

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

House Bill 755 (Delegate Stukes, *et al.*)  
Environmental Matters

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Transportation - Transit Vehicle Operators - Prohibition on Use of Wireless  
Communication Devices

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This bill prohibits the use of a wireless communication device, such as a cell phone, while operating a Maryland Transit Administration (MTA) transit vehicle. A violator is guilty of a misdemeanor and is subject to a maximum fine of \$500.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund revenues due to the bill's penalty provision. Enforcement can be handled with existing resources.

**Local Effect:** Enforcement can be handled with existing resources.

**Small Business Effect:** None.

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Analysis

**Current Law:** A "wireless communication device" is a handheld or hands-free device used to access a wireless telephone service. A "transit vehicle" is a mobile device used in rendering transit service.

"Transit service" is the transportation of persons and their packages and baggage and of newspapers, express, and mail in regular route, special, or charter service by means of transit facilities between points within the district. "Transit service" does not include taxicab service, vanpool operation, or railroad service. A "transit facility" is any one or more or combination of tracks, rights-of-way, bridges, tunnels, subways, rolling stock, stations, terminals, ports, parking areas, equipment, fixtures, buildings, structures, other

real or personal property, and services incidental to or useful or designed for use in connection with the rendering of transit service by any means, including rail, bus, motor vehicle, or other mode of transportation, but the term does not include any railroad facility.

*Text Messaging:* Drivers are prohibited from using a text messaging device to write, send, or read a text message or an electronic message while operating a motor vehicle in the travel portion of the roadway. The use of a global positioning system or text messaging device to contact a 9-1-1 system is exempt from the prohibition. A “text messaging device” is a handheld device used to send a text message or an electronic message via a short message service, wireless telephone service, or electronic communication network. A “motor vehicle” is a vehicle that is self-propelled or propelled by electric power obtained from overhead electrical wires, but not operated on rails. Since subway and light rail vehicles operate on rails, they do not fit under the definition of a motor vehicle and, therefore, are not subject to the text messaging prohibition. A violator is guilty of a misdemeanor and subject to a maximum fine of \$500. 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.

*Handheld Phones:* The driver of a school vehicle that is carrying passengers and is in motion is prohibited from using a handheld telephone. The prohibition also applies to the holder of a learner’s instructional permit or provisional driver’s license who is age 18 or older and in a vehicle that is in motion. Any other adult driver of a motor vehicle that is in motion may not use a handheld telephone; instead, the driver may only use the driver’s hands to initiate or terminate a wireless telephone call or to turn the handheld telephone on or off. These prohibitions do not apply to (1) the emergency use of a handheld telephone; (2) law enforcement or emergency personnel when acting within the scope of official duty; (3) the use of a handheld telephone as a text messaging device; or (4) the use of push-to-talk technology by a commercial operator.

The offense is enforceable as a secondary action only. For a first offense, the violator is subject to a maximum fine of \$40 and points may not be assessed against the driver’s license unless the offense contributes to an accident, in which case three points are assessed. 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 handheld telephone that will allow the person to operate a motor vehicle in compliance with the law. For a second or subsequent offense, the fine is \$100 and one point is assessed against the license. If the second offense contributes to an accident, three points are assessed against the driver’s license.

**Background:** In July 2009, MTA adopted a zero-tolerance policy under which any transit operator found using a cell phone or text messaging device on the job is fired, even for a first offense. The policy applies to all bus drivers, light rail, and subway operators and any other functions that require critical attention to the task at hand (including light rail fare inspectors). The policy does not apply to Maryland Area Regional Commuter train operators as they are employees of Amtrak and CSX Transportation. In September 2009, the zero-tolerance policy was expanded to include possession of such devices while operating a MTA vehicle, serving the public, or performing safety sensitive duties.

MTA advises that all MTA buses, subway cars, and light rail cars have two-way radios that enable communication with an operations control center. MTA further advises that, if a bus radio is defective and cell phone use is required due to an emergency, bus operators must pull over and secure the bus prior to using a cell phone.

In July 2009, the Washington Metropolitan Area Transit Authority also adopted a zero-tolerance policy under which Metrobus and Metrorail operators caught using a cell phone, texting, or using a personal digital assistant while operating a vehicle will be fired. The policy allows train and bus operators to use personal cell phones during specified emergency situations.

The U.S. Department of Transportation has taken numerous actions to reduce distracted driving. In October 2009, President Barack Obama signed Executive Order 13513 which prohibited federal employees from engaging in text messaging while driving on official business or using government-owned equipment. In 2010, the U.S. Department of Transportation banned commercial truck and bus drivers from texting while driving and subsequently banned the use of hand-held cell phones by interstate commercial drivers. The Federal Railroad Administration banned rail employees from using cell phones or other electronic devices on the job following a September 2008 crash in Chatsworth, California that killed 25 people.

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### **Additional Information**

**Prior Introductions:** HB 520 of 2010, a similar bill, received an unfavorable report from the House Environmental Matters Committee. HB 321 of 2008 received a hearing in the House Environmental Matters Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, U.S. Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - February 21, 2013  
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