing purposes if the third offense occurs more than 10 years after the second offense.

The bill requires fifty percent of fines imposed on violators to be used for the public education program to inform motorists of the dangers of texting and driving. The Chief Administrator of the New Jersey Motor Vehicle Commission was required to develop and undertake a public education program pursuant to the legislation that was enacted in 2003 which permitted the use of only hands-free wireless devices while driving. The remaining fifty percent of the fine is divided equally between the county and municipality where the violation occurred.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that this bill will provide an increase in revenue for the State, county, and municipalities as the assessed fines, which are divided, increase. The New Jersey Motor Vehicle Commission will expend revenue to conduct an anti-texting public education program and counties and municipalities may experience an increase in expenditures based on the mandatory court appearance requirement.

The Administrative Office of the Courts noted that from June 2011 to May 2012 there were 81,133 guilty pleas. Under current law the fine is \$100 and would have provided an estimated \$8,113,300 in total revenue in this same duration.

If the offenses occur at a similar rate of the past year and assuming that all 80,000 pleas were first offenses, OLS estimates that the fines would at minimum double the revenue for the State, counties, and municipalities.

During a Senate Law and Public Safety committee hearing on a similar bill (Senate Bill No. 2181 of 2010), a representative from the Administrative Office of the Courts noted that any graduation in fines, such as in this bill, requires a mandatory court appearance. It is the understanding of OLS, however, that a court fee could be assessed in addition to the fine money to offset costs that could result from the increase in the number of hearings.

According to information provided informally by the MVC, implementation of the increased fines will require system and programming changes, and will also involve additional materials and staff costs relating to the changes. The MVC estimates these costs will total approximately \$110,000.

*Section: Law and Public Safety*

*Analyst: Kristin Brunner Santos  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 1080

## STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblywoman L. GRACE SPENCER**

**District 29 (Essex)**

**Assemblywoman NANCY F. MUNOZ**

**District 21 (Morris, Somerset and Union)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblyman ANGEL FUENTES**

**District 5 (Camden and Gloucester)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

**Assemblyman Diegnan, Assemblywoman Handlin, Assemblymen McKeon  
and Ciattarelli**

**SYNOPSIS**

Increases fine and imposes license suspension for talking or texting on hand-held device while driving.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 6/29/2012)**

1 AN ACT concerning the use of wireless telephones and electronic  
2 communication devices in motor vehicles and amending P.L.2003,  
3 c.310.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 1 of P.L.2003, c.310 (C.39:4-97.3) is amended to  
9 read as follows:

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

20 Nothing in P.L.2003, c.310 (C.39:4-97.3 et seq.) shall apply to  
21 the use of a citizen's band radio or two-way radio by an operator of  
22 a moving commercial motor vehicle or authorized emergency  
23 vehicle on a public road or highway.

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

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

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

40 As used in this act:

41 "Citizen's band radio" means a mobile communication device  
42 designed to allow for the transmission and receipt of radio  
43 communications on frequencies allocated for citizen's band radio  
44 service use.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

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

8 "Two-way radio" means two-way communications equipment  
9 that uses VHF frequencies approved by the Federal  
10 Communications Commission.

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

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

17 d. A person who violates this section shall be fined **[\$100]**  
18 \$200 for a first offense, \$400 for a second offense, and \$600 for a  
19 third or subsequent offense. For a third or subsequent violation, the  
20 court, in its discretion, may order the person to forfeit the right to  
21 operate a motor vehicle over the highways of this State for a period  
22 of 90 days. In addition, a person convicted of a third or subsequent  
23 violation shall be assessed three motor vehicle penalty points  
24 pursuant to section 1 of P.L.1982, c.43 (C39:5-30.5).

25 A person who has been convicted of a previous violation of this  
26 section need not be charged as a second or subsequent offender in  
27 the complaint made against him in order to render him liable to the  
28 punishment imposed by this section on a second or subsequent  
29 offender, but if the second offense occurs more than 10 years after  
30 the first offense, the court shall treat the second conviction as a first  
31 offense for sentencing purposes and if a third offense occurs more  
32 than 10 years after the second offense, the court shall treat the third  
33 conviction as a second offense for sentencing purposes.

34 e. **[No]** Except as provided in subsection d. of this section, no  
35 motor vehicle penalty points or automobile insurance eligibility  
36 points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall  
37 be assessed for this offense.

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

41 g. Whenever this section is used as an alternative offense in a  
42 plea agreement to any other offense in Title 39 of the Revised  
43 Statutes that would result in the assessment of motor vehicle points,  
44 the penalty shall be the same as the penalty for a violation of  
45 section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge  
46 imposed pursuant to subsection f. of that section, and a conviction  
47 under this section shall be considered a conviction under section 1



1 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining  
2 subsequent enhanced penalties under that section.  
3 (cf: P.L.2010, c.40, s.1)

4  
5 2. This act shall take effect on the first day of the thirteenth  
6 month following enactment.

7  
8  
9 STATEMENT

10  
11 This bill imposes increased fines for multiple offenses of talking  
12 on a hand-held wireless telephone or texting a message with a hand-  
13 held wireless electronic communication device while driving.

14 Under current law, the fine for this motor vehicle violation is  
15 \$100. This bill would increase that fine to \$200 for a first offense,  
16 \$400 for a second offense, and \$600 for third or subsequent  
17 offenses.

18 The bill also permits the court at its discretion to impose a 90-  
19 day driver's license suspension for persons convicted of the offense  
20 for a third or subsequent time. In addition, third and subsequent  
21 offenders would receive three motor vehicle penalty points.

22 Under the bill, a person convicted of a second offense of driving  
23 while talking or texting on a hand-held device would be treated as a  
24 first time offender for sentencing purposes if the second offense  
25 occurs more than 10 years after the first offense. Similarly, a  
26 person convicted of a third offense would be treated as a second-  
27 time offender for sentencing purposes if the third offense occurs  
28 more than ten years after the second offense.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1080**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 13, 2012

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 1080.

As amended and reported by the committee, Assembly Bill No. 1080 imposes increased fines for first, second and subsequent offenses of talking on a hand-held wireless telephone or texting a message with a hand-held wireless electronic communication device while driving.

Under current law, the fine for this motor vehicle violation is \$100. As introduced, the bill increased the fines to \$200 for a first offense, \$400 for a second offense, and \$600 for third or subsequent offenses. This amended bill increases the fines to \$200 to \$400 for a first offense, \$400 to \$600 for a second offense, and \$600 to \$800 for third or subsequent offenses. As amended, all fines collected are to be paid to the State Treasurer for allocation to the Chief Administrator of the Motor Vehicle Commission (MVC) for use in the MVC's public education program on this offense, which will include informing motorists of the dangers of texting while driving.

The amended bill also permits the court, at its discretion, to impose a 90-day driver's license suspension for persons convicted of the offense for a third or subsequent time. In addition, third and subsequent offenders would receive three motor vehicle penalty points.

Under the amended bill, a person convicted of a second offense of driving while talking or texting on a hand-held device would be treated as a first time offender for sentencing purposes if the second offense occurs more than 10 years after the first offense. Similarly, a person convicted of a third offense would be treated as a second-time offender for sentencing purposes if the third offense occurs more than 10 years after the second offense.

It is the committee's understanding that this bill commemorates victims who were killed or seriously injured by the illegal use of a cell phone while driving: Helen Kulesh, who was tragically killed by a person who was using a cell phone while driving; David and Linda Kubert, who were both severely injured by a driver who was illegally using a cell phone; and Toni Bolis and her son Ryan Jeffery Bolis,

who died in a motor vehicle accident that was allegedly caused by a person who was using a cell phone while driving.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

As amended, this bill is identical to Senate Bill No. 69 (1R), also amended and reported by the committee on this same date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) increase the fine for a first offense from \$200 to a range of \$200 to \$400, increase the fine for a second offense from \$400 to a range of \$400 to \$600, and increase the fine for a third or subsequent offense from \$600 to a range of \$600 to \$800;

(2) require that all fines collected under this bill be paid to the State Treasurer for allocation to the Motor Vehicle Commission for use in the MVC's public education program on the offense of driving while talking or texting on a hand-held device; and

(3) make technical amendments.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 1080**

with Assembly Floor Amendments  
(Proposed by Assemblywoman QUIJANO)

ADOPTED: FEBRUARY 14, 2013

Assembly Bill No. 1080 (1R) imposes increased fines for first, second and subsequent offenses of talking on a hand-held wireless telephone or texting a message with a hand-held wireless electronic communication device while driving. Specifically, this bill increases the fines to \$200 to \$400 for a first offense, \$400 to \$600 for a second offense, and \$600 to \$800 for third or subsequent offenses.

Under the provisions of this bill, all fines collected are to be paid to the State Treasurer for allocation to the Chief Administrator of the Motor Vehicle Commission (MVC) for use in the MVC's public education program on this offense, which will include informing motorists of the dangers of texting while driving.

These Assembly amendments change the distribution of the fines collected pursuant to this bill. Under these amendments, 50 percent of the fines collected are to be paid to and divided equally between the county and municipality where the violation occurred, and 50 percent of the fines collected are to be paid to the State Treasurer for allocation to the MVC for use in the public education program.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## ASSEMBLY, No. 1080

### STATE OF NEW JERSEY 215th LEGISLATURE

DATED: MARCH 25, 2013

#### SUMMARY

- Synopsis:** Increases fine and imposes license suspension for talking or texting on hand-held device while driving.
- Type of Impact:** State Revenue Gain, General Fund.  
County and Municipal Revenue and Expenditure Increase.
- Agencies Affected:** New Jersey Motor Vehicle Commission; Department of the Treasury; County and Municipalities.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate Expenditure Increase – See comments below		
<b>State Revenue</b>	Indeterminate Revenue Increase – See comments below		
<b>Local Cost</b>	Indeterminate Expenditure Increase – See comments below		
<b>Local Revenue</b>	Indeterminate Revenue Increase – See comments below		

- The Office of Legislative Services (OLS) notes that this bill will provide an increase in revenue for the State, county, and municipalities as the assessed fines, which are divided, increase. Counties and municipalities may experience an increase in expenditures as a result of increased mandatory court appearances.
- The New Jersey Motor Vehicle Commission expenditures will increase to provide the required anti-texting education program, by an amount up to the increase in State revenue resulting from this bill.
- Increases fine from \$100 to the following: between \$200 and \$400 for a first offense; between \$400 and \$600 for a second offense; and between \$600 and \$800 for third or subsequent offenses. Upon the third or subsequent offense, three motor vehicle penalty points are to be assessed.
- The Administrative Office of the Courts noted that from June 2011 to May 2012 there were 81,133 guilty pleas for this offense.

## **BILL DESCRIPTION**

Assembly Bill No. 1080 (2R) of 2012 increases the fine for a first offense of talking on a hand-held wireless telephone or texting a message with a hand-held wireless electronic communication device while driving and provides for increased fines for multiple offenses.

Under current law, the fine for this motor vehicle violation is \$100. This bill increases that fine to between \$200 and \$400 for a first offense, \$400 to \$600 for a second offense, and \$600 to \$800 for third or subsequent offenses in the courts discretion.

The bill also permits the court, in its discretion, to impose a 90 day driver's license suspension for persons convicted of the offense for a third or subsequent time. In addition, third and subsequent offenders would receive three motor vehicle penalty points.

Under this bill, a person convicted of a second offense of driving while talking or texting on a hand-held device would be treated as a first-time offender for sentencing purposes if the second offense occurs more than 10 years after the first offense. Similarly, a person convicted of a third offense would be treated as a second-time offender for sentencing purposes if the third offense occurs more than 10 years after the second offense.

The bill requires fifty percent of fines imposed on violators to be used for the public education program to inform motorists of the dangers of texting and driving. The Chief Administrator of the New Jersey Motor Vehicle Commission was required to develop and undertake a public education program pursuant to the legislation that was enacted in 2003 which permitted the use of only hands-free wireless devices while driving. The remaining fifty percent of the fine is divided equally between the county and municipality where the violation occurred.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that this bill will provide an increase in revenue for the State, county, and municipalities as the assessed fines, which are divided, increase. The New Jersey Motor Vehicle Commission will expend revenue to conduct an anti-texting public education program and counties and municipalities may experience an increase in expenditures based on the mandatory court appearance requirement.

The Administrative Office of the Courts noted that from June 2011 to May 2012 there were 81,133 guilty pleas. Under current law the fine is \$100 and would have provided an estimated \$8,113,300 in total revenue in this same duration.

If the offenses occur at a similar rate of the past year and assuming that all 80,000 pleas were first offenses, OLS estimates that the fines would at minimum double the revenue for the State, counties, and municipalities.

During a Senate Law and Public Safety committee hearing on a similar bill (Senate Bill No. 2181 of 2010), a representative from the Administrative Office of the Courts noted that any graduation in fines, such as in this bill, requires a mandatory court appearance. It is the understanding of OLS, however, that a court fee could be assessed in addition to the fine money to offset costs that could result from the increase in the number of hearings.

According to information provided informally by the MVC, implementation of the increased fines will require system and programming changes, and will also involve additional materials and staff costs relating to the changes. The MVC estimates these costs will total approximately \$110,000.

*Section: Law and Public Safety*

*Analyst: Kristin Brunner Santos  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).