



**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Law targets drivers using hand-held phones," Home News Tribune, 11-3-07, p. \_\_

"Law targets phone use, sending texts while on the road," The Press, 11-3-07, p. \_\_

"N.J. tightens curbs on drivers with cell phones," The Philadelphia Inquirer, 11-3-07, p. \_\_

"Drivers using cell phones face tougher new law," The Record, 11-3-07, p. \_\_

"Drivers face tougher law on phones," Courier-Post, 11-3-07

"Police can pull over drivers on cell phone," Asbury Park Press, 11-3-07, p. \_\_

"Jersey mandates \$100 fines for cell-phoning at the wheel," The Star-Ledger, 11-3-07, p. \_\_

"Moriarty-sponsored bill on text messaging signed into law," Gloucester County Times, 11-3-07, p. \_\_

"The test of the cell phone ban," The Star-Ledger, 11-3-07, p. \_\_

P.L. 2007, CHAPTER 198, *approved November 2, 2007*  
Senate, No. 1099 (*Second Reprint*)

1 AN ACT concerning the use of wireless telephones <sup>2</sup>and electronic  
2 communication devices<sup>2</sup> 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 read  
9 as follows:

10 1. a. The use of a wireless telephone <sup>2</sup>or electronic  
11 communication device<sup>2</sup> by an operator of a moving motor vehicle  
12 on a public road or highway shall be unlawful except when the  
13 telephone is a hands-free wireless telephone <sup>2</sup>or the electronic  
14 communication device is used hands-free<sup>2</sup>, 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. <sup>2</sup>For the purposes of  
18 this section, an "electronic communication device" shall not include  
19 an amateur radio.<sup>2</sup>

20 b. The operator of a motor vehicle may use a hand-held wireless  
21 telephone while driving with one hand on the steering wheel only if:  
22 (1) The operator has reason to fear for his life or safety, or  
23 believes that a criminal act may be perpetrated against himself or  
24 another person; or

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

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

42 "Use" of a wireless telephone <sup>2</sup>or electronic communication

**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 February 6, 2006.

<sup>2</sup>Assembly ALP committee amendments adopted June 14, 2007.

1 device<sup>2</sup> shall include, but not be limited to, talking or listening to  
2 another person on the telephone <sup>2</sup>, text messaging, or sending an  
3 electronic message via the wireless telephone or electronic  
4 communication device<sup>2</sup>.

5 c. ~~Enforcement of this act by State or local law enforcement~~  
6 ~~officers shall be accomplished only as a secondary action when the~~  
7 ~~operator of a motor vehicle has been detained for a violation of~~  
8 ~~Title 39 of the Revised Statutes or another offense~~ Deleted by  
9 amendment, P.L. , c. (<sup>2</sup>[now]<sup>2</sup> pending before the Legislature  
10 as this bill).

11 d. A person who violates this section shall be fined <sup>2</sup>[no less  
12 than]<sup>2</sup> \$100 <sup>2</sup>[or more than \$250]<sup>2</sup>.

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

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

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

28 (cf: P.L.2003, c.310, s.1)

29

30 <sup>2</sup>2. Section 3 of P.L.2003, c.310 (C.39:4-97.5) is amended to  
31 read as follows:

32 3. This act supersedes and preempts all ordinances of any county  
33 or municipality with regard to the use of a wireless telephone or  
34 electronic communication device by an operator of a motor  
35 vehicle.<sup>2</sup>

36 (cf: P.L.2003, c.310, s.3)

37

38 <sup>2</sup>[2] <sup>3</sup>2. This act shall take effect <sup>1</sup>[immediately] on the first  
39 day of the fourth month <sup>2</sup>[after] following<sup>2</sup> enactment<sup>1</sup>.

40

41

42

43

44 \_\_\_\_\_  
45 Makes it a primary offense for motorists to talk on or text  
46 message with hand-held wireless telephone or electronic  
communication device while driving.

# SENATE, No. 1099

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 26, 2006

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex)**

**Senator JOSEPH A. PALAIA**

**District 11 (Monmouth)**

**SYNOPSIS**

Makes unlawful use of a hand-held wireless telephone while operating a motor vehicle a primary offense.

**CURRENT VERSION OF TEXT**

As introduced.



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

3

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

6

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

9 1. a. The use of a wireless telephone by an operator of a moving  
10 motor vehicle on a public road or highway shall be unlawful except  
11 when the telephone is a hands-free wireless telephone, provided that  
12 its placement does not interfere with the operation of federally  
13 required safety equipment and the operator exercises a high degree  
14 of caution in the operation of the motor vehicle.

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

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

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

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

37 "Use" of a wireless telephone shall include, but not be limited to,  
38 talking or listening to another person on the telephone.

39 c. [Enforcement of this act by State or local law enforcement  
40 officers shall be accomplished only as a secondary action when the  
41 operator of a motor vehicle has been detained for a violation of  
42 Title 39 of the Revised Statutes or another offense] Deleted by  
43 amendment, P.L. , c. (now pending before the Legislature as  
44 this bill).

45 d. A person who violates this section shall be fined no less than

**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 \$100 or more than \$250.

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

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

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

17 (cf: P.L.2003, c.310, s.1)

18

19 2. This act shall take effect immediately.

20

21

22

#### STATEMENT

23

24 Under current law, the use of a hand-held wireless telephone  
25 while operating a moving motor vehicle is enforceable only as a  
26 secondary offense in New Jersey. This means that an offender must  
27 be stopped by a law enforcement officer for some other offense or  
28 violation before a ticket may be issued for unlawfully using a hand-  
29 held wireless telephone.

30 This bill would establish the unlawful use of a hand-held  
31 wireless telephone while operating a motor vehicle as a primary  
32 offense. This change would authorize law enforcement officers to  
33 stop and ticket motorists whenever they are observed unlawfully  
34 using a hand-held wireless telephone.

35 The bill further provides that whenever the offense of unlawfully  
36 using a hand-held wireless telephone is used as an alternative  
37 offense in a plea agreement for another motor vehicle offense that  
38 would result in the assessment of motor vehicle points, the penalty  
39 shall be the same as the penalty for driving or operating a motor  
40 vehicle in an unsafe manner (section 1 of P.L.2000, c.75; C.39:4-  
41 97.2), including the surcharge imposed pursuant to that section. In  
42 addition, a conviction for the offense for unlawfully using a hand-  
43 held wireless telephone as a result of a plea bargain would be  
44 considered a conviction for driving or operating a motor vehicle in  
45 an unsafe manner for the purpose of determining subsequent  
46 enhanced penalties under that section.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

[First Reprint]

## **SENATE, No. 1099**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 14, 2007

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1099 (1R).

As amended and reported by the committee, Senate Bill No. 1099 (1R) makes it a primary motor vehicle offense to use a hand-held wireless telephone or electronic communication device while driving, including using these devices to send a text message.

Current law prohibits the use of a hand-held wireless telephone while operating a motor vehicle, but this law may only be enforced as a secondary offense. In other words, law enforcement officers must stop a motorist for some other offense or violation before they may issue a ticket for this offense. Under the amended bill, motorists could be stopped and ticketed solely for illegally using a hand-held wireless telephone or electronic communication device.

The amended bill also expands the current law to prohibit the use while driving of an electronic communication device, unless it is used hands-free and also prohibits text messaging or sending an electronic message via a wireless telephone or electronic communication device. Under the amended bill, illegally sending a text message while driving also would constitute a primary offense. The amended bill specifies that electronic communication devices do not include amateur radios.

The amended bill further provides that whenever the offense of unlawfully using a hand-held wireless telephone or electronic communication device to talk, listen, or send a text message while driving is used as an alternative offense in a plea agreement for another motor vehicle offense that would result in the assessment of motor vehicle points, the penalty is to be the same as the penalty that would be imposed for driving or operating a motor vehicle in an unsafe manner.

Finally, the amended bill sets the fine for a violation of its provisions at \$100. Under current law, the fine for using a hand-held cell phone while driving ranges from \$100 to \$250. If the fine is paid through the violations bureau, it is \$100, plus \$30 court costs. If a person chooses not to pay the fine through the mail and attend court,



the court has the discretion to impose a fine of up to \$250, plus \$30 court costs.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 4146, also amended and reported by the committee on this same date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- 1) expand the bill's provisions to apply to electronic communication devices;
- 2) specify that electronic communication devices do not include amateur radios;
- 3) prohibit text messaging while driving;
- 4) clarify that the fine is \$100; the current fine is from \$100 to \$250; and
- 5) make technical corrections.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'  
AFFAIRS COMMITTEE

STATEMENT TO

**SENATE, No. 1099**

with committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 6, 2006

Under current law, the use of a hand-held wireless telephone while operating a moving motor vehicle is enforceable only as a secondary offense in New Jersey. This means that an offender must be stopped by a law enforcement officer for some other offense or violation before a ticket may be issued for unlawfully using a hand-held wireless telephone.

This bill would establish the unlawful use of a hand-held wireless telephone while operating a motor vehicle as a primary offense. This change would authorize law enforcement officers to stop and ticket motorists whenever they are observed unlawfully using a hand-held wireless telephone.

The bill further provides that whenever the offense of unlawfully using a hand-held wireless telephone is used as an alternative offense in a plea agreement for another motor vehicle offense that would result in the assessment of motor vehicle points, the penalty shall be the same as the penalty for driving or operating a motor vehicle in an unsafe manner (section 1 of P.L.2000, c.75; C.39:4-97.2), including the surcharge imposed pursuant to that section. In addition, a conviction for the offense for unlawfully using a hand-held wireless telephone as a result of a plea bargain would be considered a conviction for driving or operating a motor vehicle in an unsafe manner for the purpose of determining subsequent enhanced penalties under that section.

The committee amended the bill to provide for a delayed effective date. As introduced, the bill would have been effective immediately.

# ASSEMBLY, No. 4146

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 10, 2007

**Sponsored by:**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Assemblyman DAVID R. MAYER**

**District 4 (Camden and Gloucester)**

**Assemblywoman NILSA CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Co-Sponsored by:**

**Assemblymen Rumpf, Burzichelli, Scalera, Whelan, Assemblywoman Vainieri Huttle, Assemblyman Schaer, Assemblywoman Stender, Assemblymen Conaway, Connors, Diegnan, Assemblywomen Truitt, Lampitt, Assemblymen P. Barnes III, Greenwald, Egan, Gordon and McKeon**

**SYNOPSIS**

Prohibits text messaging while driving.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT prohibiting text messaging while driving and amending  
2 P.L.2003, c.310 (C.39:4-97.3 et seq.).

3

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

6

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

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

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

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

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

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

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

43 c. Enforcement of this act by State or local law enforcement  
44 officers shall be accomplished only as a secondary action when the

**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 operator of a motor vehicle has been detained for a violation of  
2 Title 39 of the Revised Statutes or another offense, except that  
3 enforcement of the provision prohibiting text messaging or sending  
4 an electronic message via a wireless telephone or electronic  
5 communication device may be accomplished as a primary action.

6 d. A person who violates this section shall be fined no less than  
7 \$100 or more than \$250.

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

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

14 (cf: P.L.2003, c.310, s.1)

15  
16 2. Section 3 of P.L.2003, c.310 (C.39:4-97.5) is amended to read  
17 as follows:

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

21 (cf: P.L.2003, c.310, s.3)

22  
23 3. This act shall take effect on the first day of the fourth month  
24 following enactment.

25  
26  
27 STATEMENT

28  
29 This bill would prohibit text messaging or sending an electronic  
30 message via a wireless telephone or electronic communication  
31 device while driving.

32 Under current law, it is unlawful to use a wireless telephone  
33 while driving, unless it is a hands-free wireless telephone. This bill  
34 would expand that prohibition to include electronic communication  
35 devices. The current law defines “use” of a wireless telephone as  
36 including, but not being limited to, talking or listening to another  
37 person on the telephone. This bill would expand that definition to  
38 include, but not be limited to, text messaging or sending an  
39 electronic message via the wireless telephone or electronic  
40 communication device.

41 The current law prohibiting cell phone use while driving  
42 specifies that a violation of its provisions should only be enforced  
43 as a secondary offense. This bill would not change that provision,  
44 but specifies that when the phone or electronic communication  
45 device is used to text message or send an electronic message, the  
46 violation may be enforced as a primary action.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 4146**

**STATE OF NEW JERSEY**

DATED: MAY 10, 2007

The Assembly Consumer Affairs Committee reports favorably on Assembly Bill No. 4146.

Assembly Bill No. 4146 prohibits text messaging or sending an electronic message via a wireless telephone or electronic communication device while driving.

Under current law, it is unlawful to use a wireless telephone while driving, unless it is a hands-free wireless telephone. This bill expands that prohibition to include electronic communication devices. The current law defines "use" of a wireless telephone as including, but not being limited to, talking or listening to another person on the telephone. This bill expands that definition to include, but not be limited to, text messaging or sending an electronic message via the wireless telephone or electronic communication device.

The current law prohibiting cell phone use while driving specifies that a violation of its provisions should only be enforced as a secondary offense. This bill does not change that provision, but specifies that when the phone or electronic communication device is used to text message or send an electronic message, the violation may be enforced as a primary action.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4146**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 14, 2007

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 4146.

As amended and reported by the committee, Assembly Bill No. 4146 makes it a primary motor vehicle offense to use a hand-held wireless telephone or electronic communication device while driving, including using these devices to send a text message.

Current law prohibits the use of a hand-held wireless telephone while operating a motor vehicle, but this law may only be enforced as a secondary offense. In other words, law enforcement officers must stop a motorist for some other offense or violation before they may issue a ticket for this offense. Under the amended bill, motorists could be stopped and ticketed solely for illegally using a hand-held wireless telephone or electronic communication device.

The amended bill also expands the current law to prohibit the use while driving of an electronic communication device, unless it is used hands-free and also prohibits text messaging or sending an electronic message via a wireless telephone or electronic communication device. Under the amended bill, illegally sending a text message while driving also would constitute a primary offense. The amended bill specifies that electronic communication devices do not include amateur radios.

The amended bill further provides that whenever the offense of unlawfully using a hand-held wireless telephone or electronic communication device to talk, listen, or send a text message while driving is used as an alternative offense in a plea agreement for another motor vehicle offense that would result in the assessment of motor vehicle points, the penalty is to be the same as the penalty that would be imposed for driving or operating a motor vehicle in an unsafe manner.

Finally, the amended bill sets the fine for a violation of its provisions at \$100. Under current law, the fine for using a hand-held cell phone while driving ranges from \$100 to \$250. If the fine is paid through the violations bureau, it is \$100, plus \$30 court costs. If a person chooses not to pay the fine through the mail and attend court, the court has the discretion to impose a fine of up to \$250, plus \$30 court costs.

As amended and reported by the committee, this bill is identical to Senate Bill No. 1099 (1R), also amended and reported by the committee on this same date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1) make illegal use of hand-held wireless telephones and electronic communication devices primary offenses;

2) specify that electronic communication devices do not include amateur radios;

3) establish that an offender who pleads to this offense as an alternative to another moving violation for which points are assessed must pay the same penalties as those assessed for driving in an unsafe manner;

4) clarify that the fine is \$100; the current fine is from \$100 to \$250; and

5) make technical corrections.