

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 63 (Delegates Arnick and Mandel)
Environmental Matters

Vehicle Laws - Use of Hand-Held Telephone While Driving - Prohibition

This bill prohibits a driver of a motor vehicle from operating a hand-held telephone while the vehicle is in motion. The bill does not apply to: (1) a driver calling 9-1-1 or a public safety agency in connection with an emergency; (2) an employee of an electric, gas, or telephone company (as defined in § 1-101 of the Public Utility Companies Article) in connection with emergency communications; or (3) an operator of an emergency vehicle acting in an official capacity. A violation requires the assessment of one point against the driving record and is a misdemeanor, punishable by a fine not exceeding \$500.

Fiscal Summary

State Effect: Minimal general fund revenue increase from the penalty provision applicable to this offense under the Maryland Vehicle Law (maximum \$500 fine). Enforcement could be handled with existing resources.

Local Effect: Enforcement could be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: There are no restrictions in the Maryland Vehicle Law governing the use of hand-held telephones while driving. There are no provisions in the Maryland Vehicle Law restricting or prohibiting driving while distracted. However, a person is deemed guilty of negligent driving if the person drives in a careless or imprudent manner that endangers property or human life. A negligent driving violation requires the assessment

of one point against the driving record and is a misdemeanor subject to a penalty not exceeding \$500.

Background: The debate surrounding telephone use by drivers focuses on driver distraction. Nationwide, the National Highway Transportation Safety Administration estimates that 25% to 30% of motor vehicle crashes (about 1.2 million accidents) are caused by driver distraction. According to Maryland State Police accident report data from January 1, 2001 through June 30, 2002, “failed to give full attention” was a contributing circumstance in 57% of accidents.

In 2000, the Harvard Center for Risk Analysis (HCRA) issued a cost-benefit analysis of cell phone use while driving. The study analyzed results from a control group of 700 drivers who used cell phones. This was the same control group used for a widely disseminated 1997 New England Journal of Medicine study of cell phone use and driving. HCRA reviewed cell phone billing record analyses and in-depth surveys of participants to determine its assessment. At the time, the study concluded that the benefits of being able to communicate while driving clearly outweighed the social costs of injuries and deaths. That study was revised in 2002 and now HCRA concludes that the costs of cell phone use while driving have risen to being roughly equal with the social benefits. HCRA estimates that nationally, on an annual basis, the use of cell phones while driving may result in 2,600 deaths, 330,000 moderate to critical injuries, and 1.5 million cases of property damage. Factors in the HCRA reassessment are the larger number of cell phone users (estimated to be 137 million) and cheaper costs for phones and talk time.

There are over 2 million cell phone users in Maryland, and studies show that 85% of cell phone owners use their phones at least occasionally while driving. Over 25% of such individuals are estimated to use their phones during at least half of their vehicle trips. In October 2000 Maryland began tracking cell phone-related accidents as a separate contributing circumstance on accident report forms. In calendar 2001, the State Highway Administration (SHA) recorded cell phones as a contributing factor in 11 out of 101,411 accidents. The data collected to date for the first half of calendar 2002 show that cell phone use was a contributing factor in 25 out of 72,283 accidents. It should be noted that the SHA data is dependent on reliable information from witnesses and the ability of the State Police to actually determine what has happened at an accident scene. The reporting is also affected by the reluctance of people to admit culpability in an accident, especially to a law enforcement officer. Other states collecting this type of data grapple with similar issues.

In 2001, New York became the first state to prohibit the use of hand-held cell phones while driving, except in emergencies. The maximum penalty for illegal cell phone use is

\$100. New York's law took effect November 1. A recent study by the Insurance Institute for Highway Safety suggests that passage of the New York law has reduced the use of hand-held phones while driving. One month before New York's law took effect, about 2.3% of all drivers were estimated to use hand-held cell phones. Several months after police began issuing citations, hand-held phone usage dropped about 50% to about 1.1% of all drivers.

Most other states have considered regulation of cell phone use by drivers. To date, the focus of state legislation has been restriction of hand-held use, rather than an outright ban. According to the National Conference of State Legislatures (NCSL), only five states have considered a total ban on the use of cell phones and other communications devices while driving. Minor restrictions on cellular phone use have been imposed in a few states. California requires rental cars that are equipped with cellular phones to include instructions on safe usage of such phones. Florida allows cellular phone use while driving as long as the operator can hear surrounding sounds through one ear. Illinois also regulates the type of headset that can be worn with a cell phone while driving. Massachusetts requires that drivers keep at least one hand on the steering wheel at all times while operating a cellular phone. Arizona, Illinois, Massachusetts, and Rhode Island prohibit cell phone use by school bus drivers while the bus is in motion.

Some states (Florida, Mississippi, Oklahoma, and Oregon) have enacted legislation that preempts the authority of local jurisdictions to enact cell phone restrictions. Seventeen states mandate the collection of cell phone use data on crash report forms. In addition to Maryland, other nearby states that mandate this reporting are Pennsylvania, New Jersey, and New York.

Additionally, 25 industrialized countries – including Brazil, Chile, Denmark, the Philippines, Poland, Portugal, Romania, Slovenia, South Africa, Switzerland, Turkey, and the United Arab Emirates – now restrict or ban hand-held phone use while driving.

Additional Information

Prior Introductions: This bill is a reintroduction of HB 31 of 2002. HB 31 was referred to the Commerce and Government Matters Committee, where it received an unfavorable report. In 2001, a similar bill, HB 89, received an unfavorable report from the Commerce and Government Matters Committee. The committee did not report out a similar bill, HB 43, during the 2000 session. During the 1999 session, another similar bill, HB 37 also received an unfavorable report from the committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Harvard Center for Risk Analysis, Insurance Institute for Highway Safety, AAA Foundation for Traffic Safety, National Conference of State Legislatures, *Los Angeles Times*, Department of Legislative Services

Fiscal Note History: First Reader - January 31, 2003
lc/jr

Analysis by: Karen D. Morgan

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