

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1359 (Delegate Stein)  
Environment and Transportation

---

Prohibition on Use of Wireless Communication and Text-Messaging Devices  
While Driving - Enforcement - Study

---

This bill requires the Department of State Police (DSP), in consultation with the Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA), to conduct a study of potential methods of improving the enforcement of laws that prohibit the use of wireless communication and text-messaging devices while operating a motor vehicle. DSP must report its findings and recommendations to the Governor and General Assembly by December 1, 2017.

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

---

Fiscal Summary

**State Effect:** DSP can complete the required study and report on its findings with existing budgeted resources. Revenues are not affected.

**Local Effect:** Members of MCPA and MSA can consult on the required study with existing resources. Revenues are not affected.

**Small Business Effect:** None.

---

Analysis

**Bill Summary:** DSP, MCPA, and MSA must study:

- the feasibility of using new technologies that may be able to examine wireless communication and text-messaging devices and detect recent activity without disclosing the content of any audio, video, text, or other media;

- legislation that would establish “implied consent” for a licensed driver to surrender a wireless communication or text-messaging device for examination on reasonable suspicion that the device was unlawfully used and application of suspension of the driver’s license as a sanction for failure to surrender such a device;
- the privacy concerns that are created by the enforcement process and legal framework under consideration; and
- any other method of improving the enforcement of laws that prohibit the use of wireless communication and text-messaging devices while operating a motor vehicle, as determined by DSP.

**Current Law:**

*Handheld (Wireless) 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:** None.

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

**Fiscal Note History:** First Reader - March 2, 2017  
mm/kdm

---

Analysis by: Michelle Davis

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510