

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 993 (Delegate Conaway)
Environmental Matters

Vehicle Laws - Use of Wireless Communication Devices - Prohibition

This bill repeals restrictions on using a wireless communication device while driving and instead prohibits a person from using any wireless communication device, including a global positioning system, 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 does not apply to using such a 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: State regulation of wireless communication devices generally has been limited to restrictions or prohibitions on handheld devices. No state completely prohibits the nonemergency use of wireless communication devices while driving. Also, statewide restrictions and prohibitions on wireless devices generally establish exemptions for the use of global positioning systems.

According to the Governors Highway Safety Association, six states (California, Connecticut, New Jersey, New York, Oregon, and 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.

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. For example, the Highway Loss Data Institute and the Insurance Institute for Highway Safety (IIHS) released the results of a study in December 2009 that claims no significant reduction in accidents has occurred in states that have enacted bans on handheld cell phones while driving. Some experts have attributed the absence of a decline to intermittent enforcement efforts, while others have said that handheld cell phone bans still do not address the real problem – that is, the distraction caused by the phone conversation itself. IIHS is on record stating that accident rates generally are the same whether the driving bans target handheld or hands-free cell phones.

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 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.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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