

**From:** Helena Gardner [HGardner@leg.state.vt.us]  
**Sent:** Friday, February 12, 2016 4:10 PM  
**To:** Chip Conquest; Maxine Grad; London, Sarah  
**Subject:** FW: penalties for violation of hand-held laws  
**Attachments:** Penalties for violating hands free and texting ban 2016 with points.doc

Hello all,  
Attached from NCSL is its latest compilation of penalties for hands free and texting bans.

As you can see, a few of the laws specifically provide that points are not assessed or are only assessed under certain circumstances.

In Vermont, most statutes that create moving violations don't mention points at all, because there is a separate provision of Vermont law that sets forth a schedule allocating points for all the various moving violations (see 23 VSA 2502). Vermont's handheld law is a rare exception, in that it mentions points at all.

I am not sure if other the laws of other states are structured similarly; if they are, then points may be assessed under a separate law/schedule even if the laws creating the handheld or texting offenses don't specifically mention points.

Best,  
Helena

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**From:** Anne Teigen [mailto:[anne.teigen@ncsl.org](mailto:anne.teigen@ncsl.org)]  
**Sent:** Friday, February 12, 2016 3:15 PM  
**To:** Helena Gardner  
**Subject:** RE: penalties for violation of hand-held laws

Helena,

I actually do have that. I updated it last month!

Sincerely,

Anne S. Teigen, Esquire  
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*Strong States Strong Nation*

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**From:** Helena Gardner [<mailto:HGardner@leg.state.vt.us>]

**Sent:** Friday, February 12, 2016 1:06 PM

**To:** Anne Teigen <[anne.teigen@ncsl.org](mailto:anne.teigen@ncsl.org)>

**Subject:** penalties for violation of hand-held laws

Anne,

A while back you sent me a document compiling penalties for hand-held and texting laws. Some of the entries mentioned allocation of points; others did not. Also, the document is a couple years old. Do you have an updated version? The members who asked me for this information are particularly interested in allocation of points.

Best,

Helena

Helena M. Gardner

Legislative Counsel and Records Officer

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## NATIONAL CONFERENCE *of* STATE LEGISLATURES

*The Forum for America's Ideas*

### **Distracted Driving: Penalties for Hand-Held and Text Messaging Violations**

Updated October 2013

Updated January 2016

#### **Penalties for Violations of Hand-Held Bans**

14 states and the District of Columbia

##### **California**

Cal. Veh. Code § 23123 (West)

(b) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense.

##### **Connecticut**

Section 14-296aa

(h) Any person who violates this section shall be fined one hundred fifty dollars for a first violation, three hundred dollars for a second violation and five hundred dollars for a third or subsequent violation.

(i) An operator of a motor vehicle who commits a moving violation, as defined in subsection (a) of section 14-111g, while engaged in any activity prohibited by this section shall be fined in accordance with subsection (h) of this section, in addition to any penalty or fine imposed for the moving violation.

##### **Delaware**

Title 21 §4176C

(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.

## **Hawaii**

Hawaii Rev. Stat. § 291C-137

(f) Every person who violates this section shall be subject to a fine of \$250 that shall be deposited into the state highway fund; provided that if a person violates this section while operating a motor vehicle in a school zone or construction area, as defined in section 291C-104, the fine shall be \$300, which shall be paid to the director of finance pursuant to section 291C-171.

(g) Any violation as provided in subsections (a) and (c) shall be deemed to be a traffic infraction as defined in section 291D-2.

## **Illinois**

625 ILCS 5/12-610.2

(c) A second or subsequent violation of this Section is an offense against traffic regulations governing the movement of vehicles. A person who violates this Section shall be fined a maximum of \$75 for a first offense, \$100 for a second offense, \$125 for a third offense, and \$150 for a fourth or subsequent offense.

(e) A person convicted of violating subsection (b-5) commits a Class A misdemeanor if the violation resulted in great bodily harm, permanent disability, or disfigurement to another. A person convicted of violating subsection (b-5) commits a Class 4 felony if the violation resulted in the death of another person.

## **Maryland**

Transportation 21-1124.2.

### Fines and penalties

(e)(1) A person convicted of a violation of this section is subject to the following penalties:

- (i) For a first offense, a fine of not more than \$75;
- (ii) For a second offense, a fine of not more than \$125; and
- (iii) For a third or subsequent offense, a fine of not more than \$175.

(2) **Points** may not be assessed against the individual under § 16-402 of this article unless the offense contributes to an accident.

## **Nevada**

484B.165.

4. A person who violates any provision of subsection 1 is guilty of a misdemeanor and:
- (a) For the first offense within the immediately preceding 7 years, shall pay a fine of \$50.
  - (b) For the second offense within the immediately preceding 7 years, shall pay a fine of \$100.
  - (c) For the third or subsequent offense within the immediately preceding 7 years, shall pay a fine of \$250.

5. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484B.130 related to speed and work zones.

## **New Hampshire**

N.H. Rev. Stat. Ann. § 265:79-c

III. Any person who violates this section shall be guilty of a violation and shall be fined \$100 plus penalty assessment for a first offense, \$250 plus penalty assessment for a second offense, and \$500 plus penalty assessment for any subsequent offense within a 24-month period.

## **New Jersey**

N.J. Stat. Ann. § 39:4-97.3 (West)

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

- (1) for a first offense, not less than \$200 or more than \$400;
- (2) for a second offense, not less than \$400 or more than \$600; and
- (3) for a third or subsequent offense, not less than \$600 or more than \$800. For a third or subsequent violation, the court, in its discretion, may order the person to forfeit the right to operate a motor vehicle over the highways of this State for a period of 90 days. **In addition, a person convicted of a third or subsequent violation shall be assessed three motor vehicle penalty points pursuant to section 1 of P.L.1982, c. 43 (C.39:5-30.5).**

A person who has been convicted of a previous violation of this section need not be charged as a second or subsequent offender in the complaint made against him in order to

render him liable to the punishment imposed by this section on a second or subsequent offender, but if the second offense occurs more than 10 years after the first offense, the court shall treat the second conviction as a first offense for sentencing purposes and if a third offense occurs more than 10 years after the second offense, the court shall treat the third conviction as a second offense for sentencing purposes.

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

## **New York**

N.Y. Veh. & Traf. Law § 1225-c (McKinney)

4. A violation of subdivision two of this section shall be a traffic infraction and shall be punishable by a fine of not less than fifty dollars nor more than two hundred dollars upon conviction of a first violation; upon conviction of a second violation, both of which were committed within a period of eighteen months, such violation shall be punished by a fine of not less than fifty dollars nor more than two hundred fifty dollars; upon conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such violation shall be punished by a fine of not less than fifty dollars nor more than four hundred fifty dollars.

## **Oregon**

153.018 Schedule of penalties.

Class C traffic violation. Maximum fine of \$500

## **Vermont**

Vt. Stat. Ann. tit. 23, § 1095b (West)

(c) Penalties.

(1) A person who violates this section commits a traffic violation and shall be subject to a fine of not less than \$100.00 and not more than \$200.00 for a first violation, and of not less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period.

(2) A person convicted of violating this section while operating within a properly designated work zone in which construction, maintenance, or utility personnel are present

shall have two points assessed against his or her driving record for a first conviction and five points assessed for a second or subsequent conviction.

(3) A person convicted of violating this section outside a work zone in which personnel are present shall not have points assessed against his or her driving record.

## **Washington**

Talking or sending text messages while holding a wireless device carries a \$124 fine.  
<http://www.dol.wa.gov/driverslicense/distracteddriving.html>

RCW 46.61.667

(6) Infractions that result from the use of a wireless communications device while operating a motor vehicle under subsection (1)(a) of this section shall not become part of the driver's record under RCW [46.52.101](#) and [46.52.120](#). Additionally, a finding that a person has committed a traffic infraction under subsection (1)(a) of this section shall not be made available to insurance companies or employers.

## **West Virginia**

§17C-14-15

(e) Any person who violates the provisions of subsection (a) of this section is guilty of a traffic offense and, upon conviction thereof, shall for a first offense be fined \$100; for a second offense be fined \$200; and for a third or subsequent offense be fined \$300. No court costs or other fees shall be assessed for a violation of subsection (a) of this section.

Points cannot be assessed except for 3<sup>rd</sup> and subsequent convictions, for which 3 points will be entered.

## **Washington D.C.**

DC ST § 50-1731.06

\$100 fine. No points, except if violation contributes to an accident.

## **Penalties for violations of texting bans**

Here are the 46 state statutes that prohibit all drivers from text messaging.

**Alabama**

§ 111.05

- (1) Twenty-five dollars (\$25) for a first violation.
- (2) Fifty dollars (\$50) for a second violation.
- (3) Seventy-five dollars (\$75) for a third or subsequent violation.

Ala. Code § 32-5A-350-351

**Points: 2 points will be assessed.**

**Alaska**

§28.35.161

A person who violates (a) of this section is guilty of (1) a class A misdemeanor. Violators could face arrest and up to a \$10,000 fine.

**Arkansas**

27-51-1501.

A person who pleads guilty or nolo contendere to, or has been found guilty of, violating this section commits a violation.

On the first offense, violators will receive a warning citation, and any violations after that, the driver will be fined \$50.

**California**

Vehicle Code §12810.3 of, and § 23123.5

The base fine for a first violation is \$20; subsequent violations are \$50. However, the total cost of the citation will be significantly higher than the base fine with the addition of local court costs and program fees. The exact penalty varies from county to county.

**Colorado**

§42-4-239

Class A traffic offense, and the court or the department of revenue shall assess a fine of \$50.

**Connecticut**

Public Act No. 05-159

Any person who violates this act shall be fined not more than one hundred dollars,



**Delaware**

Title 21 §4176C

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.

**Georgia**

§40-6-241.1.

Any conviction for a violation of the provisions of this Code section shall be a misdemeanor punishable by a fine of \$150.00 and 1 point will be assessed.

**Idaho**

§49-1401A

Every person who violates this section shall be guilty of an infraction. A conviction under this section shall not result in violation point counts as prescribed in section 49-326, Idaho Code. In addition, a conviction under this section shall not be deemed to be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

**Illinois**

§625 ILCS 5/12-610.2

(c) A violation of this Section is an offense against traffic regulations governing the movement of vehicles. No penalty mentioned in statute.

**Indiana**

§IC 9-21-8-59

No penalty mentioned in statute.

**Iowa**

§321.276 and Section 805.8A, subsection 14

A violation of this section is \$30.

**Kansas**

§8-2118

Unlawful text messaging is \$60.

**Kentucky**

KRS 189.990

On or after January 1, 2011, any person who violates Section 2 or 3 of this Act shall be fined twenty-five dollars (\$25) for the first offense and fifty dollars (\$50) for each subsequent offense.

**Louisiana**

§300.5

The first violation of the provisions of this Section shall be punishable by a fine of not more than one hundred seventy-five dollars. Each subsequent violation shall be punishable by a fine of not more than five hundred dollars.

**Maryland**

Article – Transportation 21–1124.1.

It is a misdemeanor for any person to violate any of the provisions of the Maryland Vehicle Law. Any person convicted of a misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is subject to a fine of not more than \$500.

**Maine**

§29-A MRSA Section 2119

A person who violates this section commits a traffic infraction for which a fine of not less than \$100 may be adjudged.

**Massachusetts**

§ 13 of chapter 90

A violation of this section shall be punishable by a fine of \$100 for a first offense, by a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense.

**Michigan**

§MCL 257.1 to 257.923

An individual who violates this section is responsible for a civil infraction and shall be ordered to pay a civil fine as follows:

- (a) For a first violation, \$100.00.

(b) For a second or subsequent violation, \$200.00.

## **Minnesota**

M.S.A. 169.475.

No penalty mentioned in statute.

## **Nebraska**

§60-601

Any person who violates this section shall be guilty of a traffic infraction. Any person who is found guilty of a traffic infraction under this section shall be assessed points on his or her motor vehicle operator's license pursuant to section 60-4,182 and shall be fined:

- (a) Two hundred dollars for the first offense;
- (b) Three hundred dollars for a second offense; and
- (c) Five hundred dollars for a third and subsequent offense.

Additionally, 3 points will be entered.

## **New Hampshire**

§265:105-a

The fine for a violation of this section shall be \$100.

## **New Jersey**

Effective July 1, 2014, the fines for talking or texting on a hand-held wireless communications device will increase. First time offenders will face a fine of \$200-\$400. The fine associated with a second offense will increase to \$400-\$600 and drivers who are caught a third time or more, will face a fine of \$600-\$800. Also, beginning with the third offense, there will be three (3) points assessed to the driver's record and there may be a 90-day driver license suspension as well.

## **New York**

Vehicle and Traffic Law § 1225-d.

A violation of this section shall be a traffic infraction and shall be punishable by a fine of not more than one hundred fifty dollars. 3 points on the driver's license.

### **North Carolina**

Section 20-137.4A

A violation of this section shall be an infraction and shall be punishable by a fine of one hundred dollars (\$100.00) and the cost of court. No drivers license points or insurance surcharge shall be assessed as a result of a violation of this section.

### **North Dakota**

N.D.C.C. Section 39-08

\$100.00 fine.

### **Ohio**

**Sec. 4511.204.**

(D) Whoever violates division (A) of this section is guilty of a minor misdemeanor.

(E) This section shall not be construed as invalidating, preempting, or superseding a substantially equivalent municipal ordinance that prescribes penalties for violations of that ordinance that are greater than the penalties prescribed in this section for violations of this section.

### **Oregon**

§ORS 811.507.

The offense described in this section, operating a motor vehicle while using a mobile communication device, is a Class D traffic violation, which carries a maximum fine of \$250.

### **Pennsylvania**

Section 2. Title 75 Section 3316.

(d) Penalty.--A person who violates subsection (a) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$50.

### **Rhode Island**

§31-22-30.

Any person who violates any of the provisions of this section shall, upon conviction, be subject to a fine of eighty-five dollars (\$85.00); for a second conviction shall be subject

to a fine of one hundred dollars (\$100.00); and for a third or subsequent conviction a person shall be subject to a fine of one hundred twenty-five dollars (\$125). All violations arising out of this section shall be heard in the Rhode Island Traffic Tribunal.

### **Tennessee**

Section 55-8-19

A violation of any provision of this section is a Class C misdemeanor, subject only to imposition of a fine, not to exceed fifty dollars (\$50.00), and court costs, not to exceed ten dollars (\$10.00), including, but not limited to, any statutory fees of officers.

### **Utah**

§41-6a-1716

Violation is a class C misdemeanor. The punishment for Class C misdemeanors is up to 90 days in jail and a fine of up to \$750.

### **Vermont**

Sec. 2. 23 V.S.A. § 1099

c) A person who violates this section commits a traffic violation as defined in section 2302 of this title and shall be subject to a penalty of \$100.00 upon adjudication of a first violation and \$250.00 upon adjudication of a second or subsequent violation within any two-year period.

### **Virginia**

Section 46.2-1078.1.

A violation of any provision of this section shall constitute a traffic infraction punishable, for a first offense, by a fine of \$20 and, for a second or subsequent offense, by a fine of \$50.

### **Washington**

RCWA 46.63.110

No penalty may exceed two hundred and fifty dollars for each offense of a traffic infraction.

West Virginia

§17C-14-15.

Any person who violates the provisions of subsection (a) of this section is guilty of a traffic offense and, upon conviction thereof, shall for a first offense be fined \$100; for a second offense be fined \$200; and for a third or subsequent offense be fined \$300. No court costs or other fees shall be assessed for a violation of subsection (a) of this section.

Points cannot be assessed except for 3<sup>rd</sup> and subsequent convictions, for which 3 points will be entered.

## **Wisconsin**

§346.95

(2) Any person violating s. 346.89 (1) or (3)(a) or 346.94 (2), (4), or (7) may be required to forfeit not less than \$20 nor more than \$400. 4 points will be entered for inattentive driving.

## **Wyoming**

§ 31-5-237

Any person who operates a motor vehicle in violation of this section is guilty of a misdemeanor punishable by a fine of not more than seventy-five dollars (\$75.00).

## **District of Columbia**

DC ST § 50-1731.06

\$100 fine. No points will be entered, except if violation contributes to an accident.