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HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE BILL NO. 294

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO MOTOR VEHICLES.

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

Section 1. Amend § 4176C, Title 21 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through 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, 2-way messaging device, electronic game, or portable computing device.

(3) "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.

(4) "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.

(5) "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.

(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;

(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; and

(8) A person who during their course of employment with a business or government entity uses a 2-way radio mounted or attached to a motor vehicle to communicate with a central dispatch, base of operation, or with other employees of such business or government entity.

(d) Whoever violates this section shall for the first 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: unless that person was operating a commercial motor vehicle at the time of violation.

Section 2. Amend § 808(a), Title 21 of the Delaware Code by making insertions as shown by underlining as follows:

§ 808. Forwarding of names to the Division of Motor Vehicles.

(a) Except as to persons operating a commercial motor vehicle in violation of Section 4176C of this title, Section 703A of this title shall not apply to persons found responsible for civil traffic offenses. No record of a finding of responsible for a civil traffic violation shall be forwarded to the Division of Motor Vehicles and no entry shall be made on the person's driving record for a civil traffic violation.

SYNOPSIS

This bill requires that a person who is operating a commercial motor vehicle in violation of the “electronic communication devices” law will have such violation made a part of their driving record. This bill keeps Delaware in compliance with the Federal Motor Carrier Safety Administration Regulations pertaining to commercial driver license holders and commercial motor vehicle operators. The use of hand held electronic devices while operating a commercial motor vehicle is considered a “serious violation” under the FMCSA regulations and must become part of a driver’s official record to ensure proper disqualification action can be taken.