

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

House Bill 564 (Delegate Malone)  
Environmental Matters

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**Vehicle Laws - Distracted Driving - Prohibition**

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This bill establishes the offense of distracted driving. The offense is a misdemeanor, punishable by a maximum fine of \$500. It is not considered a moving violation, however, for the purpose of assessing points. A police officer may only enforce this provision as a secondary action when the driver is detained for another violation of the Maryland Vehicle Law.

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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).

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

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** If a person drives a motor vehicle in an inattentive manner, resulting in the unsafe operation of the motor vehicle and the inattention is caused by the person engaging in any “preoccupying activity” that distracts the person’s attention, that person is guilty of distracted driving.

A “preoccupying activity” includes reading or writing; personal grooming; using a wireless communications device; adjusting cargo; eating, drinking, or smoking; physically attending to another passenger; and operating or observing a video display.

**Current Law:** A “wireless communication device” means a handheld or hands-free device used to access a wireless telephone service or a text messaging device. 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.

There are no specific provisions 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. The fine currently assessed by the District Court for this offense is \$140. If the negligent driving offense contributes to an accident, the fine increases to \$280 and three points must be assessed against the driver’s license.

**Background:** The use of telephones while driving and the impact of other distractions on drivers has been a major traffic safety issue for the past several years. It is estimated that about 80% of the more than 220 million people in the United States who subscribe to wireless services use a cell phone while driving. In addition to telephones, cars are equipped with on-board navigation systems, DVD players, and television monitors, all competing to divert the driver’s attention away from the road. The National Highway Traffic Safety Administration (NHTSA) has estimated that nearly four out of five motor vehicle crashes are caused by driver distraction. A 2007 Nationwide Mutual Insurance survey of 1,500 drivers reported that more than 80% admitted to changing clothes, steering with a foot, painting nails, and shaving while driving.

A 2006 study of real world driver behavior, completed by NHTSA and the Virginia Tech Transportation Institute, concluded that driver inattention is the leading factor in most crashes and near-crashes. The study tracked drivers of 100 vehicles for more than one year. The vehicles were equipped with video and sensor devices that provided over 42,000 hours of data. During the study, the drivers were involved in 82 crashes, 761 near-crashes, and 8,295 critical incidents. The study concluded that the most common distraction for drivers is cell phone use. Also, the number of crashes and near-crashes resulting from dialing a cell phone was nearly identical to the number resulting from listening or talking. Some distracting behaviors and their risk associated with accidents according to the study follow:

### Distracting Driving Behavior

### Crash/Near-crash Increase Factor

Reaching for Moving Object	9 times
Looking at External Object	3.7 times
Reading	3 times
Applying Makeup	3 times
Dialing Hand-held Device*	3 times
Talking or Listening on Hand-held Device*	1.3 times

\*Although dialing was found to be more dangerous initially than talking or listening, because talking or listening occurs more often and over a longer period of time, the number of accidents caused by talking or listening was similar to the number of accidents caused by dialing alone.

New Hampshire and Utah have laws prohibiting a range of distracting behaviors while driving. California, Connecticut, New Jersey, and New York as well as the District of Columbia prohibit hand-held phone use by all drivers. Provisions in Connecticut and the District of Columbia that prohibit the use of hand-held phones while operating a motor vehicle also prohibit engaging in distracting activity that may affect the safe operation of a motor vehicle. Restrictions on the placement of televisions or their prohibition in motor vehicles are the subject of laws in at least 38 states, including Maryland. According to the National Conference of State Legislatures, every state and the District of Columbia has considered legislation in this area during the last three years.

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### **Additional Information**

**Prior Introductions:** A similar bill, HB 1127 of 2007, was heard by the House Environmental Matters Committee but received no further action. Another similar bill, HB 30 of 2006, received an unfavorable report from the House Environmental Matters Committee.

**Cross File:** SB 630 (Senator Glassman) - Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, National Highway Traffic Safety Administration, *negligentdriving.com*, Nationwide Mutual Insurance, National Conference of State Legislatures, Governors Highway Safety Association, Virginia Tech Transportation Institute, Department of Legislative Services

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Analysis by: Karen D. Morgan

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