

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 189

(Delegate Dumais, *et al.*)

Environmental Matters

Motor Vehicles - Learner's Instructional Permit and Provisional Driver's License - Restriction on Use of Communication Device While Driving

This bill requires the Motor Vehicle Administration (MVA) to impose a restriction on each provisional license, and each learner's instructional permit that prohibits the licensee or permit holder from using an interactive wireless communication device while operating a motor vehicle. An interactive wireless communication device is any wireless, electronic communication device that provides for voice or data communication between two or more parties. This includes a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages, or a laptop computer. The prohibition does not apply if the licensee or permit holder uses an interactive wireless communication device while driving to contact a 9-1-1 system.

Fiscal Summary

State Effect: Minimal general fund revenue increase from the applicable penalty provision. Potential minimal increase in computer reprogramming costs in the MVA for FY 2005 only.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: There are no restrictions in the Maryland Vehicle Law governing the use of interactive wireless communication devices while driving for provisional license

holders, or learner's instructional permit holders. However, for good cause, the MVA may impose on licensees any restrictions applicable that the MVA determines appropriate to assure safe driving of a motor vehicle by the licensee. An individual may not drive a vehicle in any manner that violates any restriction imposed by the MVA in a restricted or a provisional license. If the MVA receives satisfactory evidence of any violation of a restricted or provisional driver's license provision, the MVA may suspend or revoke the license. The licensee may request a hearing on the suspension or revocation. A driver who violates a restriction imposed in a license is guilty of a misdemeanor and is subject to a maximum fine of \$500. The fine currently assessed by the District Court for this offense is \$55.

Background: In 2003, the National Transportation Safety Board (NTSB) recommended that all states prohibit holders of learner's permits and intermediate or provisional licenses from using interactive wireless communication devices while driving. This recommendation was one of several pertaining to the overall problem of driver distraction that was part of an NTSB final report on its investigation of a highway crash on February 1, 2002 that killed five people. A young woman who was talking on a cell phone and driving a Ford Explorer at an estimated speed of 75 miles per hour lost control of her vehicle while traveling northbound on the Capital Beltway near Largo, Maryland. The Explorer crossed the median, climbed a guardrail, flipped over and landed on top of a southbound Ford Windstar minivan. All five people in the two vehicles were killed. NTSB found that the probable cause of the crash was the Explorer driver's failure to maintain control of her vehicle in windy conditions, her lack of driving experience, unfamiliarity with the vehicle, speed, and distraction caused by using a hand-held wireless telephone.

To date, two states, New Jersey and Maine, have enacted laws that prohibit drivers under 21 or learner's permit holders from using wireless communication devices while driving. In 2003, Maine, Maryland, Massachusetts, New York, Ohio, Rhode Island, South Carolina, Tennessee, Virginia, and Wisconsin considered legislation that would prohibit use of wireless devices by young drivers. Maine was the only state to pass this type of legislation in 2003. The legislation in New Jersey was enacted in 2001.

In its accident investigation report, NTSB also recommended improved driver education regarding the dangers of distracted driving. The board recommended that the American Driver and Traffic Safety Education Association and the National Highway Traffic Safety Administration develop a module for driving education curriculums that emphasizes the risks of distracted driving behavior. The board also recommended that The Advertising Council develop a media campaign on the dangers of distracted driving.

One of the persistent issues with regard to regulating in this area has been the absence of consistent findings or reliable statistics regarding the impact of cell phone use while driving. Studies published by the New England Journal of Medicine, the Harvard Center for Risk Analysis, and the University of North Carolina Highway Safety Research Center, among others, have proven to be inconclusive. While most legislative initiatives have focused on hand-held phones, some recent 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. To date, 17 states, including Maryland, track data related to the causal factor of cell phones or distracted driving in vehicle accidents. NTSB has recommended that the other 33 states and the District of Columbia pass legislation to require data collection related to cell phone use or distracted driving. The District of Columbia and 10 states did consider this legislation, but data collection legislation did not pass in 2003. However, seven states (California, Delaware, Louisiana, New Jersey, New York, Pennsylvania, and Virginia) have created commissions to study the impact of distractions on safe driving.

State Expenditures: The MVA advises that computer programming modifications to the driver licensing system would be needed to add the restrictions required by the bill. The changes could result in a one-time expenditure of \$75,000 in special funds. However, the Department of Legislative Services (DLS) advises that if other legislation is passed requiring computer programming changes, economies of scale could be realized. This would reduce computer programming costs associated with this bill and other legislation affecting the MVA system. Further, DLS advises that the increased computer expenditure is an estimate and that the MVA may be able to handle the changes within existing resources.

Additional Information

Prior Introductions: In the 2003 session, HB 554, a bill that would have generally prohibited mobile telephone use by drivers under 18, was heard by the Environmental Matters Committee, but then withdrawn. HB 554 was cross filed with SB 220, which was referred to the Judicial Proceedings Committee, where it received an unfavorable report.

Cross File: None. However, a similar bill, HB 5, has been introduced and referred to the Environmental Matters Committee.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, National Conference of State Legislatures, American Automobile Association, Reuters News Service, *The Washington Times*, Department of Legislative Services

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