

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 394

(Delegate Bronrott, *et al.*)

Environmental Matters

Judicial Proceedings

**Motor Vehicles - Learners' Permits and Provisional Licenses - Prohibition on Use
of a Wireless Communication Device While Driving**

This bill prohibits a provisional license holder under age 18 and a holder of a learner's instructional permit from using a wireless communication device while operating a motor vehicle. The bill provides for enforcement as a secondary action and establishes administrative and criminal penalties for a violation.

Fiscal Summary

State Effect: Minimal general fund revenue increase from the applicable penalty provision. Enforcement would be with existing resources.

Local Effect: None. Enforcement would be with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill prohibits a provisional license holder under age 18 and a holder of a learner's instructional permit from using a wireless communication device while operating a motor vehicle.

A wireless communication device is a hand-held or hands-free device used to access a wireless telephone service or text messaging device. The prohibition does not apply if the licensee or permit holder uses a wireless communication device while driving to

contact a 9-1-1 system. A police officer may enforce this provision only as a secondary action.

If the Motor Vehicle Administration (MVA) receives satisfactory evidence of a violation, the MVA may suspend the individual's license for up to 90 days. The MVA may then issue a restricted license for the suspension period that is limited to driving a motor vehicle in the course of employment, to and from a place of employment, or to or from school. The individual may request an administrative hearing on the suspension. This offense is a misdemeanor, punishable by a maximum fine of \$500.

Current Law: There are no restrictions in the Maryland Vehicle Law governing the use of interactive wireless communication devices by drivers. 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 penalty of \$500. A learner's permit holder who is cited for a violation of the Maryland Vehicle Law is generally required to retain the permit for six months from the date of the violation before applying for a driver's license.

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 after its investigation of a highway crash in Maryland on February 1, 2002 that killed five people.

Maine and New Jersey have enacted laws specifically prohibiting drivers under 21 or learner's permit holders from using any wireless device while driving. In 2004, California, Colorado, Delaware, Georgia, Illinois, Maryland, Michigan, Minnesota, Mississippi, Nebraska, New York, Rhode Island, South Carolina, South Dakota, Tennessee, and Utah considered, but did not pass, legislation that would prohibit use of mobile phones by young or beginning drivers.

The only states with a general prohibition on the use of hand-held phones while driving are New Jersey (2004) and New York (2001). In April 2004, the District of Columbia also enacted a prohibition on the use of hand-held mobile phones within its borders. New York is currently considering a total prohibition on mobile telephone use while driving. Connecticut, Kentucky, New Jersey, Pennsylvania, Vermont, and Wyoming also considered a total prohibition in 2004.

A persistent issue with regard to regulating in this area has been the absence of consistent findings or reliable statistics regarding the impact of mobile 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 studies have indicated that mobile phone use, even if the device is hands-free, is not any safer than driving with a hand-held mobile phone. For example, the Insurance Information Institute has acknowledged recent studies that indicate the presence of a factor known as “inattention blindness” when hands-free mobile phones are used by drivers. The winter 2004 issue of the journal *Human Factors* has recently reported on a University of Utah study that concluded that people between the ages of 18 to 25 who used either a hands-free or a hand-held cell phone while driving had the reaction times of a 70-year old driver.

To date, 17 states, including Maryland, track data related to the causal factor of mobile phones or distracted driving in vehicle accidents. According to the Maryland Automated Accident Report, there were 226 accidents in calendar 2003 in which cell phone use was listed as a contributing factor. A total of 109,000 traffic accidents were reported in calendar 2003.

Additional Information

Prior Introductions: This bill is a reintroduction of HB 5 of the 2004 session. HB 5 was heard in Environmental Matters, but was subsequently withdrawn.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of State Police, Insurance Information Institute, National Conference of State Legislatures, *Associated Press*, Human Factors and Ergonomic Society, Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2005
mll/jr Revised - House Third Reader - March 26, 2005
Revised - Enrolled Bill - April 20, 2005

Analysis by: Karen D. Morgan

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