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DELAWARE STATE SENATE  
149th GENERAL ASSEMBLY

SENATE BILL NO. 155

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO ROAD CONSTRUCTION FLAGGERS.

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

Section 1. Amend Chapter 5, Title 17 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 533. Headphone or electronic communication device use by a flagger prohibited.

(a) For purposes of this section:

(1) "Cellular telephone" means a cellular, analog, wireless, or digital telephone.

(2) "Electronic communication device" means a device that transmits or receives radio waves and is capable of sending or receiving communications. "Electronic communication device" includes a cellular 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) "Flagger" means an individual who provides temporary traffic control in a work zone.

(4) "Work zone" means any highway construction or maintenance area indicated by traffic control devices.

(b) It is unlawful for a flagger to use headphones or an electronic communication device, other than a Department-approved electronic communication device, while engaged in traffic control activities.

(c) Violation of subsection (b) of this section is a civil traffic offense under Chapter 8 of Title 21 and is punishable with a warning for a first offense, a \$25 fine for second offense, and a \$50 fine for a third or subsequent offense. Notwithstanding this subsection, a violation of subsection (b) of this section may not be entered on an individual's motor vehicle record.

(d) The Justice of the Peace Court has jurisdiction over a violation of subsection (b) of this section.

(e) The Department shall promulgate regulations to provide for electronic communication devices approved for use by a flagger while engaged in traffic control activities.

### SYNOPSIS

This Act prohibits a flagger from using headphones or electronic communication devices while engaged in traffic control in a work zone. This Act permits a flagger to use an electronic communication device approved by the Department of Transportation. This Act makes a violation of this prohibition a civil traffic offense that is not entered on an individual's motor vehicle record.

Author: Senator Walsh