

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 221

(Delegate Malone, *et al.*)

Environmental Matters

Judicial Proceedings

Motor Vehicles - Use of Text Messaging Device While Driving

This bill clarifies that the prohibition against use of a wireless device while operating a motor vehicle applies to all drivers younger than age 18. The bill limits the definition of a wireless communication device to a handheld or hands-free device used to access a wireless telephone service and specifies, for the purpose of the prohibition on driving while using a wireless communication device, that its provisions do not apply to such use. The bill also prohibits any person from using a text messaging device to write or send an electronic message.

Fiscal Summary

State Effect: Potential minimal general fund revenue increase from the penalty provisions applicable to these offenses. Enforcement can be handled with existing resources.

Local Effect: Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: A “text messaging device” means a handheld device to send a text message or an electronic message via a short message service, wireless telephone service, or electronic communication network. A wireless communication device means a handheld or hands-free device used to access a wireless telephone service or a text messaging device.

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 novice drivers is only enforceable as a secondary action. A violator is subject to a maximum fine of \$500 and assessment of one point against the driving record. The prepayment penalty assessed by the District Court is \$70, or \$110 and three points if the violation contributes to an accident. A violator is also subject to license suspension for up to 90 days by the Motor Vehicle Administration.

Under the universal ban on texting while driving, 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. A violator is guilty of a misdemeanor and subject to a maximum fine of \$500. The prohibition does not apply to the use of a global positioning system or the use of a text messaging device to contact a 9-1-1 system. A violator is subject to an assessment of one point against the driving record. The prepayment penalty assessed by the District Court is \$70, or \$110 and three points if the violation contributes to an accident.

Background: According to the Governors Highway Safety Association (GHSA), 30 states and the District of Columbia specifically prohibit driving while texting. Washington was the first state to enact such a law in May 2007. In addition to Maryland, 25 other states and the District of Columbia authorize primary enforcement of their text-messaging bans. Four states authorize secondary enforcement only. Many local jurisdictions have also established texting while driving bans or cell phone 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, Delaware, Maryland, New Jersey, New York, Oregon, Washington, and the District of Columbia prohibit all drivers from using handheld phones while operating motor vehicles. Since texting requires a cell phone to be held in the hand, these laws appear to prohibit that activity. Twenty-eight states and the District of Columbia specifically prohibit wireless communication device use by younger drivers. Among those states, Arkansas, California, Colorado, Maine, Massachusetts, North Carolina, Oregon, Rhode Island, Vermont, and Virginia prohibit all drivers younger than age 18 from using any type of wireless communication device while driving. The other jurisdictions, including Maryland, limit the prohibition against wireless communication devices to drivers with instructional permits or provisional licenses who are younger than age 18. In some states, the prohibition targeting young drivers applies to drivers up to age 21.

Experts estimate that more than 285 million wireless phone users are in the United States. In 2008, about 1.3 billion text messages were sent, an average of 110 million text

messages per month. It is unknown how many of these messages were sent while people were operating motor vehicles, but driving while texting has been a growing trend for several years. 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.

Studies of the effects of texting on driving have shown conflicting results. Researchers at Virginia Tech Transportation Institute have become well known for their “real world” studies documenting the detrimental effects of texting and other electronic device distractions on driving. In September 2010, study results from researchers at the University of North Texas Health Science Center asserted that talking and texting on cell phones while driving has killed 16,000 people from 2001 to 2007, and that the proportion of deaths attributable to these device distractions has increased although the total number of traffic fatalities in the United States has decreased in recent years. However, in the same month, the Highway Loss Data Institute released a study of texting and driving asserting that no crash reductions have occurred in the states that have enacted laws banning texting while driving. In fact, the bans have been associated with a slight increase in the frequency of insurance claims due to collision damage in the four states that were the focus of the study. Meanwhile, the U.S. Department of Transportation has made the elimination of texting while driving a major priority and has held summits on the dangers of distracted driving in 2009 and 2010.

While at least 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. According to GHSA, recently proposed federal legislation would require all states to collect data about distractions to qualify for certain federal funding.

State Revenues: The District Court advises that, in fiscal 2010, there were two convictions for violating the prohibition against writing or sending a text message while driving.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Carroll, Cecil, Harford, Montgomery, and St Mary’s counties; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Governors Highway Safety Association;

Reuters News Service; Highway Loss Data Institute; Virginia Tech Transportation Institute; *American Journal of Public Health*; U.S. Department of Transportation; Department of Legislative Services

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