

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 518

(Delegate G. Clagett, *et al.*)

Environmental Matters

**Vehicle Laws - Use of Wireless Communication Devices While Driving -
Prohibitions**

This bill prohibits the use of a wireless communication device while driving for specified drivers and prohibits any other driver (with specified exceptions) from using the driver's hands to use a wireless communication device while driving. The bill creates exceptions for first responders when acting within the scope of official duty, State Highway Administration workers or contractors clearing the road in an emergency, drivers of county vehicles that provide transportation services for the elderly and disabled, and individuals operating commercial motor vehicles using two-way radios with push-to-talk technology.

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. Enforcement can be handled with existing resources.

Local Effect: Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill prohibits the driver of a school vehicle that is carrying passengers and is in motion from using a wireless communication device. This

prohibition also applies to the holder of a learner's instructional permit or provisional driver's license who is age 18 or older.

In addition, the bill prohibits any other driver of a motor vehicle that is in motion from using the driver's hands to use a wireless communication device other than to initiate or terminate a wireless telephone call or to turn the wireless communication device on or off. This prohibition does not apply to the use of a wireless communication device to call a 9-1-1 system for purposes related to a contemporaneous emergency.

A police officer may enforce the bill's provisions only as a secondary action when detaining a driver for another suspected violation. For a first offense, the violator is subject to a fine of up to \$50. For a first offense, points may not be assessed against the driver unless the offense contributes to an accident. The court is authorized to waive the fine for a first-time conviction if the person proves that he or she has a hands-free accessory, attachment, add-on, or built-in feature for the wireless communication device. For a second or subsequent offense, the maximum fine is \$100.

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.

Except as otherwise specified, a school vehicle is a motor vehicle that is used regularly for the exclusive transportation of children, students, or teachers for educational purposes, or in connection with a school activity. It is either of the body-on chassis type or integral type construction. A Type I school vehicle has a gross vehicle weight (GVW) exceeding 15,000 pounds and at least 13 inches seating space per passenger. A Type II school vehicle has a maximum GVW of 15,000 pounds and at least 13 inches seating space per passenger.

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 learner's permit or provisional license holder who is younger than age 18 is prohibited from using a wireless communication device while operating a motor vehicle.

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.

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. 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.

A persistent issue with the use of cell phones and other wireless devices in motor vehicles has been the mixed results of published studies; however, more recent studies have indicated a stronger connection between cell phone use and risky driving behavior.

A 2008 study of cell phones and driving involving brain imaging from the Center for Cognitive Brain Imaging and Carnegie Mellon University showed that just listening to a cell phone conversation while driving reduces the amount of brain activity devoted to driving by 37%. The scientists noted an overall decline in driving quality. Drivers were likely to weave in and out of lanes and commit other lane maintenance errors. The study concluded that engaging in a demanding cell phone conversation while driving could jeopardize judgment and reaction times. A 2006 study of real world driver behavior, completed by the National Highway Traffic Safety Administration and the Virginia Tech Transportation Institute, 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 of accidents resulting from listening or talking; although dialing is more dangerous, it occurs less often than listening or talking. A 2005 study published in the *British Medical Journal* concluded that drivers who use cell phones are four times more likely to be involved in a vehicle crash. A study of young drivers conducted at the University of Utah in 2004 found that their response time slowed significantly when using cell phones, so much so, that drivers younger than age 21 were found to have the reaction times of drivers age 65 to 74.

The National Safety Council recently launched a nationwide campaign aimed at getting motorists to stop using cell phones and other wireless devices while driving. States have also been very active in this area. According to the Governors Highway Safety Association, California, Connecticut, New Jersey, New York, Washington, and the District of Columbia prohibit the use of handheld phones by all drivers while operating a motor vehicle. Washington authorizes secondary enforcement only for the offense. The other states and the District of Columbia authorize primary enforcement. Also, 17 states (Arizona, Arkansas, California, Connecticut, Delaware, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, Minnesota, New Jersey, North Carolina, Rhode Island, Tennessee, Texas, and Virginia) and the District of Columbia prohibit the operators of school vehicles that carry passengers from using a wireless telephone device while driving. Every state and the District of Columbia has considered legislation in the area of driving and cell phone use during the last three years.

Additional Information

Prior Introductions: SB 2 of 2008, as amended, passed the Senate and then received an unfavorable report from the House Environmental Matters Committee. Similar bills were introduced as SB 44 of 2007 and HB 817 of 2006. SB 44 was heard by the Senate Judicial Proceedings Committee but received no further action. HB 817 of 2006 received an unfavorable report from the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Governors Highway Safety Association, Carnegie Mellon University, Center for Cognitive Brain Imaging, National Safety Council, Insurance Information Institute, *The Tulsa Beacon*, National Highway Traffic Administration, Virginia Tech Transportation Institute, British Medical Journal, Department of Legislative Services

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