

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 29 (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 in connection with emergency communications; or (3) an operator of an emergency vehicle acting in an official capacity. A violation is a misdemeanor, punishable by a fine not exceeding \$500. A police officer may enforce the provisions only as a secondary action when the officer detains a driver for a suspected infraction of another provision of the Maryland Vehicle Law. A violation of the bill's provisions is not a moving violation for the purpose of assessing points. The bill preempts the authority of local governments to regulate the operation of a telephone by a motor vehicle driver and supersedes existing local regulations.

The provisions prohibiting the use of hand-held telephones, except as authorized, are effective November 1, 2005. Otherwise, the bill's provisions are effective October 1, 2004. From November 1, 2005 to December 31, 2005, the bill's provisions may only be enforced by a warning. The bill may not be construed to prevent law enforcement officers from issuing warnings on or after January 1, 2006, if doing so would be in the public interest.

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 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 estimates 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 hand-held telephone use 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.

In January 2004, the District of Columbia City Council gave final approval to a bill banning the use of hand-held cell phones while driving. The Mayor is expected to sign the bill. It is to become effective on July 1, 2004, although Congressional approval is needed before the measure can be enforced. To date, the only state that has implemented a ban on hand-held wireless phone use is New York. When New York's measure was first implemented in 2001, a study by the Insurance Institute for Highway Safety showed that wireless phone use by drivers declined by nearly 50%. In March 2003, a follow-up study by the Insurance Institute showed that New York drivers have returned to previous levels of wireless phone use, in spite of the prohibition.

Maine and New Jersey are the only two states that prohibit drivers less than 21 years old with learner's or instructional permits from using a hand-held wireless phone while driving. In seven states (Arizona, Arkansas, Illinois, Massachusetts, New Jersey, Rhode Island, and Tennessee), school drivers are prohibited from using wireless phones while operating school buses. Some states have also acted to limit local authority to regulate distracted driving. The states of Florida, Kentucky, Louisiana, Mississippi, Nevada, New York, Oklahoma, and Oregon preempt local jurisdictions from restricting wireless phone use while driving.

Additional Information

Prior Introductions: A similar bill, HB 63, was introduced in the 2003 session and was referred to the Environmental Matters Committee, where it received an unfavorable report. In 2002, HB 31 was introduced and referred to the Commerce and Government Matters Committee, where it received an unfavorable report. In 2001, another 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, received an unfavorable report from the Commerce and Government Matters Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Transportation, *Salon.com*, National Conference of State Legislatures, Governors Highway Safety Association, American Automobile Association, National Transportation Safety Board, *The Sacramento Bee*, Department of Legislative Services

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Analysis by: Karen D. Morgan

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