

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 520

(Delegate Stukes, *et al.*)

Environmental Matters

**Transportation - Transit Vehicle Operators - Prohibition on Use of Wireless
Communication Devices**

This bill prohibits the use of a wireless communication device, such as a cell phone, while operating a Maryland Transit Administration (MTA) transit vehicle. A violator is guilty of a misdemeanor and upon conviction is subject to a maximum fine of \$500.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's penalty provision. No effect on expenditures as enforcement can be handled with existing resources.

Local Effect: None. Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: A "wireless communication device" is a handheld or hands-free device used to access a wireless telephone service or a text messaging device. A "transit facility" is any one or more or combination of tracks, rights-of-way, bridges, tunnels, subways, rolling stock, stations, terminals, ports, parking areas, equipment, fixtures, buildings, structures, other real or personal property, and services incidental to or useful or designed for use in connection with the rendering of transit service by any means, including rail, bus, motor vehicle, or other mode of transportation, but does not include any railroad facility.

“Transit service” is the transportation of persons and their packages and baggage and of newspapers, express, and mail in regular route, special, or charter service by means of transit facilities between points within the district. “Transit service” does not include taxicab service, vanpool operation, or railroad service. A “transit vehicle” is a mobile device used in rendering transit service.

Drivers are prohibited from using a text messaging device to write or send a text message while operating a motor vehicle in motion or in the travel portion of the roadway. A “text messaging device” is a handheld device used to send a text message or an electronic message via a short message service, wireless telephone service, or electronic communication network. A “motor vehicle” is a vehicle that is self-propelled or propelled by electric power obtained from overhead electrical wires, but not operated on rails. Since subway and light rail vehicles operate on rails, they do not fit under the definition of a motor vehicle, and therefore are not subject to the text messaging prohibition. The use of a global positioning system or text messaging device to contact a 9-1-1 system is exempt from the prohibition. Violators are guilty of a misdemeanor and subject to a maximum fine of \$500.

Background: In July 2009, MTA adopted a zero-tolerance policy under which any transit operator found using a cell phone or text messaging device on the job is fired, even for a first offense. The policy applies to all bus drivers, light rail, and subway operators and any other functions that require critical attention to the task at hand (including light rail fare inspectors). The policy does not apply to Maryland Area Regional Commuter train operators as they are employees of Amtrak and CSX Transportation. In September 2009, the zero-tolerance policy was expanded to include possession of such devices while operating a MTA vehicle, serving the public, or performing safety sensitive duties.

In July 2009, the Washington Metropolitan Area Transit Authority (WMATA) also adopted a zero-tolerance policy under which Metrobus and Metrorail operators caught using a cell phone, texting, or using a personal digital assistant while operating a vehicle will be fired. Previously, WMATA had a progressive disciplinary policy that gave employees three warnings before termination. The new policy allows train and bus operators to use personal cell phones during specified emergency situations.

In September 2008, a Metrolink train ran a red traffic signal and collided with a Union Pacific freight train on a single shared track in California’s San Fernando Valley, killing 25 people and injuring 135 others. Among other violations, federal investigators found that the Metrolink engineer was text messaging 22 seconds before the collision and the conductor of the freight train was texting while he was on duty. In response to this incident, as well as other high-profile safety lapses, the U.S. Department of Transportation is expected to seek a greater role in regulating the safety and operations of

local transit systems. Federal legislation is anticipated that requires minimum federal safety standards, through the Federal Transit Administration, for rail transit systems (except for commuter rail systems that are already regulated by the Federal Railroad Administration) and authorizes such standards to be established for bus systems.

Additional Information

Prior Introductions: HB 321 of 2008 received a hearing in the House Environmental Matters Committee, but no further action was taken.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2010
ncs/lgc

Analysis by: Amanda Mock

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