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HOUSE OF REPRESENTATIVES
145th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 229

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 driver shall operate a motor vehicle on any highway while using an electronic communication device while such 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 phone, 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 or both hand.

(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 or both hand.

(5) ‘engages or engaging in a call’ shall mean when a person dials or punches a phone number on, talks into or listens on an electronic communication device.

(6) ‘using’ shall mean holding an electronic communication device while:

a. Viewing or transmitting images or data;

20 b. Playing games;

21 c. Composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving
22 e-mail, text messages or other electronic data; or

23 d. Engaging in a call.

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

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

27 (2) a person using an electronic communication device to report to appropriate authorities a fire, a traffic
28 accident, a serious road hazard, or medical or hazardous materials emergency, or to report the operator of another
29 motor vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under
30 the influence of alcohol or drugs or any other crime.

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

32 (4) a person using a hands-free electronic communication device and its hand-free equipment when such
33 person engages in a call; and

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

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

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

39 Section 2. The provisions of this Act shall preempt the provisions of a municipal or county enactment regulating
40 the use of any electronic communication device by a person operating a vehicle as defined in §101 (80) of this title.

41 Section 3. This Act shall take effect 90 days after its enactment into law.

SYNOPSIS

This bill prohibits the use of electronic communication devices while operating a motor vehicle on the highways of the State of Delaware unless the person engages in the use of hands-free equipment.