

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 934

(Delegate McIntosh, *et al.*)

Environmental Matters

Judicial Proceedings

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Vehicle Laws - Commercial Vehicles - Handheld Telephones Utilizing Push-to-Talk Technology

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This bill establishes an exception for the use of a handheld telephone utilizing push-to-talk technology by an individual operating a commercial motor vehicle to the prohibitions against using a handheld telephone while driving, as specified in SB 321.

The bill takes effect October 1, 2010, contingent on enactment of SB 321.

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**Fiscal Summary**

**State Effect:** Minimal general fund revenue decrease from the exemption established for the proposed offense. Enforcement can be handled with existing resources.

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

**Small Business Effect:** None.

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**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.

The State has enacted provisions restricting or prohibiting the use of a text messaging or wireless communication device. 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.

(See Transportation Article § 21-1124.1.) 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. A violator is also subject to license suspension for up to 90 days by MVA. This prohibition on minor drivers is only enforceable as a secondary action when a police officer detains a minor driver for a suspected violation of another provision of the Annotated Code. (See Transportation Article § 21-1124.)

A violator of either of these provisions is guilty of a misdemeanor and subject to a maximum fine of \$500. The prepayment penalty established by the District Court for these offenses is \$70. If the violation contributes to an accident, the prepayment penalty increases to \$110. 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 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 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:** 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.

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.

**Additional Comments:** SB 321 prohibits a driver of a motor vehicle that is in motion from using a handheld telephone; instead, the driver may only use his/her hands to initiate or terminate a wireless call or to turn the handheld telephone on or off. The bill also generally prohibits the driver of a school vehicle that is carrying passengers and is in motion and a holder of a learner’s instructional permit or a provisional driver’s license who is age 18 or older from using a handheld telephone. The prohibitions do not apply to emergency use of a handheld telephone or to specified law enforcement or emergency personnel within the scope of official duty. The offense is enforceable as a secondary action only and is subject to a maximum fine of \$40 for a first offense and \$100 for a second or subsequent offense. The court is authorized to waive the fine for a first offense under specified circumstances.

## Additional Information

**Prior Introductions:** Similar bills have been introduced in each of the last four legislative sessions. HB 518 of 2009 received an unfavorable report from the House Environmental Matters Committee. SB 2 of 2008, as amended, passed the Senate and then received an unfavorable report from the House Environmental Matters Committee. SB 44 of 2007 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, 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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