

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 163 (Delegate Arora)
Environmental Matters

**Motor Vehicles - Prohibition on Use of Text Messaging Device While Driving -
Exceptions**

This bill expands the exemptions on the prohibition of use of a text messaging device while operating a motor vehicle in the travel portion of the roadway. The exemptions are expanded to specifically include voice recognition technology that allows the hands-free sending of a text or electronic message and the use of a text messaging device to listen to a text or electronic message.

Fiscal Summary

State Effect: Potential minimal general fund revenue decrease as the penalty may be applicable to fewer offenses. Any modifications to enforcement can be handled with existing resources.

Local Effect: Any modifications to 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.

Under the universal ban on texting while driving, a driver is prohibited from using a text messaging device to read, write, or send a text or electronic message while operating a motor vehicle 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:

Electronic Devices and Driving – Maryland Enforcement: The offense of reading, writing, or sending a text while operating a motor vehicle in the travel portion of the roadway is subject to primary enforcement. The District Court has documented the issuance of citations for the relevant violations that took place in fiscal 2011, as shown in **Exhibit 1**.

**Exhibit 1
Electronic Device and Driving Citations
Fiscal 2011**

<u>Offense While Driving</u>	<u>Enforcement Type</u>	<u>Open</u>	<u>Prepaid</u>	<u>Trial</u>	<u>Total Citations</u>
Reading, Writing, or Sending Text Message	Primary	63	159	126	348

Source: Administrative Office of the Courts

Electronic Devices and Driving – Nationwide Developments: According to the National Conference of State Legislatures and the Governors Highway Safety Association (GHSA), 35 states and the District of Columbia specifically prohibit driving while texting. Washington was the first state to enact such a law in May 2007. Including Maryland, 32 other states and the District of Columbia authorize primary enforcement of their text messaging bans. Three states authorize secondary enforcement only. Many local jurisdictions have also established texting while driving bans or cell phone restrictions within their limits.

Voice-activated technology is a relatively new phenomenon, but its adoption by the automotive industry has been happening at a speedy pace. The Ford Motor Company developed its “InSync” technology (also called “My Ford Touch” and “My Lincoln Touch”) several years ago and has since been aggressively marketing the advantages of using its hands-free technology to control music, navigation, as well as to send and hear text messages and emails. The company often refers to the safety advantages of its voice-technology system as it is intended to help ensure that drivers keep their eyes on

the road and their hands on the car steering wheel. In 2010, Ford announced the addition of a “do not disturb” addition to its InSync system. The technology allows the sound features of smartphones, including the notification of texts or emails, to be disabled. Other car manufacturers, including Audi, BMW, Hyundai, Chrysler, and Toyota, have also begun installing their own versions of voice-activated technology in some of their automobiles.

Even without the built-in technology installed by automakers, any person with an Apple “iPhone” or “Android” smartphone can use voice-activated technology in the car. When the Apple Corporation announced the features of its new iPhone in October 2011, one enhancement that captured the attention of technology experts and journalists was “Siri” – the voice technology application which sends and reads aloud messages, among other things, and is intended to work with natural language. Users of Android phones have long been able to hear texts and emails read aloud and to initiate navigation and search functions through the voice activation feature included with most smartphones that are sanctioned by the Google Corporation, which owns the Android operating system. Applications designed for Android smartphones, for example, an application called “Vlingo,” allow an owner to use his or her voice to initiate the application and to activate car functions like playing music, finding and navigating to places, and listening to and sending texts and emails.

While most of the 35 states with bans on texting while driving do not specifically exempt texting and the accessing of emails by voice activation, the National Conference of State Legislatures advises that 7 states (Illinois, Indiana, Iowa, Kansas, Minnesota, North Carolina, and Wisconsin) have amended their texting while driving laws to specifically exempt texting or the accessing of electronic messages, if accomplished through a voice-activation system.

National Studies Document the Driving While Texting Trend: According to the Cellular Telecommunications Industry Association (CTIA), there are more than 322.9 million wireless phone subscribers in the United States. These subscribers send over 2.1 trillion text messages annually. In June 2011 alone, CTIA reports that about 196.9 billion text messages were sent. 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. According to the Pew Internet & American Life Project, based on a survey completed in 2009, 34% of teens ages 16 and 17 who text have reported that they have texted while driving and 48% of teens ages 12 through 17 say they have been in a car while the driver was texting.

Studies of the effects of texting on driving have shown conflicting results, however. 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 (1) talking and texting on cell phones while driving has killed 16,000 people from 2001 to 2007; and (2) 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. In the same month, however, 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.

Accident Documentation: While at least 35 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, proposed federal legislation would require all states to collect data about distractions to qualify for certain federal funding.

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; Ford Motor Company; Google.com; AndroidCentral.com; Cellular Telecommunications Industry Association; cellular-news.com; autonews.com; National Conference of State Legislatures; Governors Highway Safety Association; Reuters News Service; Highway Loss Data Institute; Insurance Institute for Highway Safety; University of North Texas Health Science Center; Virginia Tech Transportation Institute; *American Journal of Public Health*; Pew Research Center; U.S. Department of Transportation; Department of Legislative Services

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