

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 843 (Delegate Folden)
Environment and Transportation

**Task Force to Study the Adoption of Enforcement Tools to Record Video of
Illegal Cell Phone Use While Driving**

This bill establishes a Task Force to Study the Adoption of Enforcement Tools to Record Video of Illegal Cell Phone Use While Driving. The task force must (1) review the efficacy of authorizing local jurisdictions to adopt such recording devices; (2) research vehicle accident statistics related to cell phone use while driving; (3) consider the insurance costs related to distracted driving accidents; and (4) investigate the usage, by county employees or licensed private contractors, of vehicles equipped with recording cameras to document individuals talking and texting on cell phones while driving. The Office of the Governor must provide staff for the task force. The task force must report its findings and recommendations by December 1, 2017, to the Secretary of Transportation and the General Assembly.

The bill takes effect June 1, 2017, and terminates May 31, 2018.

Fiscal Summary

State Effect: Any expense reimbursements for task force members and staffing costs for the Office of the Governor are assumed to be minimal and absorbable within existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The task force must make recommendations regarding:

- how to best regulate an industry that involves local governments and private companies with capability to video record drivers while texting or talking on a cell phone;
- whether to establish a civil offense related to the video recording of an individual using a cell phone illegally while driving;
- protecting the privacy of individuals;
- how to avoid incentivizing private companies that make video recordings of violations to profit by maximizing the number of citations issued; and
- reducing the number of fatal accidents related to the use of cell phones while driving.

Current Law:

Handheld Phones: A “handheld telephone” means a handheld device used to access a wireless telephone service. The driver of a school vehicle that is carrying passengers and is in motion is prohibited from using a handheld telephone while operating a motor vehicle. The prohibition against using a handheld telephone while operating a motor vehicle also applies to the holder of a learner’s instructional permit or provisional driver’s license who is age 18 or older. Any other adult driver of a motor vehicle that is in motion may only use the driver’s hands to initiate or terminate a wireless telephone call or to turn the handheld telephone on or off; otherwise, the driver may not use a handheld telephone. These prohibitions do not apply to the emergency use of a handheld telephone, including calls to a 9-1-1 system, hospital, ambulance service provider, fire department, law enforcement agency, or first aid squad. These prohibitions also do not apply to law enforcement or emergency personnel when acting within the scope of official duty or the use of push-to-talk technology by a commercial operator. A court may waive the penalty for a first offender who provides proof that the person has acquired hands-free equipment to comply with State law.

A violation of the above provisions is a misdemeanor, subject to a maximum fine of \$175 for a third or subsequent offense; the maximum fines for a first and second offense are \$75 and \$125, respectively. The prepayment penalty established by the District Court is (1) \$83 for a first offense; (2) \$140 for a second offense; and (3) \$160 for a third or subsequent offense. The Motor Vehicle Administration (MVA) does not assess points for

this offense unless the violation contributes to an accident, in which case three points are assessed against the driver's license.

Other Wireless Devices: An individual who is younger than age 18 may not use a wireless communication device to access a wireless telephone system while operating a motor vehicle. In addition, any individual (regardless of age) may not use 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. Exceptions are made for use of these devices to contact a 9-1-1 emergency system or as a global positioning system. A violator of either prohibition who is younger than age 18 is subject to license suspension by MVA for up to 90 days.

A violation of the above provisions is a misdemeanor with a maximum fine of \$500. The prepayment penalty established by the District Court 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.

If an individual uses a handheld telephone or text messaging device while operating a motor vehicle and causes an accident that results in death or serious bodily injury, the maximum penalty increases to one year imprisonment and/or a \$5,000 fine. This offense requires an appearance in court to answer the charge, so there is no prepayment penalty available. MVA is required to assess 12 points against the driver's license for this offense, which subjects the driver to license revocation.

Background: The Insurance Institute for Highway Safety estimates that, at any given daylight moment, 660,000 people in the United States are using wireless electronic devices while driving. National surveys on distracted driving conducted by the National Highway Traffic Safety Administration and other organizations appear to indicate a major disconnect between driving behaviors and the comprehension of risky behaviors that stem from the use of electronic devices. In other words, surveyed drivers generally believe it is dangerous for *other* drivers to make phone calls or text while driving, even if the surveyed drivers engaged in the same risky behavior.

The District Court reports that, in fiscal 2016, a total of 56 citations were issued for using a handheld telephone while operating a school bus or other Class H vehicle that was carrying passengers and was in motion. A total of 154 citations were issued to provisional license holders who violated the prohibition against using a handheld telephone while operating a motor vehicle. During the same period, 41,833 citations were issued to fully licensed adult drivers who used a handheld telephone while operating a motor vehicle.

Additional Information

Prior Introductions: None.

Cross File: SB 635 (Senators Klausmeier and Norman) - Judicial Proceedings.

Information Source(s): Office of the Governor; Maryland Department of Transportation; Judiciary (Administrative Office of the Courts); Insurance Institute for Highway Safety; National Highway Traffic Safety Administration; Department of Legislative Services

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