

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 323

(Delegate Waldstreicher, *et al.*)

Environmental Matters

Texting While Driving Ban of 2009

This bill prohibits a driver from using a text messaging device to write, send, or read a text message while operating a motor vehicle. A violator is guilty of a misdemeanor and subject to a maximum fine of \$500. Using a wireless device to place a phone call does not constitute text messaging. The bill's provisions do not apply to the operator of (1) a moving emergency vehicle while acting in an official capacity; (2) a moving motor vehicle while reporting unlawful activity, summoning emergency assistance, preventing injury, or relaying information between a transit or for-hire operator and a dispatcher, as specified; or (3) while using a global positioning system.

Fiscal Summary

State Effect: Minimal general fund revenue increase from the penalty provision applicable to this offense. The increase in the District Court caseload is expected to be minimal and can be handled with existing resources.

Local Effect: Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: A wireless communication device means a hand-held or hands-free device used to access a wireless telephone service or a text messaging device. A "text messaging device" is not specifically defined in the Maryland Vehicle Law.

There are no restrictions applicable to adults in the Maryland Vehicle Law governing the use of hand-held telephones or electronic devices while driving. However, except to contact a 9-1-1 system in an emergency, a minor holding a learner's permit or provisional license is prohibited from using a wireless communication device while operating a motor vehicle. This prohibition on novice drivers is only enforceable as a secondary action. A violator is subject to a maximum fine of \$500 and assessment of one point against the driving record. The prepayment penalty assessed by the District Court is \$70, or \$110 and three points if the violation contributes to an accident. A violator is also subject to license suspension for up to 90 days by the Motor Vehicle Administration. (See Transportation Article § 21-1124.)

A person is 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. The prepayment penalty assessed by the District Court for this offense is \$140. If the offense contributes to an accident, the penalty increases to \$280 and three points are assessed against the driver's license. (See Transportation Article § 21-901.1.)

Background: According to the Governors Highway Safety Association, seven states and the District of Columbia specifically prohibit driving while texting. Washington was the first state to enact such a law in May 2007, and New Jersey enacted a similar provision in November 2007. Alaska's statewide ban on driving while texting became effective on September 1, 2008. Other statewide bans have been implemented in California, Connecticut, Louisiana, and Minnesota. At least one major city – Phoenix, Arizona – has this prohibition within its city limits. In addition to Maryland, at least four other states have considered a statewide ban on texting while driving.

General statewide restrictions on cell phone use while in a motor vehicle may effectively make driving while texting illegal. California, Connecticut, New Jersey, New York, Washington, and the District of Columbia prohibit all drivers from using hand-held phones while operating motor vehicles. Since texting requires a cell phone to be held in the hand, these laws appear to prohibit that activity. Seventeen states and the District of Columbia prohibit wireless communication device use by younger drivers. Among those states, California and Maine prohibit all drivers younger than age 18 from using any type of wireless communication device while driving. The other jurisdictions, including Maryland, prohibit drivers with instructional permits or provisional licenses younger than age 18 from using a wireless communication device while operating a motor vehicle.

Experts estimate that the nearly 250 million wireless phone users in the United States sent about 158 billion text messages in 2006. It is unknown how many of these messages were sent while people were operating motor vehicles, but driving while texting appears

to be a growing trend. A study by Nationwide Insurance estimated that 20% of all drivers send or receive text messages. A Zogby poll of drivers between the ages of 18 and 24 revealed that 66% confessed to texting while driving.

While few studies have quantified the distraction caused by texting while driving, and no state has published data showing a link between texting and vehicle accidents, experts have estimated that driver inattention is a factor in 80% of motor vehicle crashes and 65% of near crashes. As a result, driver distraction appears to be a factor in about 4.9 million accidents, causing 34,000 fatalities and 2.1 million injuries. While a number of states require law enforcement officers to document the use of wireless devices, especially cell phones, at the scene of an accident, the reliability of data gathered at the accident scene has been subject to challenge.

Additional Information

Prior Introductions: This bill is identical to HB 1110 of 2008 received an unfavorable report from the House Environmental Matters Committee.

Cross File: None.

Information Sources: Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Governors Highway Safety Association, Department of Legislative Services

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