

SENATE, No. 4745

STATE OF NEW JERSEY
222nd LEGISLATURE

INTRODUCED OCTOBER 5, 2026

Sponsored by:
Senator ANGELA V. MCKNIGHT
District 31 (Hudson)

SYNOPSIS

Reduces time period during which certain prior offenses may be considered for sentencing purposes; permits first offenses to be removed from driving record in certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning driving while using a wireless telephone or
2 other electronic communication device 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 or electronic
11 communication device by an operator of a moving motor vehicle on
12 a public road or highway shall be unlawful except when the
13 telephone is a hands-free wireless telephone or the electronic
14 communication device is used hands-free, 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. For the purposes of
18 this section, an "electronic communication device" shall not include
19 an amateur radio.

20 Nothing in P.L.2003, c.310 (C.39:4-97.3 et seq.) shall apply to
21 the use of a citizen's band radio or two-way radio by an operator of
22 a moving commercial motor vehicle or authorized emergency
23 vehicle on a public road or highway.

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

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

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

40 As used in this act:

41 "Citizen's band radio" means a mobile communication device
42 designed to allow for the transmission and receipt of radio
43 communications on frequencies allocated for citizen's band radio
44 service use.

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 "Hands-free wireless telephone" means a mobile telephone that
2 has an internal feature or function, or that is equipped with an
3 attachment or addition, whether or not permanently part of such
4 mobile telephone, by which a user engages in a conversation
5 without the use of either hand; provided, however, this definition
6 shall not preclude the use of either hand to activate, deactivate, or
7 initiate a function of the telephone.

8 "Two-way radio" means two-way communications equipment
9 that uses VHF frequencies approved by the Federal
10 Communications Commission.

11 "Use" of a wireless telephone or electronic communication
12 device shall include, but not be limited to, talking or listening to
13 another person on the telephone, text messaging, or sending an
14 electronic message via the wireless telephone or electronic
15 communication device.

16 c. (Deleted by amendment, P.L.2007, c.198).

17 d. A person who violates this section shall be fined as follows:

18 (1) for a first offense, not less than \$200 or more than \$400;

19 (2) for a second offense, not less than \$400 or more than \$600;

20 and

21 (3) for a third or subsequent offense, not less than \$600 or more
22 than \$800.

23 For a third or subsequent violation, the court, in its discretion,
24 may order the person to forfeit the right to operate a motor vehicle
25 over the highways of this State for a period of 90 days. In addition,
26 a person convicted of a third or subsequent violation shall be
27 assessed three motor vehicle penalty points pursuant to section 1 of
28 P.L.1982, c.43 (C.39:5-30.5).

29 A person who has been convicted of a previous violation of this
30 section need not be charged as a second or subsequent offender in
31 the complaint made against him in order to render him liable to the
32 punishment imposed by this section on a second or subsequent
33 offender, but if the second offense occurs more than **【10】** three
34 years after the first offense, the court shall treat the second
35 conviction as a first offense for sentencing purposes and if a third
36 offense occurs more than **【10】** three years after the second offense,
37 the court shall treat the third conviction as a second offense for
38 sentencing purposes. A person who commits a first violation of this
39 section and satisfactorily completes an approved motor vehicle
40 defensive driving course pursuant to section 55 of P.L.1990, c.8
41 (C.17:33B-45) shall have the offense removed from the person's
42 motor vehicle record.

43 e. Except as provided in subsection d. of this section, no motor
44 vehicle penalty points or automobile insurance eligibility points
45 pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall be
46 assessed for this offense.

47 f. The Chief Administrator of the New Jersey Motor Vehicle
48 Commission shall develop and undertake a program to notify and

1 inform the public as to the provisions of this act. Notwithstanding
2 the provisions of R.S.39:5-41, the fines assessed pursuant to
3 subsection d. of this section shall be collected by the court and
4 distributed as follows: 50 percent of the fine imposed shall be paid
5 to the county and municipality wherein the violation occurred, to be
6 divided equally, and 50 percent of the fine imposed shall be paid to
7 the State Treasurer, who shall allocate the fine monies to the chief
8 administrator to be used for this public education program, which
9 shall include informing motorists of the dangers of texting while
10 driving.

11 g. Whenever this section is used as an alternative offense in a
12 plea agreement to any other offense in Title 39 of the Revised
13 Statutes that would result in the assessment of motor vehicle points,
14 the penalty shall be the same as the penalty for a violation of
15 section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge
16 imposed pursuant to subsection f. of that section, and a conviction
17 under this section shall be considered a conviction under section 1
18 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining
19 subsequent enhanced penalties under that section.
20 (cf: P.L.2013, c.70, s.1)

21

22 2. This act shall take effect immediately.

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STATEMENT

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27 This bill amends the penalties for driving while using a wireless
28 telephone or electronic communication device.

29 Under current law, it is unlawful for an operator of a motor
30 vehicle to use a wireless telephone or electronic communication
31 device on a public road or highway unless the device is used hands-
32 free. Penalties are tiered for first, second, and third or subsequent
33 offenses. A person who commits a second offense that occurs more
34 than 10 years after the first offense will be treated as a first time
35 offender for sentencing purposes. Similarly, a person who commits
36 a third offense that occurs more than 10 years after the second
37 offense will be treated as a second time offender for sentencing
38 purposes. This bill amends current law to reduce the time period
39 during which a prior offense may be considered from 10 to three
40 years for second and third time offenders.

41 Additionally, the bill provides that a person who commits a first
42 violation and satisfactorily completes an approved motor vehicle
43 defensive driving course will have the offense removed from the
44 person's motor vehicle record.