

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1477 (Delegate McMillan, *et al.*)
Environment and Transportation

Motor Vehicles - Wireless Communication Devices - Prohibited Acts

This bill modifies application of the prohibition against the use of a wireless communication device for all drivers younger than age 18 to operating a motor vehicle *in the travel portion of the roadway*, rather than while operating a motor vehicle. The bill also expands the prohibition against using a handheld telephone by the operator of a school vehicle that is carrying passengers to the travel portion of the roadway, rather than while the school vehicle is in motion. Thus, all such violations relate to use in the travel portion of the roadway.

Fiscal Summary

State Effect: No material impact on general fund revenues from modifying the applicability of the offenses covered by the bill. Enforcement can be handled with existing resources.

Local Effect: Enforcement can be handled with existing resources. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: A “wireless communication device” means a handheld or hands-free device used to access a wireless telephone service or a text messaging device.

Handheld Phones: A “handheld telephone” means a handheld device used to access a wireless telephone service. The driver of a school vehicle that is carrying passengers and is in motion is prohibited from using a handheld telephone while operating a motor vehicle.

The prohibition against using a handheld telephone while operating a motor vehicle also applies to the holder of a learner's instructional permit or provisional driver's license who is age 18 or older. Any other adult driver of a motor vehicle that is in motion may only use the driver's hands to initiate or terminate a wireless telephone call or to turn the handheld telephone on or off; otherwise, the driver may not use a handheld telephone. These prohibitions do not apply to the emergency use of a handheld telephone, including calls to a 9-1-1 system, hospital, ambulance service provider, fire department, law enforcement agency, or first aid squad. These prohibitions also do not apply to law enforcement or emergency personnel when acting within the scope of official duty or the use of push-to-talk technology by a commercial operator. A court may waive the penalty for a first offender who provides proof that the person has acquired hands-free equipment to comply with State law.

A violation of the above provisions is a misdemeanor, subject to a maximum fine of \$175 for a third or subsequent offense; the maximum fines for a first and second offense are \$75 and \$125, respectively. The prepayment penalty established by the District Court is (1) \$83 for a first offense; (2) \$140 for a second offense; and (3) \$160 for a third or subsequent offense. The Motor Vehicle Administration (MVA) does not assess points for this offense unless the violation contributes to an accident, in which case three points are assessed against the driver's license.

Other Wireless Devices: An individual who is younger than age 18 may not use a wireless communication device while operating a motor vehicle. In addition, any individual (regardless of age) may not use a text messaging device to write, send, or read a text message or an electronic message while operating a motor vehicle in the travel portion of the roadway. Exceptions are made for use of these devices to contact a 9-1-1 emergency system or as a global positioning system. A violator of either prohibition who is younger than age 18 is subject to license suspension by MVA for up to 90 days.

A violation of the above provisions is a misdemeanor with a maximum fine of \$500. The prepayment penalty established by the District Court is \$70. If the violation contributes to an accident, the prepayment penalty increases to \$110. MVA is required to assess one point against the driver's license for a violation or three points if the violation contributes to an accident.

If an individual uses a handheld telephone or text messaging device while operating a motor vehicle and causes an accident that results in death or serious bodily injury, the maximum penalty increases to one year imprisonment and/or a \$5,000 fine. This offense requires an appearance in court to answer the charge, so there is no prepayment penalty available. MVA is required to assess 12 points against the driver's license for this offense, which subjects the driver to license revocation.

Background: The Insurance Institute for Highway Safety estimates that, at any given daylight moment, 660,000 people in the United States are using wireless electronic devices while driving. National surveys on distracted driving conducted by the National Highway Traffic Safety Administration and other organizations appear to indicate a major disconnect between driving behaviors and the comprehension of risky behaviors that stem from the use of electronic devices. In other words, surveyed drivers generally believe it is dangerous for *other* drivers to make phone calls or text while driving, even if the surveyed drivers engaged in the same risky behavior.

The District Court reports that, in fiscal 2016, a total of 44 citations were issued for using a handheld telephone while operating a school bus or other Class H vehicle that was carrying passengers and was in motion. Of that total, 9 went to trial, 33 were prepaid, and 2 remain open. A total of 13 citations were issued to drivers younger than age 18 who violated the prohibition against using a handheld telephone while operating a motor vehicle. Of those, 5 went to trial and 8 were prepaid.

Additional Information

Prior Introductions: HB 544 of 2014, a similar bill, received a hearing in the House Environmental Matters Committee, but no further action was taken.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Department of State Police; Maryland Department of Transportation; Insurance Institute for Highway Safety; National Highway Traffic Safety Administration; Department of Legislative Services

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Analysis by: Michelle Davis

Direct Inquiries to:
(410) 946-5510
(301) 970-5510