

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 489

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

Environmental Matters

Vehicle Laws - Use of Wireless Telephone 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. 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 acquired 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.

The State has enacted provisions restricting or prohibiting the use of wireless communication devices. 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 the Motor Vehicle Administration (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 currently 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.

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 the 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. The 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 Information

Prior Introductions: 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. 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, 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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