

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**

House Bill 1152 (Delegates McComas and Boutin)  
Environmental Matters

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**Vehicle Laws - Distracted Driving**

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This bill provides that except as otherwise specified, a driver of a motor vehicle that is in motion may not be distracted. The offense is a misdemeanor, punishable by a maximum fine of \$500.

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**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). Potential minimal increase in Transportation Trust Fund (TTF) expenditures to comply with data collection and reporting requirements.

**Local Effect:** Enforcement could be handled with existing resources.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** This bill defines “distracted” as engaging in activities that cause the driver to be inattentive while operating a motor vehicle, which result in the unsafe operation of the motor vehicle. These activities include reading, writing, personal grooming, interacting with pets or other unsecured cargo, or using a mobile telephone or other electronic device. “Mobile telephone” means a cellular, analog, wireless, or digital telephone capable of sending or receiving telephone messages without an access line. An electronic device includes computers, pagers, and video games.

A driver of a motor vehicle that is in motion may not be distracted. However, a driver may use a mobile telephone or electronic device if:

- except for a driver with a learner's instructional permit or a driver of a school bus carrying passengers, the mobile telephone or electronic device is equipped with a hands-free accessory;
- the mobile telephone or device is being used to call the 9-1-1 emergency telephone system or a public safety agency in connection with an emergency;
- the mobile telephone or electronic device is being used by law enforcement or emergency personnel, including the driver of an authorized emergency vehicle while acting within the scope of official duties; or
- the use is limited to turning the mobile telephone or electronic device on or off.

A violation of the bill's provisions is not a moving violation for the purpose of assessing points. Also, a judge may waive a penalty imposed for a first violation involving a mobile telephone or electronic device if, prior to the hearing date, the driver obtains a hands-free accessory and provides proof of that to the court.

In the event of an accident involving a motor vehicle, the law enforcement officer who makes the written report must include the following information:

- whether a mobile telephone or other electronic device was present in the motor vehicle at the time of the accident;
- whether the use of a mobile telephone or other electronic device may have contributed to the cause of the accident; and
- whether a distracted driver may have contributed to the cause of the accident.

The law enforcement agency must provide to the Motor Vehicle Administration (MVA) a copy of each report indicating that a distracted driver contributed to an accident. On or before December 31 of each year, the MVA must report to the General Assembly on the distracted driver information that it has collected and the possible relationship between motor vehicle accidents and distracted driving violations.

The bill also requires the MVA to provide educational information on the dangers of distracted driving to drivers obtaining learner's permits and include questions relating to distracted driving on the driver's license exam.

**Current Law:** There are no restrictions in the Maryland Vehicle Law governing the use of hand-held telephones or electronic devices 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 maximum fine of \$500.

**Background:** The use of telephones while driving and the impact of other distractions on drivers has been a major issue for the past several years. In addition to telephones, cars now come equipped with on-board navigation systems, DVD players, and television monitors, all competing to divert the driver's attention away from the road. Nationwide, the National Highway Transportation Safety Administration has estimated that 25% to 30% of motor vehicle crashes (about 1.2 million accidents) are caused by driver distraction.

However, one of the persistent issues with regulating the use of hand-held telephones or other interactive devices in motor vehicles is the absence of consistent findings or reliable statistics. Studies published in recent years by the New England Journal of Medicine, the Harvard Center for Risk Analysis, and the University of North Carolina Research Center, among others, have proven to be inconclusive. For example, studies by the University of Utah and the Swedish National Road Administration have indicated that wireless phone use, even if the device is hands-free, is not any safer than driving with a hand-held wireless phone. Preliminary results from a University of North Carolina study, however, indicated that telephone use is only the eighth most distracting activity that drivers engage in, with distraction from activities like changing radio stations and eating more prevalent.

The National Transportation Safety Board recently recommended that all states and the District of Columbia collect data related to wireless phone use or distracted driving. To date, 17 states, including Maryland, have passed legislation to mandate this type of data collection. Also, seven states (California, Delaware, Louisiana, New Jersey, New York, Pennsylvania, and Virginia) have created commissions to study the impact of distractions on safe driving. New Hampshire is the only state that has enacted legislation that holds drivers accountable for all distractions that lead to vehicle accidents.

According to the National Conference of State Legislatures, 42 states have considered bills related to wireless phones or distracted driving in 2003 and every state and the District of Columbia has considered legislation in this area during the last three years.

**State Expenditures:** TTF expenditures could increase minimally to comply with the bill's requirements. The bill requires law enforcement agencies to send accident data to the MVA where distracted driving was cited as a contributing factor. Currently, the State

Highway Administration collects accident data from law enforcement agencies where cell phone use was cited as a contributing factor. In calendar 2002, 33 accidents had cell phone use as a contributing factor out of 104,900 total accidents. In the first half of calendar 2003, 21 accidents had cell phone use as a contributing factor out of 58,500 total accidents. The bill requires reporting on a broader range of activities, and the number of reported accidents will likely increase. Additional resources may be needed to compile the data, provide the annual required report to the General Assembly and provide the required educational information. However, the overall impact of the bill is expected to be minimal.

**Local Fiscal Effect:** Montgomery and Washington counties report that this bill would not have a fiscal impact. Worcester County reports that the bill might produce more stops and ticket revenue, but otherwise is not expected to have a fiscal impact. Kent County reports that the bill could have a minimal impact on the District Court, but would not have a fiscal impact on Kent County.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Washington County, Montgomery County, Prince George's County, Kent County, Worcester County, Department of State Police, Department of Transportation, National Conference of State Legislatures, *Salon.com*, National Highway Traffic Safety Administration, Department of Legislative Services

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