

CHAPTER 343
FORMERLY
HOUSE SUBSTITUTE NO. 1 FOR
HOUSE BILL NO. 229
AS AMENDED BY
HOUSE AMENDMENT NOS. 2, 4 & 3

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO RULES OF THE ROAD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 21 of the Delaware Code by adding a new §4176C to read as follows:

“§ 4176C. Electronic communication devices; penalties.

“(a) No person shall drive a motor vehicle on any highway while using an electronic communication device while such motor vehicle is in motion.

(b) For the purposes of this section, the following terms shall mean:

(1) ‘cell telephone’ shall mean a cellular, analog, wireless or digital telephone.

(2) ‘electronic communication device’ shall mean a cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device.

(3) ‘hands-free electronic communication device’ shall mean an electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such electronic communication device, by which a user engages in a call without the use of either hand or both hands.

(4) ‘hands-free equipment’ shall mean the internal feature or function of a hands-free electronic communication device or the attachment or addition to a hands-free electronic communication device by which a user may engage in a call without the use of either hand or both hands.

(5) ‘engages or engaging in a call’ shall mean when a person talks into or listens on an electronic communication device, but shall not mean when a person dials or punches a phone number on an electronic communication device.

(6) ‘using’ shall mean holding in a person’s hand or hands an electronic communication device while:

- a. Viewing or transmitting images or data;
- b. Playing games;
- c. Composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages or other electronic data; or
- d. Engaging in a call.

(c) Subsection (a) of this section shall not apply to:

(1) a law-enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;

(2) a person using an electronic communication device 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, or to report any crime.

(3) a person using a cell telephone who is operating a school bus and covered under §4176B of this title;

(4) a person engaging in a call with a hands-free electronic communication device while utilizing hands-free equipment and such person does not hold the hands-free electronic communication device in such person's hand or hands; and

(5) the activation or deactivation of hands-free equipment or a function of hands-free equipment.

(6) a person driving or operating an unregistered farm tractor, farm truck or farm equipment.

(7) Use of an amateur radio by an FCC-licensed amateur radio operator during emergency conditions requiring such use.

(d) Whoever violates this section shall for the 1st offense be subject to a civil penalty of \$50. For each subsequent offense the person shall be subject to a civil penalty of not less than \$100 nor more than \$200.

(e) No motor vehicle points shall be assessed for a violation of this section. Additionally, a violation of this section shall not be made a part of a person's driving record.”.

Section 2. The provisions of this Act shall preempt the provisions of a municipal or county enactment regulating the use of any electronic communication device by a person driving a motor vehicle.

Section 3. This Act shall take effect 180 days after its enactment into law.

Approved July 06, 2010