

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 55

(Delegate Malone)

Environmental Matters

Judicial Proceedings

Motor Vehicles - Use of Text Messaging Device While Driving

This bill clarifies that the prohibition against use of a wireless communication device while operating a motor vehicle applies to all drivers younger than age 18. It further clarifies that the existing prohibition against the use of a text messaging device while driving, and enforcement of that prohibition as a primary offense, applies to all drivers, including drivers younger than age 18. The bill continues to apply an administrative penalty to those drivers younger than age 18 who violate the prohibition against texting while driving.

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

Bill Summary: The administrative penalty in the bill is identical to the administrative penalty applied to drivers younger than age 18 who violate the prohibition against using a wireless communication device while operating a motor vehicle. If the Motor Vehicle Administration (MVA) receives satisfactory evidence that an individual younger than age 18 has committed a violation, MVA may suspend the individual's license for up to 90 days. MVA may then issue a restricted license for the suspension period that is

limited to driving a motor vehicle in the course of employment, to and from a place of employment, or to or from school. The individual may request an administrative hearing on the suspension.

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.

MVA issues only learner’s instructional permits or provisional licenses to any drivers younger than age 18. A qualified driver must be at least 18 years old to receive a full driver’s license from MVA. Except to contact a 9-1-1 system in an emergency, a driver who is a minor 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 MVA.

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 offense of using a wireless communication device while operating a motor vehicle, which applies only to drivers who are minors, is limited to secondary enforcement only. 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
Permit/Prov. License Holder-Minor w/ Wireless Device	Secondary	2	10	9	21

Source: Administrative Office of the Courts

Electronic Devices and Driving – Nationwide Developments: According to 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, 31 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, Nevada, New Jersey, New York, Oregon, Washington, and the District of Columbia prohibit all drivers from using handheld phones while operating motor vehicles. Since texting that involves typing requires a cell phone to be held in the hand, these laws appear to prohibit that activity.

Thirty states and the District of Columbia specifically prohibit wireless communication device use by younger drivers. Among those states, Arkansas, California, Colorado, Connecticut, Indiana, Kentucky, Maine, Massachusetts, North Carolina, North Dakota, 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 use of 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.

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.

State Revenues: Since this bill clarifies, rather than expands, the applicability of the offenses to which this bill pertains, it is unlikely that revenues from fines or corrected licenses (issued after completion of a suspension period) will be appreciably affected by the bill’s provisions, although the potential for a minimal increase in general and special fund revenues exists due to enhanced primary enforcement against minors.

Additional Information

Prior Introductions: HB 221 of 2011, a similar bill, passed the House, as amended but received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of State Police; Office of Administrative Hearings; Maryland Department of Transportation; Cellular Telecommunications Industry Association; Governors Highway Safety Association; Reuters News Service; Highway Loss Data Institute; 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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