

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 192

(Delegates Malone and Kach)

Environmental Matters

Judicial Proceedings

Motor Vehicles - Reading Text Message While Driving - Prohibition

This bill extends the prohibition on writing or sending a text message to include *reading* a text message while operating a motor vehicle in motion or in the travel portion of the roadway. A violator is guilty of a misdemeanor and subject to a maximum fine of \$500. The prohibition on reading a text message does not apply to the use of a global positioning system or to the use of a text messaging device to contact a 9-1-1 system.

Fiscal Summary

State Effect: Minimal general fund revenue increase from the penalty provision applicable to this offense under the Maryland Vehicle Law. 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 handheld or hands-free device used to access a wireless telephone service or a text messaging device. A “text messaging device” means a handheld device that sends a text message or an electronic message via a short message service, wireless telephone service, or electronic communication network.

A driver is 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. The

prohibition does not apply to the use of a global positioning system or to the use of a text messaging device to contact a 9-1-1 system.

A violator is guilty of a misdemeanor and subject to a maximum fine of \$500. The prepayment penalty established by the District Court for this offense is \$70. If the violation contributes to an accident, the prepayment penalty increases to \$110. The Motor Vehicle Administration (MVA) is required to assess one point against the driver's license for a violation, or three points if the violation contributes to an accident.

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 minor drivers is only enforceable as a secondary action. A violator is subject to a maximum fine of \$500. The prepayment penalty assessed by the District Court is \$70, or \$110 if the violation contributes to an accident. MVA is required to assess one point against the driver's license for a violation, or three points if the violation contributes to an accident. A violator is also subject to license suspension for up to 90 days by MVA. (*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 prepayment 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, 19 states and the District of Columbia specifically prohibit texting while driving. In addition to Maryland, 14 other states (Alaska, Arkansas, California, Colorado, Connecticut, Illinois, Minnesota, New Hampshire, New Jersey, North Carolina, Oregon, Rhode Island, Tennessee, and Utah) and the District of Columbia authorize primary enforcement of their text-messaging bans. In four other states, (Louisiana, New York, Virginia, and Washington) enforcement of the texting bans is secondary, that is, the driver has to first be detained for another violation before being charged with a texting while driving violation. Many local jurisdictions have also established texting while driving bans or cell phone use restrictions within their limits.

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, Oregon, Washington, and the District of Columbia prohibit all drivers from using handheld phones while operating motor vehicles. Illinois bans the use of cell phones by all drivers when travelling through school or highway construction zones. Since texting

generally requires a cell phone to be held in the hand, these laws appear to prohibit that activity. Ten states and the District of Columbia prohibit any use of cell phones by all drivers younger than age 18. In Illinois, that prohibition is extended to any driver younger than age 19. Another 10 states, including Maryland, prohibit young drivers with instructional permits or provisional or intermediate licenses from using a wireless communication device while operating a motor vehicle. Generally these types of bans apply to drivers younger than age 18, but in some states, the prohibition applies to drivers up to age 21.

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 texting while driving 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 specifically established 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. In 2008, the National Highway Traffic Safety Administration reported that 5,870 people were killed and 515,000 were injured in crashes involving at least one form of driver distraction. While 33 states and the District of Columbia 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.

The U.S. Department of Transportation and the National Safety Council announced a national campaign in January 2010 to educate people about the dangers of driving while using a cell phone or text-messaging device. The campaign, called "Focus Driven," is an outgrowth of a national summit held on distracted driving in 2009.

State Fiscal Effect: The District Court reports that 60 citations have been issued since October 1, 2009, for the current law offense of writing or sending a text message while driving. The addition of reading to the prohibition of writing and sending may result in the assessment of additional fines. Any additional cases generated can be handled with existing resources. Enforcement can be handled with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles, Frederick, and Montgomery counties; Judiciary (Administrative Office of the Courts); Department of State Police; *www.distraction.gov* – U.S. Department of Transportation; National Highway Traffic Safety Administration; Governors Highway Safety Association; *The New York Times*; Department of Legislative Services

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