

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 1355 (Delegate Jameson)
Environmental Matters

Driving Instructors - Use of Wireless Communication Device

This bill prohibits a driving instructor from using a wireless communication device, other than to turn it off, while a student driver is operating a motor vehicle. A “student driver” is an individual who receives instruction in the driving of a motor vehicle from a driving instructor. “Driving instructor” retains the meaning assigned in the Transportation Article.

The violation may be enforced only as a secondary action when a police officer detains a student driver for another suspected violation of the Annotated Code. A person who violates the prohibition is subject to a fine of up to \$40 for a first offense and a fine of \$100 for a second or subsequent offense. The bill does not apply to the use of a wireless communication device to contact a 9-1-1 system. A notice about the prohibition, in a format specified by the Motor Vehicle Administration (MVA), must be displayed in all vehicles used for instruction while a student driver is operating the motor vehicle.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from the fines applicable to this offense. Enforcement can be handled with existing resources.

Local Effect: Enforcement can be handled with existing resources.

Small Business Effect: Minimal. Small businesses may incur additional expenses to comply with signage requirements.

Analysis

Current Law: A “driving instructor” is any individual who, for compensation and under agreement or arrangement with a drivers’ school, gives instruction in the driving of motor vehicles. The term also applies to anyone who gives or offers driving instruction and receives or expects to receive compensation for that instruction.

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 instructional permit or a provisional driver’s license is prohibited from using a wireless communication device while operating a motor vehicle. A violator is 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.

A violator of this provision 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. 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.

Background:

Distracted Driving Enforcement in Maryland: Except for the offense of writing or sending a text while driving, the offenses that prohibit use of either a handheld telephone or a wireless communication device are secondary enforcement offenses only. The District Court has documented the issuance of citations that took place in fiscal 2010, as shown in **Exhibit 1**.

Exhibit 1
Electronic Device and Driving Citations
Fiscal 2010

<u>Offense while Driving</u>	<u>Enforcement Type</u>	<u>Open</u>	<u>Prepaid</u>	<u>Trial</u>	<u>Total Citations</u>
Writing or Sending Text Message	Primary	17	99	92	208
Permit/Prov. License Holder – Minor w/Wireless Device	Secondary	0	0	7	7
Permit/Prov. License Holder w/Handheld Phone	Secondary	0	0	0	0
School Bus Driver w/Handheld Phone	Secondary	0	0	0	0
Adult Driver Using Hands to Use Handheld Phone	Secondary	0	0	0	0

Source: District Court, Department of Legislative Services

National Studies and Mixed Results: A persistent issue with the use of cell phones and other wireless devices in motor vehicles has been the mixed results of published studies. For example, the Highway Loss Data Institute and the Insurance Institute for Highway Safety 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. In 2010, the Highway Loss Data Institute released another 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.

On the other hand, in September 2010, a study was released by researchers at the University of North Texas Health Science Center which asserted that talking and texting on cell phones while driving has killed 16,000 people from 2001 to 2007. Furthermore, the proportion of deaths attributable to these device distractions has increased although the total number of traffic fatalities in the United States has declined in recent years. 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.

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 national summits held on distracted driving in 2009 and 2010.

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, Governors Highway Safety Association, Reuters News Service, Highway Loss Data Institute, National Highway Traffic Safety Administration, Virginia Tech Transportation Institute, *American Journal of Public Health*, U.S. Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - April 4, 2011
ncs/ljm

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