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Press Release Regarding First Offense Fine for Use of Hand-Held Device While Operating a Motor Vehicle

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Announcement: Maine's Judicial Branch has altered the recently-announced waiver fine for the first offense of using a hand-held device while operating a motor vehicle (*see* 29-A M.R.S. § 2121). This change will allow the Legislature to clarify the new law with regard to the fine amount, if it chooses, during the next session. For the next six months, the fine amount will be \$50. With surcharges required by law, the total waiver amount will be \$85.

This action has been taken to eliminate any confusion that may have been caused by information previously released to the public regarding the amount of the first offense fine, and in recognition of the Legislature's apparent expectation regarding that fine.

Background: The enabling statute for the new offense did not set an explicit waiver fine amount for the first offense. Accordingly, the responsibility and authority to make that decision fell, by law, to the Chief Judge of the District Court (*see* 4 M.R.S § 164).

The amount was then set by the Chief Judge after considering the risks created by the specifically prohibited behavior. The total amount of the fine (\$170.83) and surcharges, as initially set by the Chief Judge, was to be \$230. That fine amount is less than the amount set by the Legislature for the violation of text messaging while operating a motor vehicle, as enacted in 2011 (*see* 29-A M.R.S. § 2119)—a base fine of \$250.

Chief Justice Saufley fully supported the decision of the Chief Judge.

Change: The Judicial Branch, carrying out its responsibility to set the waiver fine amount, has now set the first offense waiver fine for the new hand-held-device prohibition at \$50 as a base fine, for a total of \$85.00 with surcharges, to be effective until the Legislature has had time to



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take any action that it determines is appropriate. Absent further legislative action, the first offense fine will return to a base fine of \$170.83, and a total with surcharges of \$230 on April 6, 2020.

Caution: It remains important for the public to understand that the \$85 is the total *waiver fine* amount, that is, the amount to be paid if the motorist admits the violation and sends the fine to the Violations Bureau or fails to file a written answer requesting a trial. However, after trial, the judge in any individual proceeding is authorized to impose a higher fine in egregious circumstances (*see* 29-A M.R.S. § 103).

Chief Justice Saufley said: “I am proud of the quick action of the Trial Court Chief in addressing the confusion over fines relating to this recent legislation. And I thank Senator Diamond for helping to assure that, with regard to administrative matters that may have an impact on the public, the lines of communication among the branches of government remain strong.”

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