

**2011 HOUSE TRANSPORTATION**

**HB 1195**

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Transportation Committee Fort Totten Room, State Capitol

HB 1195  
01/27/2011  
Job # 13547

☐ Conference Committee

Committee Clerk Signature

### Explanation or reason for introduction of bill/resolution:

This is a bill relating to the use of a wireless communications device and demerit points; and relating to fees for a moving violation; and to provide a penalty.

### Minutes:

Attachments 1, 1a-1f, and 2-4

**Representative Lawrence R. Klemin, District 47,** spoke to explain and support HB 1195 and presented written testimony and documentation of references. See attachments # 1 and 1a-1f.

**Representative R. Kelsch:** You gave us a lot of national data. A lot of times we have legislators that don't really care what is happening around us; we like to look at what is happening in North Dakota. Do you have more data that is more relevant to North Dakota, such as accidents or the number of individuals that have been picked up for distracted driving?

**Representative Lawrence R. Klemin:** I do not have those statistics, but I might say that if you look at the Vlingo report, that study included at least 100 people in every state including North Dakota. I think that the percentages that they used in their report are consistent across the country including North Dakota.

**Representative R. Kelsch:** You are an attorney; do we have a law on the books that addresses this issue?

**Representative Lawrence R. Klemin:** We do not currently have a ban on texting in North Dakota.

**Representative R. Kelsch:** Do we have a law on the books that addresses reckless driving or careless driving?

**Representative Lawrence R. Klemin:** There are laws on careless and reckless driving.

**Representative R. Kelsch:** Can law enforcement currently pick up individuals that are swerving over the line because they are texting?

**Representative Lawrence R. Klemin:** That may be correct. That is probably the same in just about every other state in the country. As I have said, thirty-eight states in the United States, which undoubtedly have laws have laws on careless and reckless driving, have not adopted laws specifically related to sending electronic messages while driving. I think that a more specific provision, like the one proposed in this bill and being adopted in the majority of the states, would better serve us than the type of provision that you are referring to.

**Representative R. Kelsch:** Is law enforcement currently picking up individuals for weaving, or if they suspect that the driver is distracted for whatever reason?

**Representative Lawrence R. Klemin:** I don't have statistics that show you the extent that people are picked up for reckless or careless driving. However, I would note that some of the reports that I have given you do show a trend nationwide for this ban on texting to reduce that type of activity.

**Representative R. Kelsch:** On my device I have to punch in an eight digit code in order to get into the device so that I can dial a phone number. It is company policy. Am I texting?

**Representative Lawrence R. Klemin:** The exception provided in this bill does not cover making a phone call. If you have to do something in order to make that phone call, I don't believe that would be texting.

**Representative R. Kelsch:** Wouldn't I be just as distracted by punching in eight letters to get into my Blackberry, so that I can get to my phone numbers and then dial a seven digit phone number? At that point I have just punched in fifteen characters. I could have sent a pretty good text message using fifteen characters the way the kids do it.

**Representative Lawrence R. Klemin:** We have tried to make this law consistent with the federal rules that already exist; which do accept the type of behavior that you discussed.

**Representative R. Kelsch:** When I talk to constituents, they are most often concerned about young people texting because the crux of the problem is teenagers and young drivers. I get very offended by comments that have to be made in our committee about texting or distracted driving and telling our young people how to drive, **because parents can't do it themselves**. When my kids were driving I told them that the license and the car belong to me. Did you think about looking at just minors?

**Representative Lawrence R. Klemin:** That is obviously an option that has been adopted by eight of the other states. It has been rejected by thirty of the other states. I think that North Dakota should follow what the majority are doing. You are obviously a good mother with handling your children. Not all mothers or fathers are as good at doing that.

**Representative R. Kelsch:** That is the irritable thing; that we have to make laws here so that parents have guidance. I have a problem with that.

**Representative Gruchalla:** I think you have a good bill. I am interested in the penalties that you have in the bill. Obviously texting is a hazardous moving violation. Would you say that texting is just as dangerous as running through a red light?

**Representative Lawrence R. Klemin:** It certainly is as hazardous. I think that there is documentation of a number of accidents that have occurred while someone was driving while texting and did run through a red light.

**Representative Gruchalla:** This bill exceeds the penalty for running a red light by quite a bit (a \$20 fine and two points). Would you be in favor of higher fines throughout the century code for moving violations?

**Representative Lawrence R. Klemin:** I am really not here to talk about penalties for other moving violations. I guess that I have no opinion.

**Representative Louser:** In the case of smart phones that can send text messages by voice, would that be considered texting? More and more phones are able to do that sort of thing to potentially alleviate this problem.

**Representative Lawrence R. Klemin:** I think that the intent of the bill is to get at the activity of manually entering and reading text messages. If you are doing it in a hands held mode through voice activated means, I don't think that that would be prohibited by this bill. It is certainly not my intent to do that. I guess that I am at a loss as to why someone would send a voice message to be converted into a text, when you can just send a voice mail to start with.

**Vice Chairman Weiler:** If Representative Louser sends me a message while I am driving, I still have to read it. So, if I am driving down the road and reading this message and get pulled over... I have heard that a cop can check the time on your phone to verify that you were texting. Is that correct?

**Representative Lawrence R. Klemin:** It is my understanding that cell phone companies keep detailed record to the second of what you are doing on your cell phone.

**Vice Chairman Weiler:** My cell phone puts in the time. I would imagine that if this law passes, police officers would be able to look at someone's phone, if they pulled them over, and determine if they were texting. Is that correct?

**Representative Lawrence R. Klemin:** I don't see why an officer can't ask to see a cell phone. In some of the other states there are specific provisions in their laws for confiscating the cell phone for a violation.

**Vice Chairman Weiler:** Do the cell phones have the ability to distinguish between a voice sent text message and a typed text message? If a person sends a text message by voice, then they are not breaking the law. If a person sends it manually, they are breaking the law. Can a phone make that distinction?

**Representative R. Kelsch:** Because that is a newer technology, I don't know, but I can find out. To answer your first question; your cell phone is your personal property. So, you don't have to give law enforcement your personal property when they stop you. If law enforcement believes that what you were doing was illegal. They can subpoena your records, which is done a lot of time in accidents where they believe that a cell phone was the cause or could have been one of the causes. I'm not sure if there is a distinction on the printouts, if it was voice to text. We would have to find out how that shows up in the data on the record.

**Chairman Ruby:** In four of the states that have texting bans, there have been studies that show an increase in accidents because of the drivers looking down when reading instead of holding the phone up to be read, or the studies show no decrease in accidents when a texting ban took place. Have you seen that study, and do you think that there is any validity to that argument?

**Representative Lawrence R. Klemin:** I am familiar with that study. As I recall, what was done in the study, was to take two snapshots in time. One a month before a law went into effect, and the second a month after a law went into effect. That is the data on crashes that you are looking at. I believe that in that particular situation that they did report more crashes on the second snapshot than on the first. That study has also been highly criticized by a number of leading authorities, including the National Highway Traffic Safety Administration, for extrapolating what happened in that one snapshot in time, one month after a law went into effect. They were extrapolating that into something that would continue to happen after that one month period. I think that you have to take that study for what it is worth.

**Representative Owens:** Do you know about a study that was done over several months done by Virginia Tech. Institute of Transportation? This study looked at all driver distractions. It used one as the nominal level, as normal driving. The study put cameras in vehicles and watched the drivers of 6,700 vehicles over a long period of time. These weren't teen-agers. One event was a truck in a swimming pool. When they looked at the video right before that, the gentleman was talking on two cell phones and driving with his knees in city traffic. What came out of the study was that all of the distractions, many of them were very low; some were above the nominal of one, but texting was 3.37. It was by far the most serious. What surprised everyone was that it also showed that talking while driving actually a protective event. While you are dialing the phone, it is just as bad as texting, but while you were talking on the phone, the drivers throughout the videos paid more attention to their mirrors and paid more attention to what they were doing while they were having a conversation. It provided an opportunity to be more alert and awake, and they saw an increase in this activity late at night. The study was over a long period of time and the methodology was very precise. They looked at events and divided the events by whether or not the activity created the event.

**Patrick Ward,** a Bismarck attorney from Zuger, Kirmis, and Smith, representing the Property and Casualty Insurance Association of America, presented written testimony and spoke in support of HB 1195 and urged a DO PASS on HB 1195. See attachment #2.

**Representative Delmore:** Was there a drop in premium in any of the states where the texting bans were put in place?

**Patrick Ward:** I can't say that for sure because I don't think there has been enough time to know. These laws are fairly new, as is this problem. I think that it is common sense. The way insurance premiums are based on claims history and claims data. That is how insurance coverages are underwritten. If the claims data shows that the number of claims goes down, the premiums will go down.

**Representative Delmore:** Younger drivers are better texters. I have had conversations with my students at my high school on texting and driving. Most of them will say that they are somewhat distracted, but they think because they can do it so quickly it isn't a problem. Is there a higher incidence of accidents in younger children?

**Patrick Ward:** I have children that text and are very good at it. One daughter that is twenty-one is an absolute whiz at it. That is why we support passing this legislation for all ages. I am a lawyer, and I live and die with my Blackberry. I am always getting messages and sending messages. I don't see very well. If I take this phone out and call my friend, it requires me to get the phone out, get to the right page to get his e-mail address, and then to get my eyes where I can see the keys. The younger drivers may be able to do this more easily, but they are also your more inexperienced drivers. Not only is the act of texting distracting, but sometimes the context of the text is distracting as well. These kids are reading their Facebook too while they are driving. We think that obviously this will not eliminate all accidents or stop all people from doing this, but there has been a significant showing that a certain percentage of drivers will not do this if a law has passed. It is common sense that none of us should do it. We can teach that to our kids and tell that to ourselves, but there is an additional hammer there when it is against the law.

**Representative R. Kelsch:** I have talked to students that have told me that they just put their phone lower in their lap. So, do you think that what the bans have done is really effective? How is law enforcement going to know? Are kids just going to become better at hiding it?

**Patrick Ward:** I am troubled by the study that Chairman Ruby mentioned. It is speculation that after a texting ban goes into effect that people try to hide the phones. I agree that it is a difficult issue of enforcement for law officers. I do think that having the law in place is another disincentive in addition to common sense to get people to stop doing it. Not everyone is going to stop, but if there is some enforcement and kids hear about their friends getting pulled over or getting tickets, then maybe in time they will stop. If can reduce the number of people doing this, by just a percentage, not even a complete stop, I think as a result of that, we will have fewer accidents. That means fewer injured people.

**Representative R. Kelsch:** Does this mean that every car accident or every time the law enforcement suspects a driver has been sending a text message, that law enforcement will have to get a subpoena and the cell phone companies will have to supply those records?

**Patrick Ward:** I am not a criminal lawyer. What I remember about the Fourth Amendment is what I remember from law school, but I would say that I am not sure how law

enforcement would go about doing that. I suspect that if there is an accident, and especially if it occurs in a way that has to do with lack of attention by the driver, that may be something that they need to find out. Whether or not they need a warrant to get the records or a subpoena, I don't know.

**Representative R. Kelsch:** It is my understanding that they can't take your phone because it is private property. The question goes back to the whole distracted driving thing, if you subpoena the text messages, then do you subpoena the receipts from Hardees because there is a Hardees' bag on the floor. Where does it stop?

**Patrick Ward:** This particular bill is just about texting. We are not addressing the other distracting activities. We do have "care required" that law enforcement can use if law enforcement sees weaving or something like that. I think that this is a step in the right direction. This is a specific issue that we are finding is a huge problem because of the amount of time spent doing these activities.

**Chairman Ruby:** Since we know that teens text more than adults, if we have a teen on our insurance policy, what percent of reduction could we expect to see in our insurance rates because of less accidents?

**Patrick Ward:** It is impossible to say at this point. It would be directly proportional to the reduction in the number of claims and the dollars paid out in claims. I can get you data on what percentage of drivers they believe have reduced the use of texting as a result of these laws in other states. Those numbers should correlate with all the other numbers.

**Chairman Ruby:** So, we can't expect to see a reduced insurance premium?

**Patrick Ward:** I am not saying that. I am saying that eventually I think you would. Again, the way policies are written is based on underwriting data that uses claims history and claims paid. When there are less claims paid in a period of time; the premiums are adjusted accordingly.

**Vice Chairman Weiler:** Have there been any deaths in North Dakota that have been attributed to texting while driving in North Dakota?

**Patrick Ward:** I don't know that for a fact. Maybe the Highway Patrol or the Department of Transportation would know that.

**Adam Hamm, North Dakota Insurance Commissioner:** I am here to support HB 1195. I believe that this bill is a legitimate government restriction that is aimed both at what is a substantial driver distraction and aimed at making our roads safer. To me the issue is not whether there are other driver distractions on the road. There are. To me the issue is that this particular driver distraction is far too dangerous. The reality is that prohibiting texting and driving will ensure that the roads can be safer for all of us moving forward. Someone earlier said that teens text more than adults. I have to be honest with you. I would hold up my texting on a monthly basis to any teen. The reality is that since I was here two years ago, testifying on a similar bill that Rep. Klemin introduced, I have stopped doing it cold turkey. If you are honest with yourself there is simply no way that you can text and drive

safely. You heard Rep. Klemin discuss the three levels of distraction: visual, manual, and cognitive. There is no question in my mind that all three occur when you are trying to text and drive. You can't do it safely. You can be driving or texting, but you can't do both safely.

**Tom Balzer, North Dakota Motor Carriers Association:** Texting while driving has been illegal in commercial motor vehicles since September 21, 2010 last year. It effects any commercial motor vehicle driver who is involved In interstate commerce, since the feds only have coverage of interstate commerce. The FMCSA is now looking at a cell phone ban for commercial motor vehicle drivers as well. The study that was done by Virginia Tech. (mentioned earlier by Representative Owens), was done to further solidify that decision. The decision was made with a lot of assumptions about commercial motor vehicle drivers. The reason that they picked commercial motor vehicle drivers is that no one does more miles than we do. While texting you are twenty-three times more likely to be involved in an accident. The National Highway Traffic Safety Administration did an '09 study, and the highest age group for the use of the cell phone (texting or talking) was between 30 and 39, followed by those under twenty, and then followed closely by those between 20 and 29. The reason for the trucking support of this bill is not just, "because we have to do it too." We support this because 85% of the trucking accidents that happen are because of some sort of error on the passenger vehicle's side. We feel that because of the severity of this distraction, it would help to eliminate some of the fatalities and accidents that we encounter on the road. These accidents not only put the passenger vehicles at risk, but also our drivers as well. I ask for your support on HB 1195.

**Carrie Sandstrom, a junior at Century High School and a member of SADD(Students Against Drunk Drivers), and the Northern Lights Advisory Board,** spoke in support of HB 1195. See attachment #3.

**Terry Weaver, Traffic Safety Coordinator for the North Dakota Safety Council,** spoke to support HB 1195 and provided written testimony. See attachment #4.

**Representative Delmore:** Where did you get the information about the 200,000 crashes each year? Is that documented?

**Terry Weaver:** I received that from the National Safety Council, and I could find out where they got it from and supply that to you.

**Vice Chairman Weiler:** I understand that this bill is going to ban texting. If I take my phone out and punch in a seven digit number and swerve off to the side, and a cop pulls me over, how is that situation handled? How is he going to know if I was texting or not?

**Lt. Jody Skogen, the Safety and Education Officer for the North Dakota Highway Patrol:** The texting violation may be missed. The act that caused the swerving is often discovered after we initiate the traffic stop for the lane violation. During the initial approach we will address the lane violation. At that point it is up to the honesty of the driver as to what may have been taking place inside the vehicle to cause a lane violation.

**Chairman Ruby:** Is the department neutral on this bill?

**Lt. Jody Skogen:** I was just assigned to monitor this bill by Colonel Prockniac. At this point we are neutral on both bills (HB 1190 and HB 1195). But, we totally understand the risk that is created by the distractions that texting can cause and are 100% for responsible decision making. We know that saves lives out on the road.

**There was no further support for HB 1195.**

**There was no opposition on HB 1195.**

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Transportation Committee Fort Totten Room, State Capitol

HB 1195  
02/04/2011  
Job # 14045

☐ Conference Committee

Committee Clerk Signature

*Jeannette Cook*

### Minutes:

**Vice Chairman Weiler** moved a DO NOT PASS on HB 1195.  
**Representative R. Kelsch** seconded the motion.

**Representative Gruchalla:** I think this is a good bill. If you have read the studies and listened to the testimony, texting is the most egregious distraction that there is. It distracts the driver both mentally and visually. I have seen some of the crash testing and driving demonstrations. It causes more crashes than drinking and driving. I think that we should pass this bill out, and I will resist the motion.

**Representative Louser** described an incident in Bismarck that he saw recently. He stated that having a texting ban in Bismarck did not stop that individual.

**Vice Chairman Weiler:** I also live in Bismarck where there is a texting ban. Every city in North Dakota has right to pass a texting ban. I don't feel that we need to make this a state policy. I am going to support the motion.

**Representative R. Kelsch:** I have seen more people texting in their laps in Bismarck since the ban. So, what we have done by having a texting ban, it to make it more dangerous. The kids haven't stopped texting; it hasn't stopped anyone from texting. All it has done is made them better at hiding it.

**A roll call vote was taken on HB 1195. Aye 7 Nay 7 Absent 0**  
**The vote was a tie.**

**Representative Gruchalla** moved a DO PASS on HB 1195.  
**Representative Sukut** seconded the motion.

**Representative Delmore:** Texting is something that I don't do while driving. My son forced me to learn to text. I think that the last bill we passed (HB 1190) can do the same thing as this bill. If texting continues to be a huge problem in North Dakota then count on me to vote for a texting bill next session. Right now I have a problem with where this is going.

**A roll call vote was taken. Aye 7 Nay 7 Absent 0**  
**The vote was tied.**

**Chairman Ruby:** We can send this out without a recommendation unless someone who voted for it wants to change to a DO NOT PASS. It is an option.

**Representative Delmore:** I think this will be a well debated bill no matter how we pass it out, and it should be.

**Representative R. Kelsch:** Does everyone realize how harsh the penalties are in this bill? They are stricter than a DUI. I am amazed that this committee will put this policy into effect, given the fact that we are skittish to raise fines. Potentially, we will raise fines in 1381 because of the seriousness of the issues in the bill. The way the fines are set up in this bill are a BIG DEAL. I would have a difficult time ever supporting a bill like this with such steep penalties for one distraction. I think that we should make it a secondary offense. If it curbs behavior, then it does. Then we can bring it back in and potentially look at it as a primary offense.

**Chairman Ruby:** Under the existing rules for minors who are driving, they would lose their license after two violations.

**Representative Weisz:** The bill doesn't affect me because I don't text and probably never will. I was willing to support the distracted driving with an additional fine because I think that if someone creates a risk, they should be cited. I think that it should be anything that we do that causes a distraction. I don't think it should be just texting.

**Chairman Ruby:** I feel that this bill is too narrow. It just limits one activity, and there are many others that are just as dangerous.

**Representative Gruchalla:** The reason that we want this bill is because of the possibility that one of us or our family members could be hit by another driver texting. It is an important bill. I don't text while I drive, and I don't want the person next to me texting either because I know that it is a problem.

**Chairman Ruby:** I would rather not send this out onto the floor without a recommendation.

**Representative Weisz moved a DO NOT PASS on HB 1195.**

**Representative R. Kelsch seconded the motion.**

**Representative Vigasaa:** I co-signed the bill, so I can't change my vote, but I would encourage someone to switch, so we can send this out with a recommendation.

**A roll call vote was taken on HB 1195. Aye 8 Nay 6 Absent 0  
The motion carried, and Chairman Ruby will carry HB 1195.**

Date: 2-4-11Roll Call Vote #: 1

## 2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1195House TRANSPORTATION Committee☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment☐ Rerefer to Appropriations ☐ ReconsiderMotion Made By Weiler Seconded By RA Kelsch

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative Delmore	X	
Vice Chairman Weiler	X		Representative Gruchalla		X
Representative Frantsvog		X	Representative Hogan		X
Representative Heller	X		Representative Onstad		X
Representative R. Kelsch	X				
Representative Louser	X				
Representative Owens		X			
Representative Sukut		X			
Representative Vigasaa		X			
Representative Weisz	X				

Total (Yes) 7 No 7Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 2-4-11

Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1195

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Gruchalla Seconded By Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby		X	Representative Delmore		X
Vice Chairman Weiler		X	Representative Gruchalla	X	
Representative Frantsvog	X		Representative Hogan	X	
Representative Heller		X	Representative Onstad	X	
Representative R. Kelsch		X			
Representative Louser		X			
Representative Owens	X				
Representative Sukut	X				
Representative Vigesaa	X				
Representative Weisz		X			

Total (Yes) 7 No 7

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 2-4-11Roll Call Vote #: 3

## 2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1195House TRANSPORTATION Committee☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment☐ Rerefer to Appropriations ☐ ReconsiderMotion Made By Weisz Seconded By RA Kelsch

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative Delmore	X	
Vice Chairman Weiler	X		Representative Gruchalla		X
Representative Frantsvog		X	Representative Hogan		X
Representative Heller	X		Representative Onstad		X
Representative R. Kelsch	X				
Representative Louser	X				
Representative Owens	X				
Representative Sukut		X			
Representative Vigasaa		X			
Representative Weisz	X				

Total (Yes) 8 No 6Absent 0Floor Assignment Ruby

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1195: Transportation Committee (Rep. Ruby, Chairman)** recommends **DO NOT PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1195 was placed on the Eleventh order on the calendar.

2011 SENATE TRANSPORTATION

HB 1195

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Transportation Committee Lewis and Clark Room, State Capitol

HB 1195  
March 17, 2011  
16093

☐ Conference Committee

*Stange*

### Explanation or reason for introduction of bill/resolution:

Relating to the use of a wireless communications device and demerit points.

### Minutes:

*Written testimony*

**Chairman Senator G. Lee** opened the hearing on HB 1195.

**Representative Klemin**, District # 47, introduced HB 1195 and testified in support of the bill that bans driving while texting in North Dakota and imposes penalties.

Written testimony #1

Have Bison Pride, Don't Text and Drive, a report from NDSU student research project.  
Attachment #2

**Senator Mathern** asked why they don't included global positioning devices (GPS) along with texting because they require more time to program.

**Representative Klemin** replied that the language in HB 1195 is the exact language as SB 2112 and the Senate Transportation committee has already passed that bill. It is also the same language that is in the Minnesota law. He added that the GPS system is usually programmed for its destination before the trip.

**Senator Sitte** had some concern about the people working in the oil fields and the need to text when working in the oil fields. She said that truckers often can send a text at the top of a hill.

**Representative Klemin** said that CDL drivers already have a "no texting and driving" federal law and did express concern for driver's texting as they reach the hilltop.

**Senator Nething** pointed out that there wasn't anything in the bill that prevented the driver from pulling over and stopping on a hill to do his texting.

**Representative Klemin** replied that as long as the driver is in a lawfully stopped position and not just stopped in traffic.

**Senator Lee** summarized the penalty sections in 3 & 4 and his question was, are there any provisions in the bill that allow a time gap between the three violations and the loss of your license for a year. Does this law just say that with the third offense you lose your license regardless if it was ten years ago or recently?

**Representative Klemin** said that this would apply the same way that any other point provisions apply. It would be consistent with the century code.

**Senator Mathern** asked if this bill passes and the violation becomes a primary enforcement violation does that mean the violation of texting can be enforced without further violations.

**Representative Klemin** replied that is correct. He explained the difference between primary enforcement and secondary enforcement and gave an example.

**Senator Oehlke** sighted the last three lines of the bill, relative to the year suspension of a licenses, he said that in earlier testimony it was said that the person could get a temporary permit to get back and forth to work, Senator Oehlke asked if this language should be in the bill or is it found somewhere else in century code.

**Representative Klemin** replied that the Department of Transportation has provisions for that.

**Patrick Ward** representing the Property and Casualty Insurance Association of America, State Farm, American Family and Allstate testified in support of HB 1195. Written Testimony #3

**Senator Nodland** asked if this bill was pattern after most of the thirty other states that he referred to in his testimony.

**Mr. Ward** replied that it is very similar to other states and it is identical to Minnesota's law. There is something's in HB 1195 that were put in to coordinate it with SB 2122 which involves commercial drivers.

**Senator Lee** asked if insurance rates will be affected if this is passed.

**Mr. Ward** said that will depend on the overall effectiveness. He said that if it has the effect that they expect it to have of decreasing accidents, overtime, it should transfer into lower liability exposures and lower premiums.

**Adam Hamm**, North Dakota Insurance Commissioner, testified in support of HB 1195. He believes this bill is a legitimate government restriction that is aimed at a substantial driver's distraction and aimed at making our roads safer. The most important thing Representative Klemin talked about is the level of distraction. Texting while driving consists of all three types of distraction, visual, manual and cognitive. He stated that prohibiting this type of distraction will make the roads safer.

**Senator Lee** asked what the impact of this bill could be for insurance companies.

**Commissioner Hamm** referred to what Pat Ward said on rates and he said that he agreed. He said that if we ban this level of distraction, overtime that could help bring rates down.

**Carrie Sandstrom**, a junior at Century High School and an active member of Students Against Destructive Decisions (SADD) testified in support of HB 1195.  
Written testimony # 4

**Dale Haake**, Director of Casualty Claims for Nodak Mutual Insurance Company testified in support of HB 1195. Written testimony #5

**Jay Gotta**, citizen from Bismarck and an insurance agent for State Farm Insurance testified in support of HB 1195 and presented some additional supporting material published by State Farm. Attachment #6

**Senator Mathern** asked if he made rate quotes for insurance that relate to behavior like this.

**Mr. Gotta** answered that ratemaking is dependent upon many factors. Your driving history is a tremendous influence on that. He pointed out that they do not specifically ask about client's behavior as they are driving their vehicle currently.

**Senator Nething** asked if when we talk about ratemaking we are really talking about national averages and not what happens in a state.

**Mr. Gotta** replied that ratemaking is often times dependent on what is happening within our state. He pointed out that with property and casualty what happens within our state borders has a large impact upon our rates.

**Terry Weaver**, Traffic Safety Coordinator for the North Dakota Safety Council testified in support of HB 1195. Written testimony #7

**Keith Witt**, Chief of the Bismarck Police Department supports HB 1195. He sincerely believes it will significantly improve traffic safety in North Dakota. Written testimony #8

**Senator Nething** asked if they had been able to draw any conclusions from the benefits of the no driving and texting law passed in Bismarck.

**Chief Witt** pointed out that the law has only been in effect for six months and they don't have enough quantitative research. It would just be causal observations and antidotes.

**Senator Lee** said there is concern over enforcement and he asked if a driver is stopped can the law officer ask for their cell phone.

**Chief Witt** replied that they can ask for the cell phone and if there are questions they can have cell phone records subpoenaed.

**Senator Lee** said that there have been some parallels drawn between DUI and Texting. There are some that would view them as the same. He asked the Chief how he viewed them in terms of their relationship to the penalties in this bill and the penalties with DUI.

**Chief Witt** replied that both are violations that seriously impair the driver's ability to react and both are equally important.

**Vice Chairman Senator Oehlke** assumed the Chairmanship of the committee and asked for opposing testimony.

There was no opposition to HB 1195.

**Senator Oehlke** asked **Larry Maslowski**, Senior Analyst for the ND Insurance Department how a person who has lost their license for 365 days because of a 3<sup>rd</sup> offense of texting while driving can get a temporary permit. He said that he could not find that part in code that would allow this to happen.

**Mr. Maslowski** could not answer the question and referred it to DOT.

**Mark Nelson**, Department of Transportation will get that answer.

**Senator Oehlke** closed the hearing on HB 1195.

# 2011 SENATE STANDING COMMITTEE MINUTES

**Senate Transportation Committee**  
Lewis and Clark Room, State Capitol

HB 1195  
March 25, 2011  
16022

☐ Conference Committee

*Hanger*

**Explanation or reason for introduction of bill/resolution:**

**Minutes:**

*Committee Work/Action*

**Chairman Senator G. Lee** opened committee work on HB 1195 relating to the use of a wireless communications device.

**Senator Nething** moved a **Do Pass**.

**Senator Mathern** seconded the motion.

**Senator Oehlke** believes the penalty is too harsh and because of that it will be hard for him to support HB 1195. His problem with HB 1195 is losing your license for a year after three violations no matter how far apart those violation are.

Roll call vote: 2-4-0. **Motion failed.**

**Senator Sitte** moved a **Do Not Pass**.

**Senator Nodland** seconded the motion.

**Senator Mathern** believes that this is a problem in our culture that needs to be addressed and he will vote against a Do Not Pass.

**Senator Nething** said that if the problem is the penalty we could change the penalty.

Roll call vote: 4-2-0. **Motion passed.**

Carrier is **Senator Lee**.

Date: 3-25-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1195

Senate Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nething Seconded By Senator Mathern

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee		✓	Senator Tim Mathern	✓	
Vice Chairman Dave Oehlke		✓			
Senator Dave Nething	✓				
Senator George Nodland		✓			
Senator Margaret Sitte		✓			

Total (Yes) 2 No 4

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Failed*

Date: 3-25-11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1195

Senate Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Sitte Seconded By Senator Nodland

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator Tim Mathern		✓
Vice Chairman Dave Oehlke	✓				
Senator Dave Nething		✓			
Senator George Nodland	✓				
Senator Margaret Sitte	✓				

Total (Yes) 4 No 2

Absent 0

Floor Assignment Senator Lee

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1195: Transportation Committee (Sen. G. Lee, Chairman)** recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1195 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1195

HOUSE BILL NO. 1195  
TESTIMONY OF REP. LAWRENCE R. KLEMIN  
HOUSE TRANSPORTATION COMMITTEE  
JANUARY 27, 2011

Mr. Chairman and Members of the Committee. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am here to testify in support of House Bill 1195, which bans driving while texting in North Dakota and imposes penalties.

In 2006, there were 158 billion text messages sent by cell phones. The latest statistics show that in the one year period from June of 2009 to June of 2010, there were **1.8 trillion** text messages sent by cell phones in the United States. We have seen a phenomenal increase in text messaging by cell phones. Many of these text messages were composed and sent, and received and read, while someone was driving a motor vehicle. There may be a time and place for everything, but driving while texting is not one of them.

In 2009, when I appeared before this committee to testify in favor of a bill similar to House Bill 1195, 7 states and the District of Columbia had laws prohibiting texting. Today, there are 30 states and the District of Columbia that prohibit driving while texting by all drivers, and 8 additional states that prohibit texting while driving by novice drivers. 26 states have primary enforcement and 4 have secondary enforcement. See Government Highway Safety Association (GHSA), Cell Phone and Texting Laws, January 2011. See *also*, Map of Texting Bans, Insurance Institute for Highway Safety, January 2011. Additional states are considering texting bans this year. Two cities in North Dakota now have texting bans (Bismarck and Grand Forks). Other North Dakota cities are considering texting bans and are waiting to see what this Legislature does. This is something that we can no longer ignore in North Dakota. We need a **uniform law** that applies statewide.

Texting is a serious danger to the people doing it while they drive and is also a danger to others who use the roads, including other car drivers, truck drivers, motorcycle riders, bicycle riders, and pedestrians. We must do something about it this time. I think that the overwhelming majority of the people of North Dakota agree. This issue is getting a lot of attention from the public. This committee has the opportunity and the duty to make our roads safer for all of us.

We all know that there are many distractions while driving. However, none are as serious as texting. According to the National Highway Traffic Safety Administration (NHTSA), there are three main types of distractions while driving: visual – taking your eyes off the road; manual – taking your hands off the wheel; and cognitive – taking your mind off what you're doing. "While all distractions can endanger drivers' safety, texting is the most alarming because it involves all three types of distraction." See USDOT NHTSA, Statistics and Facts About Distracted Driving 2010. According to the NHTSA, research on distracted driving reveals these facts:

- 20% of injury crashes in 2009 involved reports of distracted driving.
- Of those killed in distracted driving related crashes, 995 involved reports of cell phones as a distraction (18% of the fatalities in distraction related crashes).
- Drivers who use hand held devices are four times as likely to get into crashes serious enough to injure themselves.
- Using a cell phone while driving delays a driver's reactions as much as having a blood alcohol concentration at the legal limit of .08 percent.
- In 2009, 5,474 people were killed in U.S. roadways and an estimated additional 448,000 were injured in crashes that involved distracted driving.

On January 27, 2010, the USDOT Federal Motor Carrier Safety Administration (FMCSA) issued a regulatory guidance concerning the applicability of Federal Motor Carrier Safety Regulations to texting by commercial vehicle drivers. The regulatory guidance states that texting by cell phones in commercial motor vehicles in interstate traffic is prohibited by 49 CFR 390.17. See 75 Federal Register 4305-4307. According to the Federal Register, FMCSA completed and released a final report of research on distracted driving by commercial motor vehicle (CMV) drivers on October 1, 2009. The most risky behavior identified by the research was text messaging by cell phone. In the report, FMCSA noted:

The most risky behavior identified by the research was "text message on cell phone," with an odds ratio of 23.2. **This means that the odds of being involved in a safety-critical event is 23.2 times greater for drivers who are texting while driving than for those who do not.** Texting drivers took their eyes off the forward roadway for an average of 4.6 seconds during the 6-second interval immediately preceding a safety-critical event. At 55 mph (or 80.7 feet per second), this equates to a driver traveling 371 feet, the approximate length of a football field, including the end zones, without looking at the roadway. At 65 mph (or 95.3 feet per second), the driver would have traveled approximately 439 feet without looking at the roadway. This clearly creates a significant risk to the safe operation of the CMV. (emphasis added)

The National Conference of State Legislatures (NCSL) issued its Transportation Series report in December, 2010, on "Traffic Safety and Public Health: State Legislative Action 2010". In this report, the NCSL referred to other studies and stated:

In 2009, Virginia Tech Transportation Institute research showed that drivers who text message while driving had over 20 times the risk of crash or near crash than a driver who was not using a phone.

A study published in the September 2010 *American Journal of Public Health* reports texting while driving likely caused more than 16,000 road fatalities between 2002 and 2007. University of North Texas researchers used statistical modeling to determine that the percentage of all traffic

deaths caused by distracted driving rose from 11 percent in 1999 to 16 percent in 2008. The researchers noted that one-third of Americans had a cellular phone in 1999 but by 2008, the number jumped to 91 percent.

A "Consumer Text Messaging Habits" Report was issued by Vlingo on May 21, 2008, based on a survey of nearly 5,000 consumers that aimed to understand how, when and why consumers use text messaging. The 2008 report found that 28 percent of consumers admit to driving while texting. The report also uncovered the following:

- **85% of respondents say they would not DWT if it were illegal**
- 78% of all surveyed think DWT should be illegal
- 85% of teens and young adults (those 13-29) send text messages, and just over 50% of those ages admit to DWT

This 2008 report also looked at text message usage trends and stated:

- 55% of consumers use their mobile phones to text message
- 42% report that they use their mobile phones equally or more for texting than making phone calls
- 44% of teens (13-19) send 500 or more texts each month
- 64% text more than they call

Now that the number of text messages per year has risen to **1.8 trillion** as of June, 2010, it is likely that the number of text messages sent by teens has increased substantially since 2008. It is also likely that the number of text messages sent by drivers, both teens and others, has also increased substantially.

The public supports a ban on texting while driving. According to Nationwide Insurance, 80% of drivers support a ban on texting and e-mailing while driving. Nearly 3 in 4 drivers believe a ban on texting should apply to all drivers, not just specific groups. See Nationwide Insurance report. Major wireless service providers support a ban on texting while driving. See Verizon report: "Please don't text and drive". See also at&t report: "Texting & Driving ... It Can Wait". CTIA - The Wireless Association, represents the nation's wireless communication industry. The CTIA position on texting while driving is stated as follows:

CTIA - The Wireless Association and the wireless industry believe that when it comes to using your wireless device behind the wheel, it's important to remember safety always comes first and should be every driver's top priority. While mobile devices are important safety tools, there's an appropriate time and an inappropriate time to use them. [W]e believe text-messaging while driving is incompatible with safe driving, and we support state and local statutes that ban this activity while driving.

The federal government, by Executive Order, now prohibits texting while driving for

federal employees driving federal vehicles. Many employers who have employees driving company vehicles prohibit texting while driving in their vehicles. I submit that most North Dakotans agree that texting while driving should be banned in North Dakota.

House Bill 1195 addresses the texting problem in North Dakota by imposing a ban on driving while texting that is uniform statewide. Sections 1, 2 and 3 of the bill relate to penalties. Section 1 provides for a monetary penalty of \$100 for a violation. Section 2 includes texting as a moving violation. Section 3 provides for demerit points, 2 points for a first offense, and 4 points for a second or subsequent offense.

In a recent editorial in The Bismarck Tribune, the editorial board stated:

The penalty seems minor – a \$100 fine and two penalty points added to the offender's driver's license. That might not be enough to stop the abuse. A \$500 fine and more penalty points might serve as a better deterrent. . . . We urge the Legislature to move forward for the good of all North Dakotans.

See Opinion, The Bismarck Tribune, January 3, 2011.

I have looked at the state laws for all of the states that have enacted bans on texting while driving. The monetary fines range from \$20 to \$500 for a violation, with some states providing for a fixed fine and other states providing for a range of fines. In Minnesota, the fine is up to is \$300 per violation.

The fines and points used in this bill are those recommended by me, but this committee can determine what an appropriate fine should be. There is no imprisonment provided by this bill. Before discounting the possibility of imprisonment, especially for multiple offenses, this committee should recall that texting while driving impairs a driver's reactions more that driving under the influence of alcohol or drugs. We send people to jail for multiple DUI offenses.

Section 4 is the heart of the bill. The operator of a motor vehicle that is part of traffic may not use a wireless communications device to compose, read, or send an electronic message. Subsection 2.a defines an "electronic message" to include e-mail, a text message, an instant message, or surfing the Internet. It also says what is not an "electronic message" for purposes of the ban. The use of a cell phone for voice communication is not prohibited. GPS or other navigational devices, including the use of a cell phone as a GPS device, are not prohibited. Fleet management systems, dispatching devices, CD radios, and music players are not prohibited. The use of a Smartphone is not prohibited as long as it is not used while driving for the purpose of texting, e-mails, or surfing the Internet.

The definitions and exceptions in House Bill 1195 have been drafted to be consistent with Senate Bill 2112, which has been introduced by the North Dakota Department of

Transportation to comply with federal law relating to commercial drivers. I have attached a copy of SB 2112 to my testimony for your reference.

House Bill 1195 contains a definition of "traffic" in subsection 2.b. because subsection 1 provides that the ban applies when a motor vehicle is "part of traffic." The term "traffic" means the operation of a motor vehicle while in motion for the purpose of travel on any street or highway and includes a temporary stop or halt of motion. "Traffic" does not include a motor vehicle that is lawfully parked.

Subsection 3 provides exception to the ban on electronic messages for emergencies, to report a traffic accident or serious traffic hazard or to prevent a crime. Although these exceptions are in the bill, I think most people would make a voice call rather than texting for these purposes.

Subsection 4 imposes an additional penalty – suspension of a license for one year for a third or subsequent offense. This is a tough penalty, but I think this committee should get tough on multiple offenders, just like we do for DUI's. We need to get multiple offenders off the roads.

I have not mentioned any examples of horrific accidents caused by driving while texting. There are many. You need only go on the Internet (using your computer at your desk) to find many reports in newspapers about fatal accidents. I think you can do this yourself if so inclined.

I have heard some people say that enforcement of a ban on texting will be difficult. Most of our citizens are law abiding people. Studies show that up to 85% of the people who text while driving would not do it if it was illegal. This is self-enforcement and solves most of the enforcement problem. Education about the dangers of texting will take care of an additional percentage. Parents need a law to support their directions to their children. As you know, children don't always listen to their parents, but a law will help parents enforce restrictions on their student drivers.

I have also attached a report from the NHTSA from September, 2010, on Traffic Safety Facts entitled "High Visibility enforcement Demonstration Programs in Connecticut and New York Reduce Hand-Held Phone Use." According to this report, laws prohibiting texting, coupled with a public information campaign and high enforcement, reduced texting while driving 68% in Hartford, CT, and 42% in Syracuse, NY, during the demonstration project. The laws can be enforced and enforcement reduces texting.

I would appreciate your support for House Bill 1195. We now have the functional equivalent of a large number of drunken drivers on the road. We need to take action to stop texting.

2010

USA Today  
Dec. 30, 2010

# The year we stopped talking



## By the numbers

**93%**

Percentage of Americans with cellphones/wireless

**29.7%**

Percentage of cellphone users with smartphones

**1.8 trillion**

Mobile text messages sent from June 2009-June 2010

**56.3 billion**

Mobile multimedia messages June 2009-June 2010

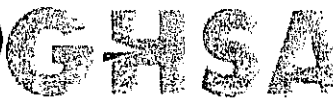
**90%**

Percentage of global population with access to mobile networks

Sources: CTIA - The Wireless Association, Nielsen Co., International Telecommunication Union

Americans are more connected than ever — just not in person

By Sam Ward, USA TODAY

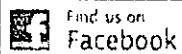

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## Cell Phone and Texting Laws

January 2011

This chart outlines all state cell phone and text messaging laws. Some local jurisdictions may have additional regulations. Enforcement type is shown in parenthesis.

- **Handheld Cell Phones:** 8 states (Calif., Conn., Del., Md., N.J., N.Y., Ore. and Wash.), D.C. and the Virgin Islands prohibit **all drivers** from using handheld cell phones while driving.
  - Except for Maryland, all laws are **primary enforcement**—an officer may cite a driver for using a handheld cell phone without any other traffic offense taking place.
- **All Cell Phone Use:** No state bans all cell phone use (handheld and hands-free) for all drivers, but many prohibit all cell phone use by certain drivers:
  - **Novice Drivers:** 28 states and D.C. ban all cell phone use by novice drivers.
  - **School Bus Drivers:** Bus drivers in 18 states and D.C. may not use a cell phone when passengers are present.
- **Text Messaging:** 30 states, D.C. and Guam ban text messaging for all drivers. 11 of these laws were enacted in 2010. 26 states, D.C., and Guam have primary enforcement. In the other four, texting bans are secondary.
  - **Novice Drivers:** An additional 8 states prohibit text messaging by novice drivers.
  - **School Bus Drivers:** 2 states restrict school bus drivers from texting while driving.
- Some states such as Maine, N.H. and Utah treat cell phone use and texting as part of a larger distracted driving issue. In Utah, cellphone use is an offense *only* if a driver is also committing some other moving violation (other than speeding).

**Crash Data Collection:** Many states include a category for cell phone/electronic equipment distraction on police accident report forms. Recently proposed federal legislation would require states to collect this data in order to qualify for certain federal funding.

**Preemption Laws:** Many localities have passed their own distracted driving bans. However, some states – such as Fla., Ky., La., Miss., Nev., and Okla. – prohibit localities from enacting such laws.



### Learn More

- [Issue Brief: Distracted Driving](#)
- [State PSAs](#)
- [10 Tips to Avoid Distractions](#)
- **Letters Supporting Federal Role** (October 21, 2009)
  - [U.S. House](#)
  - [U.S. Senate](#)
- [Distraction.gov](#)

<a href="#">All State Laws</a>	<a href="#">Handheld Ban</a>	<a href="#">All Cell Phone Ban</a>	<a href="#">Text Messaging Ban</a>	<a href="#">Crash Data</a>
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		School Bus Drivers	Novice Drivers	All Drivers	School Bus Drivers	Novice Drivers	
<u>Alabama</u>			16, and 17 with intermediate license <6 months (Primary)			16, and 17 with intermediate license <6 months (Primary)	
<u>Alaska</u>				Yes (Primary)	Covered under all driver ban		Yes
<u>Arizona</u>		Yes (Primary)					
<u>Arkansas</u>	18 - 20 years old (Primary)	Yes (Primary)	<18 (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
<u>California</u>	Yes (Primary)	Yes (Primary)	<18 (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Colorado</u>			<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Connecticut</u>	Yes (Primary)	Yes (Primary)	Learners Permit and <18 (Primary)	Yes (Primary)	Covered under all driver ban		
<u>Delaware</u>	Yes (Primary)	Yes (Primary)	Learner's permit and intermediate license holders (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>D.C.</u>	Yes (Primary)	Yes (Primary)	Learners Permit (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Florida</u>							
<u>Georgia</u>		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Guam</u>				Yes (Primary)	Covered under all driver ban		
<u>Hawaii</u> <sup>1</sup>	See footnote						
<u>Idaho</u> <sup>2</sup>							See footnote
<u>Illinois</u> <sup>3</sup>	See footnote	Yes (Primary)	<19 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Indiana</u>			<18 (Primary)			<18 (Primary)	Yes
<u>Iowa</u>			Restricted or Intermediate Licenses (Primary)	Yes (Secondary)	Covered under all driver ban		Yes
<u>Kansas</u>			Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Kentucky</u>		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		

<u>Louisiana</u>	Learner or Intermediate License (regardless of age)	Yes (Primary)	1st year of licensure (Primary for <18)	Yes (Primary)	Covered under all driver ban	Yes
<u>Maine</u> <sup>4</sup>			<18 (Primary)		<18 (Primary)	Yes
<u>Maryland</u>	Yes (Secondary)		<18 w/ Learner or Provisional License (Secondary)	Yes (Primary)	Covered under all driver ban	Yes
<u>Massachusetts</u>		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban	Yes
<u>Michigan</u> <sup>5</sup>			See footnote	Yes (Primary)	Covered under all driver ban	Yes
<u>Minnesota</u>		Yes (Primary)	<18 w/ Learner or Provisional License (Primary)	Yes (Primary)	Covered under all driver ban	Yes
<u>Mississippi</u>					Learner or Provisional License (Primary)	
<u>Missouri</u>					≤21 (Primary)	
<u>Montana</u>						Yes
<u>Nebraska</u>			<18 w/ Learners or Provisional License (Secondary)	Yes (Secondary)	Covered under all driver ban	Yes
<u>Nevada</u>						Yes
<u>New Hampshire</u> <sup>6</sup>				Yes (Primary)	Covered under all driver ban	
<u>New Jersey</u>	Yes (Primary)	Yes (Primary)	<21 w/ GDL or Provisional License (Primary)	Yes (Primary)	Covered under all driver ban	Yes
<u>New Mexico</u>	In State vehicles					Yes
<u>New York</u>	Yes (Primary)			Yes (Secondary)	Covered under all driver ban	Yes
<u>North Carolina</u>		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban	
<u>North Dakota</u>						Yes
<u>Ohio</u>						
<u>Oklahoma</u>	Learners Permit or Intermediate License (Primary)	Yes (Primary)			Yes (Primary)	Learners Permit or Intermediate License (Primary)
<u>Oregon</u>	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban	Yes
<u>Pennsylvania</u>						Yes

<u>Rhode Island</u>		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>South Carolina</u> <sup>7</sup>							See footnote
<u>South Dakota</u>							Yes
<u>Tennessee</u>		Yes (Primary)	Learners Permit or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Texas</u> <sup>8</sup>		Yes, w/ passenger ≤17 (Primary)	Intermediate Stage, 1st 12 mos. (Primary)		Yes, w/ passenger ≤17 (Primary)	Intermediate Stage, 1st 12 mos. (Primary)	Yes
<u>Utah</u> <sup>9</sup>	See footnote			Yes (Primary)	Covered under all driver ban		Yes
<u>Vermont</u>			<18 (Primary)	Yes (Primary)	Covered under all driver ban		
<u>Virgin Islands</u>	Yes						Yes
<u>Virginia</u>		Yes (Primary)	<18 (Secondary)	Yes (Secondary)	Covered under all driver ban (Primary)	Covered under all driver ban	Yes
<u>Washington</u>	Yes (Primary)		Learner or Intermediate Stage (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>West Virginia</u>			Learner or Intermediate Stage (Primary)			Learner or Intermediate Stage (Primary)	
<u>Wisconsin</u>				Yes (Primary)	Covered under all driver ban		
<u>Wyoming</u>				Yes (Primary)	Covered under all driver ban		Yes
<b>Total</b>	<b>8 + D.C., Virgin Islands</b> Primary (7) Secondary (1)	<b>18 + D.C.</b> All Primary	<b>28 + D.C.</b> Primary (23 + D.C.) Secondary (5)	<b>30 + D.C., Guam</b> Primary (26 + D.C., Guam) Secondary (4)	<b>2</b> Both Primary	<b>8</b> All Primary	<b>34 + D. C., Virgin Islands</b>

<sup>1</sup> Hawaii does not have a state law banning the use of handheld cell phones. However, all of the state's counties have enacted distracted driving ordinances.

<sup>2</sup> Idaho has a "Distraction in/on Vehicle (List)" attribute as part of its Contributing Circumstances element, and officers are supposed to list the distractions in the narrative.

<sup>3</sup> Illinois bans the use of cell phones while driving in a school zone or in a highway construction zone.

<sup>4</sup> Maine has passed a law making it against the law to drive while distracted in the state.

<sup>5</sup> In Michigan, teens with probationary licenses whose cell phone usage contributes to a traffic crash or ticket may not use a cell phone while driving.

<sup>6</sup> Dealt with as a distracted driving issue; New Hampshire enacted a comprehensive distracted driving law.

<sup>7</sup> South Carolina has a Distracted/inattention attribute under Contributing Factors.

<sup>8</sup> Texas has banned the use of hand-held phones and texting in school zones.

<sup>9</sup> Utah's law defines careless driving as committing a moving violation (other than speeding) while distracted by use of a handheld cellphone or other activities not related to driving.

Sources: [Insurance Institute for Highway Safety \(IIHS\)](#) and [State Highway Safety Offices](#).

Disclaimer: The information on this page is for general information purposes only and is not to be considered legal authority. For clarification on any law, consult the appropriate [State Highway Safety Office](#).

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## Cellphone laws

January 2011

A jurisdiction-wide ban on driving while talking on a hand-held cellphone is in place in 9 states (California, Connecticut, Delaware, Maryland, New Jersey, New York, Oregon, Utah, and Washington) and the District of Columbia. Utah has named the offense careless driving. Under the Utah law, no one commits an offense when speaking on a cellphone unless they are also committing some other moving violation other than speeding.

Local jurisdictions may or may not need specific state statutory authority to ban cellphones or text messaging. Several of the many localities that have enacted restrictions on cellphone use include: Oahu, HI; Chicago, IL; Brookline, MA; Detroit, MI; Santa Fe, NM; Brooklyn, North Olmstead, and Walton Hills, OH; Conshohocken, Lebanon, and West Conshohocken, PA; Waupaca County, WI; and Cheyenne, WY.

The use of all cellphones while driving a school bus is prohibited in 19 states and the District of Columbia.

The use of all cellphones by novice drivers is restricted in 28 states and the District of Columbia.

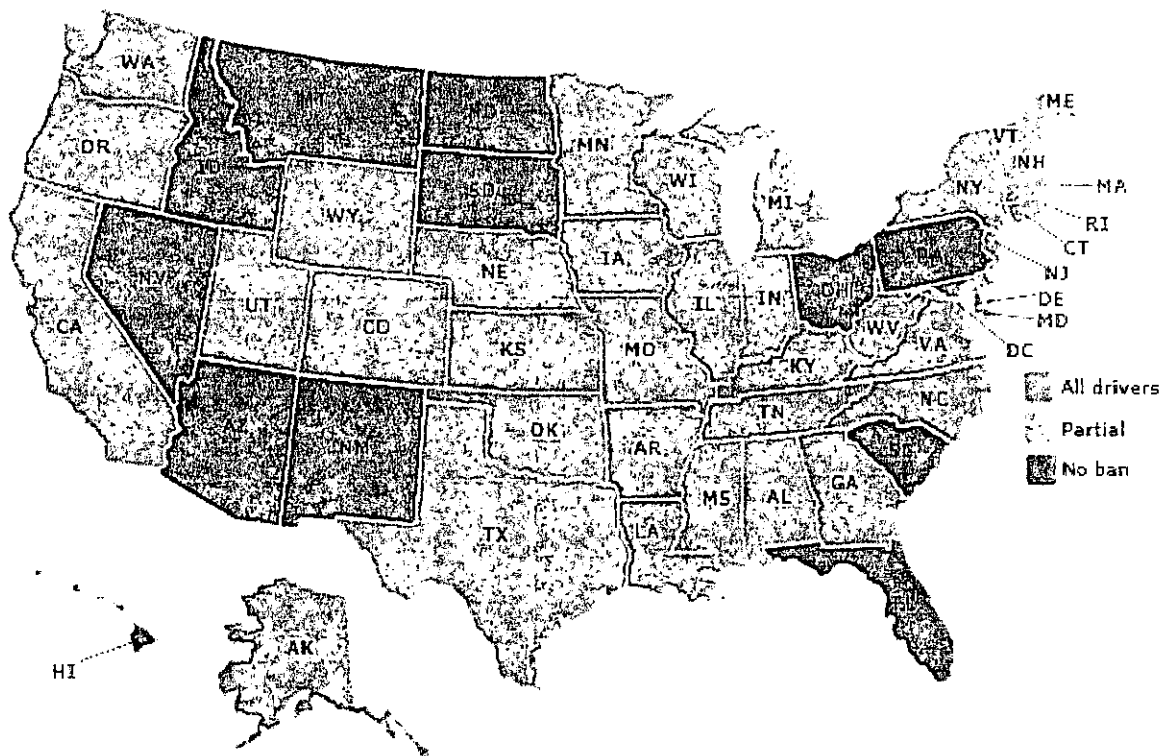
Text messaging is banned for all drivers in 30 states and the District of Columbia. In addition, novice drivers are banned from texting in 8 states (Alabama, Indiana, Maine, Mississippi, Missouri, Oklahoma, Texas, and West Virginia) and school bus drivers are banned from text messaging in 2 states (Oklahoma and Texas).

The table below shows the states that have cellphone laws, whether they specifically ban text messaging, and whether they are enforced as primary or secondary laws. Under secondary laws, an officer must have some other reason to stop a vehicle before citing a driver for using a cellphone. Laws without this restriction are called primary.

Table. Map: hand-held bans. Map: young driver bans. Map: bus driver bans. Map: texting bans

### Map of texting bans

(hover over the map for more detail)



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1d

# USDOT National Highway Traffic Safety Admin.

## Statistics and Facts About Distracted Driving

What does it mean to be a distracted driver? Are you one? Learn more here.

### What is Distracted Driving?

#### Did You Know?

#### Examination of Driver Distraction by NHTSA

#### Use of Electronic Devices While Driving

### What Is Distracted Driving?

There are three main types of distraction:

- Visual — taking your eyes off the road
- Manual — taking your hands off the wheel
- Cognitive — taking your mind off what you're doing

Distracted driving is any non-driving activity a person engages in that has the potential to distract him or her from the primary task of driving and increase the risk of crashing.

While all distractions can endanger drivers' safety, texting is the most alarming because it involves all three types of distraction.

### Other distracting activities include:

- Using a cell phone
- Eating and drinking
- Talking to passengers
- Grooming
- Reading, including maps
- Using a PDA or navigation system
- Watching a video
- Changing the radio station, CD, or Mp3 player

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### Did You Know?

Research on distracted driving reveals some surprising facts:

- 20 percent of injury crashes in 2009 involved reports of distracted driving. (NHTSA).
- Of those killed in distracted-driving-related crashes, 995 involved reports of a cell phone as a distraction (18% of fatalities in distraction-related crashes). (NHTSA)
- In 2009, 5,474 people were killed in U.S. roadways and an estimated additional 448,000 were injured in motor vehicle crashes that were reported to have involved distracted driving. (FARS and GES)
- The age group with the greatest proportion of distracted drivers was the under-20 age group — 16 percent of all drivers younger than 20 involved in fatal crashes were reported to have been distracted while driving. (NHTSA)
- Drivers who use hand-held devices are four times as likely to get into crashes serious enough to injure themselves. (Source: Insurance Institute for Highway Safety)
- Using a cell phone use while driving, whether it's hand-held or hands-free, delays a driver's reactions as much as having a blood alcohol concentration at the legal limit of .08 percent. (Source: University

■ 2. Section 723.250 is amended by adding the definitions below in alphabetical order to paragraph (b) and by adding a new paragraph (d)(6) to read as follows:

§ 723.250 Polymers.

\* \* \* \* \*

(b) \* \* \* \* \*

*Fluorotelomers* means the products of telomerization, which is the reaction of a telogen (such as pentafluoroethyl iodide) with an ethylenic compound (such as tetrafluoroethylene) to form low molecular weight polymeric compounds, which contain an array of saturated carbon atoms covalently bonded to each other (C-C bonds) and to fluorine atoms (C-F bonds). This array is predominantly a straight chain, and depending on the telogen used produces a compound having an even number of carbon atoms. However, the carbon chain length of the fluorotelomer varies widely. The perfluoroalkyl groups formed by this process are usually, but do not have to be, connected to the polymer through a functionalized ethylene group as indicated by the following structural diagram: (Rf-CH<sub>2</sub>CH<sub>2</sub>-Anything).

\* \* \* \* \*

*Perfluoroalkyl carboxylate (PFAC)* means a group of saturated carbon atoms covalently bonded to each other in a linear, branched, or cyclic array and covalently bonded to a carbonyl moiety and where all carbon-hydrogen (C-H) bonds have been replaced with carbon-fluorine (C-F) bonds. The carbonyl moiety is also covalently bonded to a hetero atom, typically, but not necessarily oxygen (O) or nitrogen (N).

*Perfluoroalkyl sulfonate (PFAS)* means a group of saturated carbon atoms covalently bonded to each other in a linear, branched, or cyclic array and covalently bonded to a sulfonyl moiety and where all carbon - hydrogen (C-H) bonds have been replaced with carbon - fluorine (C-F) bonds. The sulfonyl moiety is also covalently bonded to a hetero atom, typically, but not necessarily oxygen (O) or nitrogen (N).

\* \* \* \* \*

(d) \* \* \* \* \*

(6) *Polymers which contain certain perfluoroalkyl moieties consisting of a CF<sub>3</sub>- or longer chain length.* Except as provided in paragraph (d)(6)(i), after February 26, 2010, a polymer cannot be manufactured under this section if the polymer contains as an integral part of its composition, except as impurities, one or more of the following perfluoroalkyl moieties consisting of a CF<sub>3</sub>- or longer chain length: Perfluoroalkyl sulfonates (PFAS),

perfluoroalkyl carboxylates (PFAC), fluorotelomers, or perfluoroalkyl moieties that are covalently bound to either a carbon or sulfur atom where the carbon or sulfur atom is an integral part of the polymer molecule.

(i) Any polymer that has been manufactured previously in full compliance with the requirements of this section prior to February 26, 2010 may no longer be manufactured under this section after January 27, 2012.

(ii) [Reserved]

\* \* \* \* \*

[FR Doc. 2010-1477 Filed 1-26-2010; 8:45 am]  
BILLING CODE 6560-50-S

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Chapter III

#### Regulatory Guidance Concerning the Applicability of the Federal Motor Carrier Safety Regulations to Texting by Commercial Motor Vehicle Drivers

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of regulatory guidance.

**SUMMARY:** The FMCSA announces regulatory guidance concerning texting while driving a commercial motor vehicle (CMV). The guidance is applicable to all interstate drivers of CMVs subject to the Federal Motor Carrier Safety Regulations (FMCSRs).  
**DATES:** *Effective Date:* This regulatory guidance is effective on January 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Thomas L. Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590.

*E-mail:* MCPSPD@dot.gov. Phone (202) 366-4325.

#### SUPPLEMENTARY INFORMATION:

##### Legal Basis

The Motor Carrier Safety Act of 1984 (Pub. L. 98-554, Title II, 98 Stat. 2832, October 30, 1984) (the 1984 Act) provides authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary of Transportation to prescribe regulations which ensure that: (1) CMVs are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of CMVs do not impair their ability to operate the

vehicles safely; (3) the physical condition of operators of CMVs is adequate to enable them to operate the vehicles safely; and (4) the operation of CMVs does not have a deleterious effect on the physical condition of the operators. (49 U.S.C. 31136(a)). Section 211 of the 1984 Act also grants the Secretary broad power in carrying out motor carrier safety statutes and regulations to "prescribe recordkeeping and reporting requirements" and to "perform other acts the Secretary considers appropriate." (49 U.S.C. 31133(a)(8) and (10), respectively).

The Administrator of FMCSA has been delegated authority under 49 CFR 1.73(g) to carry out the functions vested in the Secretary of Transportation by 49 U.S.C. chapter 311, subchapters I and III, relating to commercial motor vehicle programs and safety regulation.

#### Background

This document provides regulatory guidance concerning the applicability of 49 CFR 390.17, "Additional equipment and accessories," to CMV operators engaged in "texting" on an electronic device while driving a CMV in interstate commerce.

Currently, 49 CFR 390.17 states, "Nothing in this subchapter shall be construed to prohibit the use of additional equipment and accessories, not inconsistent with or prohibited by this subchapter, *provided such equipment and accessories do not decrease the safety of operation of the commercial motor vehicles on which they are used.*" [Emphasis added]. As used in § 390.17, "this subchapter" means Subchapter B [49 CFR parts 350-399] of Chapter III of Subtitle B of Title 49, Code of Federal Regulations (CFRs).

CMVs are defined in 49 CFR 390.5 as "any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—

(1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or

(2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or

(3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(4) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed

by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C."

Section 390.17 is therefore applicable to drivers of CMVs, as defined by § 390.5, when the CMV is being used by a motor carrier operation subject to the FMCSRs. The general applicability of Parts 390 through 399 [49 CFR Parts 390 through 399] of the FMCSRs is prescribed by § 390.3.

#### Basis for This Notice

FMCSA recently completed its "Driver Distraction in Commercial Vehicle Operations" study and released the final report on October 1, 2009.<sup>1</sup> The purpose of the study was to investigate the prevalence of driver distraction in CMV safety-critical events (e.g., crashes, near-crashes, lane departures) recorded in a naturalistic data set that included over 200 truck drivers and 3 million miles of data. The dataset was obtained by placing monitoring instruments on vehicles and recording the behavior of drivers conducting real-world revenue operations.

Odds ratios (OR) were calculated to identify tasks that were high risk. For a given task, an odds ratio of "1.0" indicated the task or activity was equally likely to result in a safety-critical event as a non-event or baseline driving scenario. An odds ratio greater than "1.0" indicated a safety-critical event was more likely to occur, and odds ratios of less than "1.0" indicated a safety-critical event was less likely to occur. The most risky behavior identified by the research was "text message on cell phone,"<sup>2</sup> with an odds ratio of 23.2. This means that the odds of being involved in a safety-critical event is 23.2 times greater for drivers who are texting while driving than for those who do not. Texting drivers took their eyes off the forward roadway for an average of 4.6 seconds during the 6-second interval immediately preceding a safety-critical event. At 55 mph (or 80.7 feet per second), this equates to a driver traveling 371 feet, the approximate length of a football field, including the end zones, without looking at the roadway. At 65 mph (or 95.3 feet per second), the driver would have traveled approximately 439 feet without looking at the roadway. This clearly creates a significant risk to the safe operation of the CMV.

Because of the safety risks associated with texting, FMCSA will address the

problem of texting in an expedited, stand-alone rulemaking to be completed in 2010. In addition to studies documenting the safety risks associated with texting while driving, the feedback the Department received during its Distracted Driving Summit, held September 30–October 1, 2009, in Washington, DC, from four United States Senators, several State legislators, safety advocacy groups, senior law enforcement officials, the telecommunications industry, and the transportation industry suggest there is widespread support for a ban against texting while driving. However, until the Agency has the opportunity to complete a notice-and-comment rulemaking proceeding to adopt an explicit prohibition against texting, the regulatory guidance below informs motor carriers and drivers about the applicability of the existing regulations to the use of electronic devices for texting.

#### Other Electronic Devices

FMCSA acknowledges the concerns of motor carriers that have invested significant resources in electronic dispatching tools and fleet management systems; this regulatory guidance should not be construed to prohibit the use of such technology. The regulatory guidance below should also not be construed to prohibit the use of cell phones for purposes other than text messaging.

The Agency will address the use of other electronic devices while driving in a notice-and-comment rulemaking proceeding rather than through regulatory guidance.

It is worth noting, however, that while fleet management systems and electronic dispatching tools are used by many of the Nation's largest trucking fleets, the Department believes safety-conscious fleet managers would neither allow nor require their drivers to type or read messages while driving. To the extent that there are fleets that require drivers to type and read messages while they are driving, the Agency will consider appropriate regulatory action to address the safety problem.

#### Compliance With State and Local Laws, Ordinances and Regulations

In addition to announcing regulatory guidance on CMV drivers' use of electronic devices to engage in texting while driving, FMCSA reminds motor carriers and drivers subject to the FMCSRs that the Federal regulations require compliance with the laws, ordinances, and regulations of the jurisdiction in which the CMV is being operated. Section 392.2, "Applicable

operating rules," requires that "Every commercial motor vehicle must be operated in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated. However, if a regulation of the Federal Motor Carrier Safety Administration imposes a higher standard of care than that law, ordinance or regulation, the Federal Motor Carrier Safety Administration regulation must be complied with." Thus, in the States and localities having laws, ordinances, and regulations related to "texting" while driving, non-texting cell phone use, or any other similar traffic offenses, a violation of the State or local provision is also a violation of § 392.2 for those CMV drivers to whom it applies.

#### Summary

Based on the clear consensus that emerged from the Distracted Driving Summit, FMCSA's top priority is to initiate a rulemaking to address the safety risks associated with texting by prohibiting all truck and bus drivers from texting while they are operating on public roads. The regulatory guidance issued today clarifies the applicability of the Agency's current safety regulations and serves as an interim measure to deter texting while driving.

#### Regulatory Guidance

*Part 390—Federal Motor Carrier Safety Regulations; General*

#### Sections Interpreted

*Section 390.17 Additional equipment and accessories:*

*Question 1:* Do the Federal Motor Carrier Safety Regulations prohibit "texting" while driving a commercial motor vehicle in interstate commerce?

*Guidance:* Yes. Although the current safety regulations do not include an explicit prohibition against texting while driving by truck and bus drivers, the general restriction against the use of additional equipment and accessories that decrease the safety of operation of commercial motor vehicles applies to the use of electronic devices for texting. Handheld or other wireless electronic devices that are brought into a CMV are considered "additional equipment and accessories" within the context of § 390.17. "Texting" is the review of, or preparation and transmission of, typed messages through any such device or the engagement in any form of electronic data retrieval or electronic data communication through any such device. Texting on electronic devices while driving decreases the safety of operation of the commercial vehicles on which the devices are used because the

<sup>1</sup> This report is available at FMCSA's Research Web page at: <http://www.fmcsa.dot.gov/facts-research/art-research.aspx>

<sup>2</sup> Although the final report does not elaborate on text messaging, the drivers were engaged in the review of, or preparation and transmission of, typed messages via wireless phones.

activity involves a combination of visual, cognitive and manual distraction from the driving task. Research has shown that during 6-second intervals immediately preceding safety-critical events (e.g., crashes, near crashes, lane departure), texting drivers took their eyes off the forward roadway an average of 4.6 seconds. Therefore, the use of electronic devices for texting by CMV operators while driving on public roads in interstate commerce decreases safety and is prohibited by 49 CFR 390.17.

Issued on: January 22, 2010.

Anne S. Ferro,  
Administrator.

[FR Doc. 2010-1573 Filed 1-22-10; 4:15 pm]

BILLING CODE 4910-EX-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281-0369-02]

RIN 0648-XU01

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

**SUMMARY:** NMFS closes the commercial run-around gillnet fishery for king mackerel in the exclusive economic zone (EEZ) in the southern Florida west coast subzone. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** The closure is effective 6 a.m., local time, January 23, 2010, through 6 a.m., local time, January 18, 2011.

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, telephone: 727-824-5305, fax: 727-824-5308, e-mail: [Susan.Gerhart@noaa.gov](mailto:Susan.Gerhart@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero,

cobia, little tunny, and, in the Gulf of Mexico only, dolphin and bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001), NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate quotas. The quota implemented for the southern Florida west coast subzone is 1,040,625 lb (472,020 kg). That quota is further divided into two equal quotas of 520,312 lb (236,010 kg) for vessels in each of two groups fishing with run-around gillnets and hook-and-line gear (50 CFR 622.42(c)(1)(i)(A)(2)(i)).

The southern subzone is that part of the Florida west coast subzone, which from November 1 through March 31, extends south and west from 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL, boundary) to 25°20.4' N. lat. (a line directly east from the Monroe/Miami-Dade County, FL, boundary), i.e., the area off Collier and Monroe Counties. From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone which is between 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL, boundary) and 25°48' N. lat. (a line directly west from the Collier/Monroe County, FL, boundary), i.e., the area off Collier County (50 CFR 622.42(c)(1)(i)(A)(3)).

Under 50 CFR 622.43(a)(3), NMFS is required to close any segment of the

king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined that the commercial quota of 520,312 lb (236,010 kg) for Gulf group king mackerel for vessels using run-around gillnet gear in the southern Florida west coast subzone will be reached on January 23, 2010. Accordingly, the commercial fishery for king mackerel for such vessels in the southern Florida west coast subzone is closed at 6 a.m., local time, January 23, 2010, through 6 a.m., local time, January 18, 2011, the beginning of the next fishing season, i.e., the day after the 2011 Martin Luther King Jr. Federal holiday.

#### Classification

This action responds to the best available information recently obtained from the fisheries. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the closure.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 21, 2010.

Emily H. Menashes,  
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010-1574 Filed 1-22-10; 8:45 am]

BILLING CODE 3510-22-S

# TRANSPORTATION SERIES

NATIONAL CONFERENCE OF STATE LEGISLATURES

December 2010, No. 35

## Traffic Safety and Public Health: State Legislative Action 2010

By Melissa A. Savage and Anne Teigen

### Summary

**Occupant Protection.** At least 26 states considered bills to strengthen seat belt laws in 2010. These proposals included efforts to enact primary enforcement of existing seat belt laws and changing requirements for child restraint use.

**Impaired Driving Issues.** In 2010, lawmakers in 46 states introduced more than 300 bills related to impaired driving. They considered legislation related to stricter penalties for high blood alcohol concentration (BAC), ignition interlocks, breath tests and treatment.

**Distracted Driving.** Since 2000, legislatures in every state, the District of Columbia and Puerto Rico have considered legislation related to distracted driving and driver cell phone use. In 2010, legislators in 40 states considered 181 driver distraction bills.

**Driver's Licensing.** Each year, state legislatures debate hundreds of bills relating to various aspects of driver licensing, including REAL ID, unlicensed driving, older drivers and teen drivers. In 2010, 40 states debated more than 200 bills relating to drivers licensing.

**Aggressive Driving.** Laws in 10 states penalize aggressive drivers. Hand gestures, shouting, speeding, tailgating, driving on the shoulder, weaving in and out of traffic, or any combination of these activities may fall within the definition of aggressive driving.

**Speed Limits.** In 2010, 21 states considered bills regarding speed, including increased fines for speeding, setting speed limits, and punishing serious speeding offenders.

**Automated Enforcement.** Because law enforcement agencies struggle with limited resources, many municipal governments have turned to automated enforcement to control speed and reduce red light violations without diverting law enforcement resources from other areas. During 2010, legislators in 28 states debated nearly 100 bills regarding automated enforcement.

**Motorcycle Safety.** During the 2010 legislative session, 38 states considered more than 100 bills related to motorcycle helmets or driver training.

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- Thirty days of community service or not less than five days in jail for a second offense and not less than 60 days' community service or not less than 10 days' imprisonment for third and subsequent offenses.

According to NHTSA, as of November 2010, 39 states and the District of Columbia comply with federal repeat offender requirements.

A California law passed in 2010 authorizes the court to order a 10-year driver's license revocation if the person has been convicted of impaired driving three or more times. The law allows those with a 10-year suspension to apply for reinstatement after five years. Kansas increased the fine from \$1,500 to \$2,500 for a third impaired driving offense. Mississippi considered but did not pass a measure that would have prohibited plea bargaining for all repeat impaired driving offenders.

## Distracted Driving

*Of overall traffic fatalities in 2009, 16 percent were distraction-related.*

Most experts agree that distracted driving is a significant traffic safety problem. In 2009, 5,474 people were killed on U.S. roadways and an estimated 448,000 were injured in motor vehicle crashes that were reported to have involved distracted driving. Distraction-related fatalities represented 16 percent of overall traffic fatalities in 2009. According to a 2010 Insurance Institute for Highway Safety survey, 40 percent of drivers reported talking on phones at least a few times each week, and 13 percent reported text messaging.

In 2009, Virginia Tech Transportation Institute research showed that drivers who text messaged while driving had over 20 times the risk of crash or near crash than a driver who was not using a phone. The study also revealed that drivers who text messaged while driving took their eyes off the road for 4.6 seconds over a 6-second interval. This equates to a driver traveling the length of a football field at 55 mph without looking at the road. The study concluded that talking on a cell phone slightly increased the risk of a crash or near crash but not to the same degree as texting while driving.

A study published in the September 2010 *American Journal of Public Health* reports texting while driving likely caused more than 16,000 road fatalities between 2002 and 2007. University of North Texas researchers used statistical modeling to determine that the percentage of all traffic deaths caused by distracted driving rose from 11 percent in 1999 to 16 percent in 2008. The researchers noted that only one-third of Americans had a cellular phone in 1999 but by 2008, the number jumped to 91 percent.

## State Legislation

The prevalence of cellular phones, new research and publicized crashes have started many debates over the role cell phones play in driver distraction. Since 2000, legislatures in every state, the District of Columbia and Puerto Rico have considered legislation related to distracted driving or, more specifically, driver cell phone use. In 2010, legislators in 40 states considered 181 driver distraction bills.

No state completely bans all phones for all drivers. Instead, state legislation usually addresses a range of issues, including particular wireless technologies and specific types of drivers. California, Connecticut, Delaware, Maryland, New York, New Jersey, Oregon,

Washington and the District of Columbia prohibit driver use of hand-held phones. Utah considers speaking on a cell phone without a hands-free device to be an offense only if a driver also is committing some other moving violation (other than speeding). Delaware's 2010 law states that violators will be fined \$50 upon first conviction. Oregon's law prohibits drivers younger than age 18 from using any kind of cellular device. Drivers over age 18 can use a mobile communications device only with a hands-free accessory.

Georgia and Massachusetts enacted laws in 2010 that prohibit drivers younger than age 18 from using cellular phones while driving. The use of all cell phones by teen drivers is prohibited in 28 states and the District of Columbia.

The most common driver distraction measure debated by legislatures this year was texting while driving. As of November 2010, laws in 30 states—Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Iowa, Louisiana, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Michigan, Nebraska, New Jersey, New Hampshire, New York, North Carolina, Oregon, Rhode Island, Tennessee, Utah, Vermont, Virginia, and Washington, Wisconsin, Wyoming and the District of Columbia specifically ban text messaging while driving for all drivers. Eleven states passed this legislation in 2010. Oklahoma, which does not have a texting ban for all drivers, passed a law in 2010 that prohibits public transit drivers from texting. Washington made its texting ban a primary offense in 2010.

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*Text messaging while driving is specifically banned in 30 states for all drivers.*

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Penalties for violating texting bans vary among the states. In Georgia, texting while driving is a misdemeanor carrying a \$150 fine; in California, the traffic infraction carries a \$20 fine. Violators in Nebraska will have points assessed against their license and pay a \$200 fine.

### *Federal Action*

U.S. Department of Transportation (DOT) Secretary Ray LaHood held the second annual Distracted Driving Summit in September 2010. Leading transportation officials, safety advocates, law enforcement personnel, industry representatives, researchers and victims affected by distraction-related crashes convened to address challenges and identify opportunities for national anti-distracted driving efforts. At the summit, Secretary LaHood announced a U.S. DOT proposed rule that would prohibit texting on the job by commercial bus and truck drivers. Train operators also are restricted from using cell phones and other electronic devices while in the conductor's seat. NHTSA also provided model legislation for state texting while driving bans; this language can be found at <http://www.distracted.gov/state-laws/>.

Congress also is considering legislation related to texting while driving. On July 29, 2009, New York Senator Chuck Schumer introduced the "Avoiding Life-Endangering and Reckless Texting by Drivers Act" (ALERT Drivers Act). The bill would require that states enact a law to prohibit text messaging while driving by a certain date, or be penalized by having 25 percent of the state's highway funds withheld. West Virginia Senator Jay Rockefeller also introduced a distracted driving bill in 2009, the "Distracted Driving Prevention Act". This bill would provide incentive grants to states that: ban texting while driving for all drivers, require drivers to use hands-free devices, and prohibit any drivers under age 18 to use any cell phone while driving. As of September 2010, both bills remain in committee.

## Driver Licensing

The states, the District of Columbia and the U.S. territories license more than 245 million drivers who represent roughly 88 percent of those eligible to drive. States have administered their driver's licensing systems since 1903, when Massachusetts and Missouri enacted the first state driver's licensing laws. Since 1959, all states have required an examination to test driving skills and traffic safety knowledge before a license is issued. Testing drivers and issuing licenses, however, no longer is the sole concern of state licensing agencies. Because the driver's license now serves a role beyond traffic safety—where both government and private entities rely on it for personal identification—state legislatures and driver's license agencies are concerned about the safety and security of using the license as an identifier. Each year, state legislatures debate hundreds of bills related to various aspects of driver's licensing, including REAL ID, unlicensed driving, older drivers and teen drivers. In 2010, 40 states debated more than 200 bills relating to driver's licensing.

### *REAL ID*

In January 2008, the Department of Homeland Security (DHS) issued the long-awaited final regulations on implementation of the REAL ID Act of 2005, a mere four months before the May 11, 2008, statutory implementation date. Under the act, unless states adopt federal standards for driver's licenses and identification cards, the federal government will not accept the licenses or identification cards for federal purposes such as boarding commercial aircraft, entering a federal building or nuclear power plant, or other purposes as determined by the secretary of Homeland Security.

States were required to certify compliance to DHS by May 11, 2008, or request an extension until Dec. 31, 2009. All 56 U.S. jurisdictions received an initial extension. To merit a second extension through May 11, 2011, states must demonstrate material compliance with REAL ID by meeting many or all of 18 benchmarks. By Dec. 1, 2014, they must begin issuing REAL IDs to applicants born after Dec. 1, 1964. The re-issuance process for all driver's license and identification card holders is to be completed by Dec. 1, 2017. During any extension, the state's non-REAL ID-compliant driver's license and identification card will be recognized for federal purposes. States that choose not to comply or seek the second extension need not take action.

Legislators in Kentucky, Louisiana, New Hampshire, Oklahoma, Utah and Virginia debated legislation related to REAL ID in 2010. Kentucky, Louisiana, New Hampshire, Oklahoma and Utah considered bills that would have prohibited the state from complying with REAL ID provisions. The Utah bill passed. Legislators in Virginia proposed a bill that would have required compliance, but it did not pass. State legislative REAL ID activity was markedly lower in 2010, given the extension granted through May 2011.

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*Unlicensed  
drivers are  
involved in 20  
percent of fatal  
motor vehicle  
crashes.*

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### *Unlicensed Drivers*

Twenty percent of fatal motor vehicle crashes involve unlicensed drivers who either are driving with a suspended or revoked license or have never been licensed. Many drivers who lose their license due to a traffic-related offense such as a DUI or to a non-traffic-related offense—such as failure to appear, poor school attendance or child support enforcement—continue to drive. AAA estimates that 66 percent of those who have lost their license

**FOR IMMEDIATE RELEASE****Contact:**

Erin Keleher  
vlingo  
617-283-2285  
erin@vlingo.com

Beth Monaghan  
InkHouse (for vlingo)  
781-916-9090 x801  
vlingo@inkhousepr.com

**Vlingo Issues "Consumer Text Messaging Habits" Report**

*Study reveals that nearly 30 percent of mobile phone users drive while texting;  
South Carolina, Tennessee and Georgia are the states with the worst offenders*

**CAMBRIDGE, MA (MAY 21, 2008)** – Vlingo Corporation today issued the "Consumer Text Messaging Habits" report, based on research completed by independent research firm Common Knowledge Research Services. Based on a survey of nearly 5,000 U.S. consumers that aimed to understand how, when and why consumers use text messaging, the report revealed that texting has taken hold as a mainstream communication vehicle. The study found that 55 percent of consumers now use text messaging and 42 percent use their mobile phones to text as much or more than they do to make calls. Additionally, 28 percent of consumers admit to driving while texting (defined as emailing, instant messaging or texting). Drivers in the state of South Carolina are the worst offenders, with the highest percentage of respondents who drive while texting (DWT), while Arizona drivers boast the lowest number who text behind the wheel.

The full report can be downloaded at [www.vlingo.com/habits](http://www.vlingo.com/habits).

**Driving While Texting**

Today, 23 states are considering legislation to ban driving while texting. Overall, 55 percent of respondents send text messages, and 28 percent admit to DWT. Among respondents, 78 percent believe DWT should be illegal. The report also uncovered the following:

- 85 percent of respondents say they would not DWT if it were illegal.
- 78 percent of all surveyed think DWT should be illegal.
- 85 percent of teens and young adults (those 13-29) send text messages, and just over 50 percent of those ages 16-29 admit to DWT.

"In this data what we see is an approaching tidal wave of a public policy and safety issue," said Dave Grannan, CEO of vlingo. "Text messaging has become an integral part of how younger generations communicate, and right now their behavior and attitudes suggest that 50 percent will be driving and texting. This problem is only going to get worse and we need to develop public policies and technologies to address this challenge."

**States with the Most and Least DWT Offenders**

The report compared driving while texting habits on a state-by-state basis. South Carolina texters have the worst record, with 40 claiming to DWT and Arizona has the best record with just 17 percent of respondents admitting to DWT. The five states with the highest percentage of respondents who admit to DWT are:

1. South Carolina (worst record)
2. Tennessee
3. Georgia
4. Maryland
5. Louisiana

The five states with the lowest percentage of respondents who DWT are:

1. Arizona (best record)
2. Maine
3. Vermont
4. New Hampshire
5. Delaware

### **Overall Text Messaging Usage Trends**

The study showed that 55 percent of consumers use their mobile phones to text message. Moreover, 42 percent report that they use their mobile phones equally or more for texting than making phone calls. Teens (ages 13-19) and young adults (ages 20-29) are the most inclined to use text messaging, each with 85 percent currently using texting to some extent. Yet teens are the most active users with:

- 34 percent sending 500 or more texts each month.
- 65 percent saying an inability to send text messages would have a negative impact on their lives.
- 64 percent texting more than they call.

### **What's Holding Back Usage?**

Of the 45 percent of respondents who do not text, the top reasons included the following (respondents could select more than one reason):

- 44 percent cite expense as the gating factor.
- 40 percent say it takes too much time.
- 30 percent say it's too difficult to type on a mobile phone.

Nearly 90 percent of respondents use the standard 12 numeric keys as their mobile phone interfaces.

### **Methodology**

Responses were generated from a survey among 4,820 online opinion panel members (age 13 or older) living in the continental United States. The sample was matched to U.S. Census proportions on gender, age and ethnicity and included approximately 100 respondents from each of the 48 contiguous U.S. states. Respondents were also screened for mobile phone ownership and usage. The survey bears a statistical accuracy of +/- 1.41% for the total sample at the 95% confidence level.

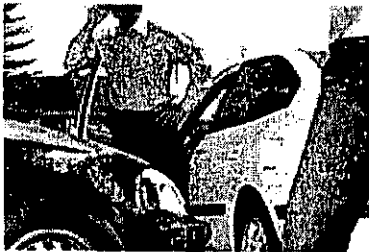
### **About vlingo**

Vlingo is a voice-powered user interface that unlocks access to mobile phone wireless data services. Vlingo allows users to speak or type into any vlingo-enabled text box and get accurate, easy and consistent access to all the information, entertainment and communication made possible through today's mobile applications. By giving consumers control of the mobile Internet with the power of their voices, vlingo provides a quantum leap in usability for mobile data services that are currently restricted by limited user interfaces. IDC has named vlingo one of the "Ten Emerging Mobile Players to Watch in 2008." The company secured its venture capital financing from Charles River Ventures, Sigma Partners and Yahoo! Inc. Founded in 2006, vlingo is headquartered in Cambridge, Massachusetts. Why tap when you can talk? [www.vlingo.com](http://www.vlingo.com).



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**CRASHES COST SOCIETY  
ABOUT \$230 BILLION A YEAR**

## Driving While Distracted: Statistics To Know

### Learn about the risks of driving while distracted with texting while driving statistics from Nationwide

Learn about the danger of driving while distracted (DWD) and cell phone use while driving with helpful information from Nationwide Insurance to help prevent driving while texting accidents when you're behind the wheel.

A new *On Your Side*® survey by Nationwide verifies with concrete cell phone driving statistics the general assumption that there is strong public support for legislation to restrict cell phone usage while driving.

The results of the new survey show there are varying degrees of support for different types of restrictions based on these texting while driving statistics.

- 8 in 10 drivers support some type of cell phone usage restriction.
  - The majority of respondents say they are supportive of laws restricting any type of cell phone use while driving.
  - 80 percent respondents support a ban on text messaging while driving.
  - 80 percent of respondents support a ban on e-mailing while driving.
  - Two thirds (67 percent) of respondents say they are supportive of laws restricting phone calls while driving.
- Of those who supported enacting some type of cell phone usage restriction, nearly 3 in 4 believed the law should apply to all drivers, not just specific groups.

### Read other cell phone driving statistics

- Distraction from cell phone use while driving (hand held or hands free) extends a driver's reaction as much as having a blood alcohol concentration at the legal limit of **.08 percent**. (University of Utah)
- The **No.1** source of driver inattention is use of a wireless device. (Virginia Tech/NHTSA)
- Drivers that use cell phones are **four times** as likely to get into crashes

serious enough to injure themselves. (NHTSA, Insurance Institute for Highway Safety)

- **10 percent** of drivers aged 16 to 24 years old are on their phone at any one time.
- Driving while distracted is a factor in **25 percent** of police reported crashes.
- Driving while using a cell phone reduces the amount of brain activity associated with driving by **37 percent** (Carnegie Mellon)

Wireless Issues  
Drive Responsibly

# Please don't text and drive.



A lot of people want you to get home safely, so please don't text and drive.

Take a look at a variety of components of our current "Don't Text and Drive" Campaign.

[Television Ad](#)

[Radio Ad](#)

[Billboard](#)



"We support federal legislation to ban texting and e-mailing while driving. This approach is a logical extension of our previous breaks with other wireless companies to support state-wide legislation banning texting and e-mailing while driving."

— Verizon Wireless vice president and general counsel Steven E. Zipperstein

**When behind the wheel, safe driving is your responsibility, and it should always be your first priority.**

Since 2000, Verizon Wireless has led the wireless sector in supporting laws to eliminate driver distractions from using wireless devices. Verizon Wireless has not only supported state and federal legislation to ban hand-held texting and e-mailing while driving, but has been the only wireless service provider to support state-wide legislation requiring drivers to use hands-free devices while talking. California State Assemblyman Joe Simitian has credited Verizon Wireless for helping him enact the nation's first state-wide texting ban.

Verizon Wireless' own policies require employees to use hands-free devices if they choose to talk on their mobile phones while driving, and forbid texting and e-mailing while driving.

If you choose to use your wireless phone while driving, several jurisdictions have adopted "hands-free" and other restrictions on the use of wireless devices while driving. It is your responsibility to know and to comply with the law in your area.

## **Additional Research on using a wireless phone while driving**

Scientific research on the subject of wireless phone use and driving has been conducted worldwide for several years. According to the National Highway Traffic Safety Administration (NHTSA), the available research indicates that using a wireless phone while driving degrades a driver's performance, whether it is a hands-free or hand-held wireless phone. NHTSA advises that the "safest course of action is to refrain from using a cell phone while driving." NHTSA's policy on "Cell Phone Use While Driving," as well as Frequently Asked Questions on the subject, are available at [www.nhtsa.gov](http://www.nhtsa.gov) (click on "Traffic Safety" then on "Drowsy and Distracted Driving"). For your well being and the well being of those around you, you should consider turning your phone off and allowing calls to go to Voice Mail while you are driving.



## Texting & Driving ... It Can Wait: Safety Tips

Text messaging has experienced a tenfold increase in the last three years\*, according to CTIA – The Wireless Association. Texting is increasingly becoming the way we communicate. Unfortunately, some people may be texting from behind the wheel of a moving vehicle.

AT&T wants to inform all wireless users that safety comes first when you're in the driver's seat. To help battle unsafe texting, especially by teens, following are a few key tips:

### Tips for Teens:

- **Be smart.** Don't text and drive. No text message is worth being distracted while you drive.
- **Be in control.** Remember it's your phone. You decide if and when to send and read texts so take control. Consider turning your phone off, setting it to silent or even storing it in the glove box before hitting the road.
- **Be caring.** Never send a text message to a friend who is driving to meet you, or to anyone you know is likely behind the wheel.
- **Be a BFF.** Friends don't let each other text and drive. Visit [www.facebook.com/att](http://www.facebook.com/att) to take a pledge not to text and drive, and encourage your friends to do the same. You can also print and sign AT&T's pledge, available in our online toolkit at [www.att.com/txtngcanwait](http://www.att.com/txtngcanwait).

### Tips for Adults:

- **Be a resource.** Share information with your teen about the risks of texting while driving. Download resources from our toolkit, [www.att.com/txtngcanwait](http://www.att.com/txtngcanwait).
- **Be an example.** Don't send the wrong message by texting while you drive. Your teen will follow your example. Visit the toolkit, [www.att.com/txtngcanwait](http://www.att.com/txtngcanwait), to print, discuss and sign the Parent/Teen Pledge. And, if you're on Facebook, visit [www.facebook.com/att](http://www.facebook.com/att) to take the pledge online and encourage your friends (and family) to do the same.
- **Be caring.** Don't send a text when you know your teen is driving. Wait for them to call or text you once they have arrived safely at their destination.
- **Be aware.** Know your options. AT&T Smart Limits\*\* offers parents an easy way to manage their teen's cell phone and text messaging activity. Go to [www.att.com/smartlimits](http://www.att.com/smartlimits) for more information.

***Above all else, our message is simple, yet vital: When it comes to texting and driving, it can wait.***

\* <http://ctia.org/advocacy/research/index.cfm/AID/10323>

\*\*Smart Limits for Wireless cannot currently set monthly limits for minutes; incoming calls are allowed at all times except from numbers designated as "Blocked Numbers." Browsing Limits and Time of Day Restrictions will not work for restricting Web browsing usage while the user is in Wi-Fi mode on Wi-Fi capable devices such as iPhone. As your child approaches the text and download limits, he/she will receive an advance warning. Once a limit is reached, there will be a notification the action is restricted and the service will be stopped until the next billing cycle begins. Calls and text messages to and from phone numbers you designate as "Allowed Numbers" and calls to 911 will continue to be permitted regardless of the limits you set. For more information, visit AT&T Smart Limits for Wireless Terms of Use, <http://www.wireless.att.com/learn/articles-resources/parental-controls/smart-limit-terms.jsp>.

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CTIA is the International Association for the Wireless Telecommunications Industry. Dedicated to Expanding the Wireless Frontier.

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1400 16th Street, NW  
Suite 600  
Washington, DC 20036

Phone: (202) 736-3200  
Fax: (202) 785-0721

### About Us

CTIA-The Wireless Association® is an international nonprofit membership organization that has represented the wireless communications industry since 1984. Membership in the association includes wireless carriers and their suppliers, as well as providers and manufacturers of wireless data services and products.

The association advocates on behalf of its members at all levels of government. CTIA also coordinates the industry's voluntary efforts to provide consumers with a variety of choices and information regarding their wireless products and services. This includes the voluntary industry guidelines; programs that promote mobile device recycling and reusing; and wireless accessibility for individuals with disabilities.

CTIA also supports important industry initiatives such as Wireless AMBER Alerts; "On the Road, Off the Phone," a teen-focused safe driving public service announcement campaign; text4baby, a free mobile educational service to promote the birth of healthy babies; and the "Be Smart. Be Fair. Be Safe: Responsible Wireless Use" program to help parents, educators and policymakers teach kids about responsible mobile behavior, driving and eco-friendly initiatives.

The association also operates the industry's leading trade shows, as well as equipment testing and certification programs to ensure a high standard of quality for consumers.

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### Safe Driving

CTIA-The Wireless Association® and the wireless industry believe that when it comes to using your wireless device behind the wheel, it's important to remember safety always comes first and should be every driver's top priority. While mobile devices are important safety tools, there's an appropriate time and an inappropriate time to use them.

The wireless industry generally defers to consumers and the driving legislation they support – whether that's hands-free regulations or bans on talking on their mobile devices while driving.

At the same time, we believe text-messaging while driving is incompatible with safe driving, and we support state and local statutes that ban this activity while driving. We also agree with proposals that restrict or limit cellular use by inexperienced or novice drivers. Just as many states have graduated drivers' laws, such as restricting the number of passengers or nighttime hours of driving, the industry believes restricting a young driver's use of wireless while becoming better-skilled at the primary driving tasks makes sense.

We believe there are three vital components to developing safer drivers and safer roads.

1. State and local legislation, which is uniform across the nation, can be a part of the solution. We are working with the National Conference of State Legislatures, the American Legislative Exchange Council and other state organizations to craft model legislation that could be adopted across the country that would prohibit manual texting and emailing while driving.
2. Technological advancements are also a vital piece of the safety puzzle. However, they cannot be based on inflexible mandates that could stifle innovation. They must also be affordable and consumer-friendly.
3. Most importantly, we believe, and have clearly shown our commitment to, education as key to stopping distracted driving.

In September 2009, CTIA, in partnership with the National Safety Council, launched a teen-focused education campaign to provide parents and teens with information on the dangers of distracted driving. As part of the campaign, a television public service announcement (PSA) and website ([www.onroadoffphone.org](http://www.onroadoffphone.org)) were developed to remind teens and novice drivers that when they're "On the Road, Off the Phone." As part of the continued partnership, NSC and CTIA released a sixty-second national radio PSA in June 2010, which was distributed to 5,000 radio stations across the country.

#### **Key Points:**

- **Education is Key to Making Drivers More Aware of their Responsibilities Behind-the-Wheel.**

CTIA, in partnership with the wireless industry, has developed programs and sponsored public service announcement (PSA) campaigns designed to educate distracted drivers. Many of the programs target young drivers, on the theory that more experienced drivers are better prepared to handle distractions behind the wheel. The wireless industry also encourages drivers to follow some basic driving do's and don'ts to ensure that a wireless device doesn't become a distraction.

- **There are Numerous Potential Driving Distractions.**

Since safety should be the first concern when behind the wheel, drivers need to be aware of the wide array of potential distractions, including drowsiness, reaching for moving objects, pushing audio buttons, eating, personal grooming, other passengers and reading to name a few. Wireless use has often been listed behind many of these activities in terms of how distracting of a behavior it might be while driving.

- Over -

Last Updated: August 2010



- **New Research and Technological Advancements Provide Innovative Solutions to the Problem of Distracted Driving.**

Wireless companies are developing inventive solutions, such as "hands-free car kits" and the "Polite Phone" prototype, to utilize ground-breaking Bluetooth technology to provide a voice-command interface between the car and the cell phone. This enables actions such as hands-free voice dialing, answering, and hanging up. The next generation of hands-free cell phone technology for vehicles will help to decrease distraction and ensure that drivers keep their eyes on the road and hands on the wheel.

**Brief History of CTIA's Support of Safe Driving Education:**

- **1997** – "Safety-Your Most Important Call"™ campaign with print, outdoor and radio PSAs
- **2000** – TV and radio PSAs focused on telling all drivers about the dangers of distracted driving
- **2004/2005** – TV PSA with CTIA's President & CEO Steve Largent
- **2007** – Developed 10 radio PSAs with 10 different driving scenarios to educate and remind people about responsible driving behavior. Scenarios included:
  - Teen-focused to tell them to tell them to not text and drive
  - Bad weather as a time to not use your mobile device
  - Offered to co-brand the PSAs to the Governors National Highway Safety Association affiliates; 13 affiliates took advantage of CTIA's offer. They were: Alaska, Arizona, Delaware, Florida, Illinois, Oregon, Tennessee, Nevada, New Jersey, Maryland, Minnesota, Missouri and Wisconsin.
- **2009** – TV PSA focused on teens to tell them, "On the Road, Off the Phone" with the National Safety Council and website ([www.onroadoffphone.org](http://www.onroadoffphone.org))
- **2010** – International CTIA WIRELESS 2010 Show created a Safe Driving Solutions pavilion which displayed the latest technology to combat driver distraction and featured live demos on a track at the convention center
- **2010** – As part of CTIA's "Be Smart. Be Fair. Be Safe: Responsible Wireless Use" campaign ([www.besmartwireless.com](http://www.besmartwireless.com)), information is available for kids on how to be responsible drivers and passengers
- **2010** – Produced a national radio PSA with the National Safety Council

For more information, please visit: [http://www.ctia.org/advocacy/policy\\_topics/](http://www.ctia.org/advocacy/policy_topics/)

MONDAY, JANUARY 3, 2011

Bismarck Tribune

# Opinion

"Seeking to find and publish the truth, that the people of a great state might have a light by which to guide their destiny."

— Stella Mann,  
Tribune publisher, 1939

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TRIBUNE EDITORIAL

## Taking care of younger drivers

As the story goes, there once was a 12-year-old boy who was showing off by riding his bicycle without steering. "Look ma, no hands," he yelled, hands held high over his head. About that time, the front wheel hit a large stone causing the bike to swerve to the left. He hit the curb and flew over the handle bars to land straddle-legged on the curb. It was one of the most painful days of his life.

A few years earlier, according to family legend, his father crashed and totaled the family car when he took his eyes off the road, trying to secure a sliding cake in the back seat — using both hands. It was also a painful day.

While both situations could have turned out much worse, there are lessons for today that can help prevent minor or major catastrophes. Be it resolved that there is no room for showing off or not giving complete concentration and focus while driving an automobile, or for that matter, any "vehicle." That includes keeping both hands on

the wheel and eyes on the road when piloting a 3,000-pound steel, plastic and glass box on wheels that has the capacity to travel at speeds up to and more than 100 mph.

Many, however, don't seem to understand the concept. For some reason, some can't drive a car without talking or texting on a phone, or blaring music loud enough to puncture an eardrum — or at least discombobulate any and all road focus.

How did we survive without mobile phones?

A recent Associated Press survey found there is growing support in the Legislature to ban texting while driving. There also seems to be a plan afoot to place stronger restrictions on teen drivers.

Two years ago, the Legislature rejected a proposed ban on texting while driving, and proposed new

teen driving restrictions.

That was a mistake. Texting while driving is not safe and statistics indicate teen drivers need more controls.

### State lawmakers should look at texting and driver licensing

The legislator who introduced the texting bill in 2009 says he will re-introduce it in the 2011 session. How about making it a priority as well? And do the same for a "graduated driver's license," which also makes tremendous sense.

North Dakota has been known as a leader in many ways, but now it's time to follow. The AP reported that 30 states and the District of Columbia have banned texting while driving, including 11 that took the step in 2010.

Lawrence Klein's legislation would ban drivers from sending text messages or e-mail, or surfing the Internet. The penalty seems minor — a \$100 fine and two penalty points added to the offend-

er's driver's license. That might not be enough to stop the abuse. A \$500 fine and more penalty points might serve as a better deterrent.

"I think there's greater awareness of how dangerous this is, and a number of states have done something on this issue," Klein told the AP.

The graduated driver's license proposal would likely restrict the ability of 14- and 15-year-olds to drive at night, carry passengers and use cell phones while driving. After six months, a 14-year-old could likely move from an instructional permit to a restricted driver's license, allowing the young driver to drive a parent's or guardian's vehicle without an adult present. At 16, full driving privileges would be possible.

These actions are not assaults on North Dakota's young drivers. They are being proposed for reasons of safety.

We urge the Legislature to move forward for the good of all North Dakotans.

12K

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Sixty-second  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2112**

Introduced by

Transportation Committee

(At the request of the Department of Transportation)

1 A BILL for an Act to create and enact three new subsections to section 39-06.2-02 and section  
2 39-06.2-08.1 of the North Dakota Century Code, relating to commercial driver's licenses; to  
3 amend and reenact subsection 25 of section 39-06.2-02, subdivision b of subsection 4 of  
4 section 39-06.2-07, and subsections 1 and 5 of section 39-06.2-08 of the North Dakota Century  
5 Code, relating to commercial driver's licenses.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** Three new subsections to section 39-06.2-02 of the North Dakota Century  
8 Code are created and enacted as follows:

9 "Downgrade" means:

- 10 a. A state allows the driver to change the driver's self-certification to interstate, but  
11 operating exclusively in transportation or operation excepted from 49 CFR  
12 part 391, as provided in 390.3(f), 391.2, 391.68, or 398.3;  
13 b. A state allows the driver to change the driver's self-certification to intrastate only,  
14 if the driver qualifies under the state's physical qualification requirements for  
15 intrastate only;  
16 c. A state allows the driver to change the driver's certification to intrastate, but  
17 operating exclusively in transportation or operations excepted from all or part of  
18 the state driver's qualification; or  
19 d. A state removes the commercial driver's license privilege from the driver's  
20 license.

21 "Electronic device" includes a cellular telephone, personal digital assistant, pager,  
22 computer, or any other device used to input, write, send, receive, or read text.

1       "Texting" means manually entering alphanumeric text into, or reading text from, an  
2       electronic device. This action includes short message service, e-mailing, instant  
3       messaging, a command or request to access a worldwide web page, or engaging in  
4       any other form of electronic text retrieval or entry, for present or future communication.

5       "Texting" does not include:

- 6       a. Reading, selecting, or entering a telephone number, an extension number, or  
7       voice mail retrieval codes and commands into an electronic device for the  
8       purpose of initiating or receiving a telephone call using voice commands to  
9       initiate or receive a telephone call;
- 10      b. Inputting, selecting, or reading information on a global positioning system or  
11      navigation system; or
- 12      c. Using a device capable of performing multiple functions, including fleet  
13      management systems, dispatching devices, smartphones, citizens' band radios,  
14      or music players, for a purpose that is not otherwise prohibited in 49 CFR  
15      part 383.

16       **SECTION 2. AMENDMENT.** Subsection 25 of section 39-06.2-02 of the North Dakota Century  
17       Code is amended and reenacted as follows:

- 18       25. "Serious traffic violation" means a conviction when operating a commercial motor  
19       vehicle of:
- 20       a. Excessive speeding, involving a single charge of any speed fifteen miles [24.14  
21       kilometers] per hour or more, above the posted speed limit;
- 22       b. Reckless driving, as defined under section 39-08-03 or local ordinance, including  
23       charges of driving a commercial motor vehicle in willful or wanton disregard for  
24       the safety of persons or property, improper or erratic traffic lane changes, or  
25       following the vehicle ahead too closely;
- 26       c. A violation of any state or local law related to motor vehicle traffic control, other  
27       than a parking violation, arising in connection with a fatal accident;
- 28       d. Driving a commercial motor vehicle without obtaining a commercial driver's  
29       license;
- 30       e. Driving a commercial motor vehicle without a commercial driver's license in the  
31       driver's possession. An individual who provides proof to the enforcement

1 authority that issued the citation, by the date the individual must appear in court  
2 or pay a fine for such violation, that the individual held a valid commercial driver's  
3 license on the date the citation was issued, is not guilty of this offense; or

4 f. Driving a commercial motor vehicle without the proper class of commercial  
5 driver's license or endorsement, or both, for the specific vehicle group being  
6 operated or for the passengers or type of cargo being transported; or

7 g. Violating a state or local law or ordinance prohibiting texting while driving.

8 **SECTION 3.** Section 39-06.2-08.1 of the North Dakota Century Code is created and  
9 enacted as follows:

10 **39-06.2-08.1. Commercial driver's license medical certification requirements.**

- 11 1. The director may issue a commercial driver's instruction permit or commercial driver's  
12 license to a North Dakota resident who meets the medical qualification and  
13 certification requirements pursuant to the limitations of 49 CFR parts 383 and 391.  
14 2. Every individual who makes application for a commercial driver's instruction permit or  
15 commercial driver's license must certify that the individual meets the qualification  
16 requirements contained in 49 CFR part 391 or certify that the individual's commercial  
17 transportation is entirely in intrastate commerce and is not subject to 49 CFR part 391.  
18 3. The application will contain the following categories to comply with the commercial  
19 driver certification requirements:  
20 a. Interstate and subject to 49 CFR part 391.  
21 b. Interstate, but operating exclusively in transportation or operations excepted  
22 under 49 CFR part 390.3(f), 391.2, 391.68, or 398.3.  
23 c. Intrastate and subject to state driver's qualification requirements.  
24 d. Intrastate, but operating exclusively in transportation or operations excepted from  
25 all or part of the state driver's qualification requirements.  
26 4. Every individual who makes application for or holds a commercial driver's instruction  
27 permit or commercial driver's license must submit a copy of the individual's medical  
28 certificate to the director unless the commercial transportation is not subject to 49 CFR  
29 part 391.

- 1       5. The director will downgrade or remove the commercial driving privilege from the  
2       license if the medical certificate expires and the driver does not change the driver's  
3       certification if the driver is no longer subject to 49 CFR part 391.

4       **SECTION 4. AMENDMENT.** Subdivision b of subsection 4 of section 39-06.2-07 of the  
5 North Dakota Century Code is amended and reenacted as follows:

- 6           b. The commercial driver's instruction permit may not be issued for a period to  
7           exceed six months. Only one renewal or reissuance may be granted within a  
8           two-year period. The director may issue a letter of authority that authorizes the  
9           applicant to drive to a driver's license office, complete the road test, and return  
10          home. The letter of authority is used after an allowable number of permits have  
11          been issued. The holder of a commercial driver's instruction permit may, unless  
12          otherwise disqualified, drive a commercial motor vehicle only when accompanied  
13          by the holder of a commercial driver's license valid for the type of vehicle driven  
14          who occupies a seat beside the individual for the purpose of giving instruction in  
15          driving the commercial motor vehicle.

16       **SECTION 5. AMENDMENT.** Subsections 1 and 5 of section 39-06.2-08 of the North Dakota  
17 Century Code are amended and reenacted as follows:

- 18       1. The application for a commercial driver's license or commercial driver's instruction  
19       permit must include the following:  
20           a. The full name and current mailing address of the applicant;  
21           b. A physical description of the applicant, including sex, height, weight, and eye and  
22           hair color;  
23           c. Date of birth;  
24           d. The applicant's social security number, unless the application is for a nonresident  
25           commercial driver's license and the applicant is a resident of a foreign  
26           jurisdiction;  
27           e. The applicant's signature;  
28           f. The certifications including those required by 49 CFR part ~~383.71(a)~~383.71;  
29           g. Any other information required by the director; and  
30           h. A consent to release driving record information.

Sixty-second  
Legislative Assembly

- 1 the individual's commercial driver's license or pending application for a period of at
- 2 least sixty consecutive days.



U.S. Department of Transportation  
National Highway Traffic Safety Administration

# TRAFFIC SAFETY FACTS

## Research Note

NHTSA  
www.nhtsa.gov

DOT HS 811 376

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## High Visibility Enforcement Demonstration Programs in Connecticut and New York Reduce Hand-Held Phone Use

By Linda Cosgrove, Neil Chaudhary, and Scott Roberts

Driving while distracted increases the likelihood of a crash (NHTSA, 2010), and recent well-publicized events have brought this unsafe driving behavior to the forefront of the public eye. According to CTIA-The Wireless Association (2009) about 285 million Americans (91% of all Americans) now own cell phones, compared to only 1 million in 1987. The National Health Interview Survey (Blumberg & Luke, 2010) found that nearly one in four households were wireless only (no land line), up nearly 2 percentage points from the year before. The popularity of text messaging is increasing, and videotaped footage of drivers who were texting immediately before a crash has circulated widely on television and the Internet.

The National Highway Traffic Safety Administration estimates that 6% of drivers nationwide were using an electronic device at any given time in 2008 (Pickrell & Ye, 2009). A meta-analysis (Horrey & Wickens, 2006) of 23 experiments that measured the effects of cell phone use on driving performance found that, across all studies, reaction times were consistently slower when using a cell phone than when not using a phone.

To address this problem, NHTSA initiated distracted driving demonstration programs in two communities to test whether a high visibility enforcement (HVE) model could reduce two specific instances of distracted driving -- talking or texting using a hand-held cell phone. The HVE model combines dedicated law enforcement during a specific period, paid and earned media emphasizing an enforcement-based message, and evaluation before and after. Click It or Ticket, NHTSA's best known and most successful HVE campaign for seat belt use, has also been effective in areas of aggressive driving and impaired driving. This report summarizes results from the first two of four waves of enforcement and media for distracted driving high visibility enforcement campaigns in two communities.

### Background

Over the past several years legislatures have introduced laws banning hand-held cell phone use and texting in a number of States. New York and Connecticut passed laws banning hand-held cell phone while driving in 2001 and 2005 respectively. At the time of this report, 8 States and the District of Columbia have banned hand-held cell phone use for all drivers, and 30 States and the District have banned texting for all drivers (GHSA, 2010). Many States also ban any use of a cell phone (even with a hands-free device) for novice teen drivers. The demonstration projects were aimed to test whether HVE would be effective in persuading drivers not to use hand-held phones to talk or text, whether law enforcement would be able to observe violations, and whether an HVE campaign would increase drivers' perceived risk of receiving a citation for violating the law.

**Hand-held cell phone use while driving dropped 56% in Hartford (from 6.8% to 3.1%) and 38% in Syracuse (from 3.7% to 2.3%).**

**Texting while driving declined 68% in Hartford (from 3.9% to 1.4%) and 42% in Syracuse (from 2.8% to 1.6%).**

Under the leadership of the U.S. Department of Transportation Secretary Ray LaHood, NHTSA awarded cooperative agreements to Connecticut and New York to implement and evaluate demonstration programs that apply the high visibility enforcement model to distracted driving at the community level. Syracuse, New York, and Hartford, Connecticut, (a combination of three contiguous cities -- East Hartford, Hartford, and West Hartford) conducted the demonstrations.



## Program Description

NHTSA worked with the Connecticut Department of Transportation and the New York Department of Motor Vehicles' (DMV) Governor's Traffic Safety Committee to conduct model high visibility enforcement programs in the two selected communities. In Connecticut, the participating law enforcement agencies were the Connecticut State Police and the Hartford, West Hartford, and East Hartford Police Departments. In New York, the New York State Police, the Syracuse Police Department, and the Onondaga County Sheriff's Office participated. Both communities planned to conduct four waves of enforcement over the course of one year.

Under separate contracts, NHTSA provided evaluation and communications support to both sites. Preusser Research Group was the evaluation firm and the Tombras Group was the communications firm.

Table 1  
Demonstration Program and Evaluation Schedule

	Wave 1		Wave 2	
	CT	NY	CT	NY
Pre Wave Observations	March 18-22	March 25-27	July 8-12	July 8-10
Pre Wave Awareness	March 23-27	March 15-19	July 6-10	July 5-9
Media Flight	April 4-16	April 4-16	July 22-28	July 20-26
Enforcement Dates	April 10-16	April 8-17	July 24-30	July 22-31
Post Wave Observations	April 15-19	April 15-17	July 29-August 2	July 29-31
Post Wave Awareness	April 15-20	April 19-22	July 29-August 3	August 2-6

The first two waves of focused enforcement took place in April and July 2010. Table 1 shows the timeline for pre and post evaluation data collection, media flights, and enforcement in test and control sites.

### Development of the Creative Material

In September 2009 NHTSA explored a variety of project themes and held focus groups in Syracuse and Hartford (four in each city). Six potential taglines were selected for assessment. The line "A phone in one hand leads to a ticket in the other" received the highest marks. Based on additional comments, the line for the demonstration project was shortened to *Phone in One Hand, Ticket in the Other*.

The creative material was designed to generate high awareness of stepped-up enforcement efforts regarding local cell phone laws and convince drivers to adhere to those laws. In December 2009, eight more focus groups were held in Hartford and Syracuse to test four TV commercial ideas. The "BAM!" concept received the highest marks, and became the ad for the demo project.

### Earned Media

Secretary LaHood and NHTSA Administrator David Strickland launched the campaign with press events (U.S. DOT, 2010) in each State on April 8, 2010. These events generated considerable coverage from local and national media outlets including a feature on ABC-TV's *Good Morning America* (Clarke, 2010) and a feature on ABC News (San Miguel, 2010).

Each of the demonstration sites received sample earned media templates so that they could develop localized press releases, fact sheets and post wave press releases. Outreach with the news media and various partners during each wave resulted in scores of articles and events in both States. In Connecticut and New York, more than 100 news organizations developed news stories about the demonstration projects. Syracuse and Hartford actively generated opportunities to earn additional media for the program. For instance, New York initiated a media tour and the Connecticut DMV joined with Traveler's Insurance Company to sponsor a teen driving video contest.

### Paid Media

NHTSA's Office of Communications and Consumer Information purchased air time to promote the program activity and emphasize the enforcement component among the target audience of men and women 18 to 45 years old. The television spots are available online at [distraction.gov/hartford](http://distraction.gov/hartford) and [distraction.gov/syracuse](http://distraction.gov/syracuse). Figure 1 shows a still shot from one of the animated Internet ads also located on the Web site.

Advertisers use "gross rating points" (GRPs) to determine how much of their target audience is reached by a specific advertisement multiplied by the number of times the target audience sees it. For the first wave in April 2010, NHTSA purchased two weeks of advertising in each demonstration location at a level of about 535 GRPs for television/cable, 400 GRPs for radio, and an additional 2 million online impressions on Web sites like *USAToday.com*. This was considered a strong buy that would reach the target audience enough times that the ad's message would resonate with them. For the second wave in July 2010, NHTSA purchased one week of advertising in each demonstration location at a level of about 300 GRPs for television/cable, approximately 240 GRPs for radio, and an additional 1.5 million online impressions. The media expenditures were \$219,290 in Hartford and \$88,904 in Syracuse for both waves combine (see Table 2).

The Connecticut Highway Safety Office also ran the *Phone in One Hand, Ticket in the Other* slogan on variable message boards in and around the pilot area and purchased digital billboards on major Hartford Interstate Highways I-84 and I-91. The billboard message also ran at the XL Center, a sports and concert venue in downtown Hartford. This message ran on the XL Center digital billboard and outdoor marquee.

## Enforcement

Hartford and Syracuse chose enforcement strategies tailored to their communities. Hartford preferred a spotter technique, where an officer, usually standing on the side of the road, radioed ahead to another officer whenever a passing motorist using a hand-held cell phone was observed. The second officer made the stop and wrote the ticket. The Connecticut Highway Safety Office prepared citation holders, short brochures that officers used to hold the tickets to provide specific information about Connecticut's cell phone law, the fine amount, and the risks associated with distraction.

Syracuse preferred roving patrols where officers drove through their jurisdiction actively seeking out distracted drivers using cell phones or texting. Officers reported that higher vantage points, SUVs, and unmarked vehicles were particularly effective in identifying violators. Both States found that having the flexibility to schedule overtime shifts as needed was critical to the successful implementation of the enforcement mobilizations.

Figure 1

Scene From Animated Internet Banner Ad

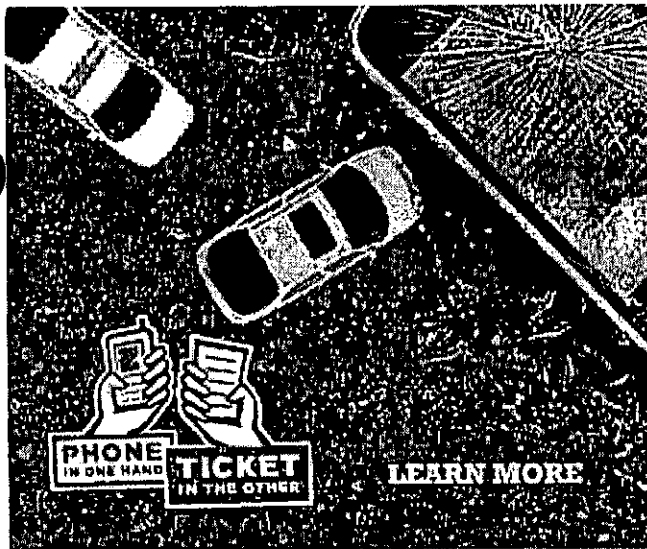


Table 2  
Media Buy

	Wave 1 (2 Weeks)		Wave 2 (1 Week)	
	Hartford	Syracuse	Hartford	Syracuse
TV Cost	\$108,651	\$36,898	\$57,098	\$21,517
Radio Cost	\$108,651	\$36,898	\$57,098	\$21,517
Online Cost	\$5,000	\$5,000	\$3,750	\$3,750
Total Cost	\$140,855	\$54,159	\$78,435	\$34,745

Table 3

Enforcement Hours and Citations Issued

	Wave 1		Wave 2	
	Hartford	Syracuse	Hartford	Syracuse
Dedicated Hours	1,345	1,370	1,856	1,337
Hand-Held Phone Use	2,329	2,185	2,327	1,977
Text/E-mail/Distracted	279	115	21	169
Citations/10k Population	107	167	100	156

Both Hartford and Syracuse dedicated officers to vigorously enforce the hand-held cell phone ban during the two waves, exceeding benchmarks based on previous high visibility enforcement campaigns. Table 3 shows the number of enforcement hours and phone and texting citations issued in each site, along with the rate of citations per 10,000 of each city's population.

## Evaluation Methodology

Before and after each enforcement wave, NHTSA conducted observations of driver cell phone use and collected public awareness surveys at driver licensing offices in each test and comparison site.

Albany, New York, served as the comparison area for Syracuse. Bridgeport and Stamford, Connecticut, were non-contiguous control areas to match the demographics of the three Hartford area cities. Control sites allow evaluators to separate the effect of the demonstration program from extraneous influences that may be going on in the State. None of the control sites received the paid media advertising and law enforcement officers continued their usual enforcement activities without special emphasis on cell phone laws.

## Cell Phone Observations

Cell phone observations were taken at 15 sites in each intervention area, plus 15 sites in Albany, 15 in Stamford, and 7 sites in Bridgeport. Sites were selected from road segments based on traffic volume estimates. Three of the sites in each area were highway off-ramps. The rest of the sites were identified from the highest volume segments, assuring that they were geographically dispersed throughout the areas. The main goal of site selection was to capture the bulk of the traffic streams in the given area.

Observation protocols were based on NHTSA's National Occupant Protection Use Survey (NOPUS) observation protocols, adapted to increase sample size. An earlier formulation of the method, consistent with NOPUS observation protocols, had observers sampling from traffic stopped at red lights. Therefore all selected sites were at traffic light controlled intersections. Pilot testing of this method resulted in few observations and NHTSA modified its method to observe moving traffic only. Observations were made from

street corners observing one direction of traffic (the vehicles traveling in the lanes nearest the observer) for one hour at each site. When traffic signals turned red, observers pivoted and sampled vehicles from the moving traffic on the cross street. Observers coded vehicle type, sex, estimated age (16-24, 25-59, 60+) and whether the driver was holding a hand-held phone to her or his ear, manipulating a cell phone (other than by holding to one's ear) and if the driver had a hands-free headset (e.g., Bluetooth) in the visible ear.

The main analyses were the average percentage of each of the three cell phone use categories separately for each test and control area. Weighting of data occurred prior to analysis so that each site held equal weight. That is, for a 15-site survey in which the number of observed drivers varied between sites, the percentage use recorded in each site contributed an equal 1/15 of the total use rate for that area. Binary logistic regressions analyses evaluated the significance of differences and chi squares were conducted for raw data for subsets of the data (e.g., age). Over 121,000 vehicles were observed for the first two waves of the demonstration program.

### Self-Reported Use and Awareness Surveys

Motorists who visited driver licensing offices in the test and comparison sites completed a single page questionnaire asking whether they had seen or heard of the distracted driving program, enforcement, or messaging. They were asked about their cell phone use while driving and whether they had changed their cell phone use in the past 30 days, among other topics. Surveyors collected more surveys for the first (pre Wave 1) administration and will do the same for the final (post Wave 4) administration to increase the power of analyses for both baseline and final data. Over 11,000 self-report surveys were collected for the first two waves of the demonstration program.

Researchers collected some data a bit later than originally planned (Table 1). In Syracuse there was a clerical error on the final question about slogan recognition. For this question, the analyses report data from another survey administered two weeks later in both Syracuse and Albany. There were inexplicable fluctuations in the Wave 2 results (pre and post) in the Albany surveys compared to Wave 1. For example there were 14% (pre) and 11% (post) of the respondents who reported having gotten a ticket for using a hand-held phone in the past month for Wave 2. This value was only 1% in both pre and post Wave 1 surveys. The data collected two weeks later were more comparable to Wave 1 results. For this reason the researchers deemed the original data from Albany Wave 2 unreliable. The analyses report only the re-sampled post wave data for Albany.

## Results

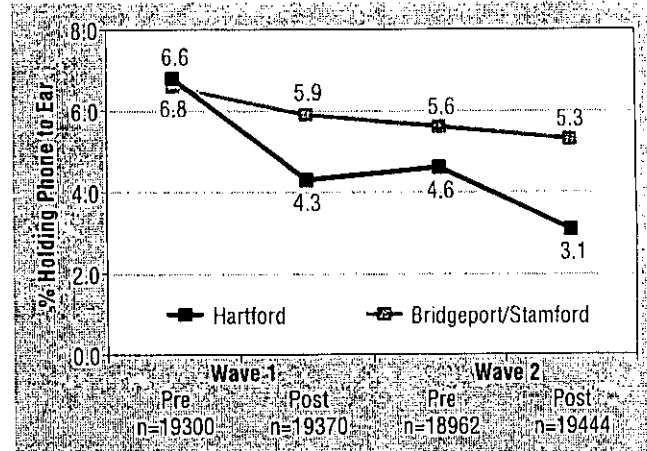
### Observed Phone Use in Connecticut

The results of Wave 1 showed a significant decrease ( $p < .01$ ) in hand-held cell phone use in the Hartford areas from 6.8%

before the program to 4.3. afterwards (see Figure 2). The control areas also showed a slight decrease in hand-held cell phone use, but this was not statistically significant (6.6% to 5.9%,  $p > .05$ ).

Figure 2

### Observed Hand-Held Phone Use in Connecticut



There were further reductions in observed hand-held cell phone use in the second wave in the Hartford intervention area. In between waves, there was minimal increase in hand-held cell phone use in the Hartford areas, when the program was silent. Observed use was 4.6% at the pre measurement of the second wave, dropping to 3.1% in the post measurement ( $p < .01$ ). Use in the control areas continued a slight, although not statistically significant, downward trend, starting at 5.6% and dropping to 5.3% ( $p > .05$ ).

From the baseline (pre Wave 1) to the end of the second wave (post Wave 2) hand-held cell phone use dropped 56% (from 6.8% to 3.1% in the Hartford areas compared to 20% (6.6% to 5.3%) in the control areas.

Most of the decrease in cell phone use was attributed to drivers age 25 to 59 in the Hartford area. Young drivers 16 to 24 dropped 5.3 percentage points (from a pre of 9.0% to a post of 3.7%) following enforcement during Wave 1. However, relatively small sample sizes for this group made this drop only marginally significant ( $p < .06$ ). There was no change for the second wave for the young drivers and there was also no change in use among this group for control areas in either wave. For the 25- to 59-year-old age group, there were significant pre to post drops for both waves in the Hartford area. The changes in the control areas were not significant for either wave and there were no significant effects for the oldest drivers in either wave in either area.

There were significant drops in observed phone use for men and women in both waves in the Hartford area. Surprisingly, there were significant ( $p < .05$ ) pre to post decreases among female drivers in the control area for both waves but no change for male drivers.

For Wave 1, headset use significantly decreased from pre to post in both the Hartford area (3.5% to 2.8%) and in the control area (4.1% to 2.7%). For Wave 2, none of the pre to post differences were significant in either the test or control sites.

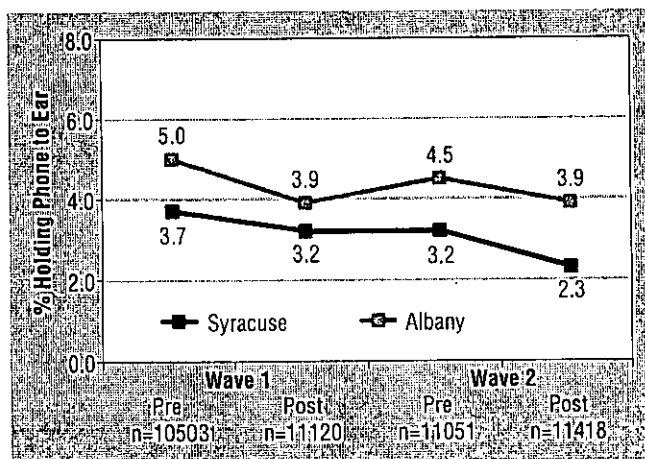
The percentage of people observed manipulating their phones decreased significantly in Wave 1 from pre to post. There was a larger decrease in the Hartford area (3.9% to 2.7%) than in the control area (2.8% to 2.1%). For Wave 2 there was another significant pre to post decrease without much of an increase between waves in the Hartford area (2.6% to 1.4%). There was no change in the control area for the second wave (2.6% to 2.6%).

### Observed Phone Use in New York

The results of Wave 1 showed a non-significant decrease in hand-held cell phone use in Syracuse going from 3.7% to 3.2% ( $p > .05$ ) (see Figure 3). There was an unexpected decrease in use in the control area that did reach significance. In Albany use started at 5.0% and dropped to 3.9%.

Wave 2 results were more in line with expectations. Between waves there was no increase in hand-held cell phone in Syracuse and use remained at 3.2%. After the second wave there was a significant drop in use to 2.3% ( $p < .01$ ). Use in Albany rebounded between waves and was 4.5% prior to Wave 2. There was a drop in hand-held cell phone use in Albany (to 3.9%) but this decrease was not significant.

Figure 3  
Observed Hand-Held Phone Use in New York



From the baseline (pre Wave 1) to the end of the second wave (post Wave 2) hand-held cell phone use dropped 38% (from 3.7% to 2.3%) in Syracuse compared to a 22% decline (from 5.0% to 3.9%) in Albany.

Drivers 25 to 59 accounted for most of the decrease in cell phone use in Syracuse in Wave 1, but not enough to influence the overall observation rate. None of the other age categories in Syracuse showed a decrease for this wave. The same age group was also the only significant decrease for the Albany

drivers in Wave 1. For Wave 2, this group was again the only age group showing a significant decrease in Syracuse. In Albany, despite no overall significant drop, the drivers under 25 showed a significant decrease in driving while using a hand-held phone.

During Wave 1, male drivers showed a significant decrease in driving while on a hand-held phone in Syracuse while women did not. This effect for men was also the only significant drop in Albany. In the second wave men again significantly reduced their use in Syracuse while women did not. Conversely, there was a small but significant decrease in use by women in Albany but not men.

Observations of phone manipulation (e.g., texting, dialing) significantly decreased ( $p < .05$ ) in Syracuse in Wave 1 (2.8% to 2.2%). There was also a decrease in Wave 2 (2.2% to 1.6%), but this decrease was not significant. The observed rate of manipulating a phone while driving was much higher in Albany than Syracuse. In both waves there was a significant pre to post decrease in observed phone manipulation in Albany (Wave 1: 6.3% to 5.3%; Wave 2: 5.7% to 3.0%). Both cities showed an overall decrease of 43% in observed phone manipulation from the baseline to the end of the second wave, with an absolute change of 1.2 percentage points in Syracuse and 3.3 points in Albany.

There were no significant changes in Syracuse in the percentage of drivers observed with hands-free headset. In both waves (pre and post) the rate was about 2% (ranging from 1.7% to 2.3%). Albany's rate of hands-free use was more variable ranging from 4.4% to 2.6%. There was a significant decrease between pre and post use rates during Wave 1 (4.4% to 2.8%).

### Self-Reported Cell Phone Use and Program Awareness in Connecticut

Respondents in Connecticut were aware of and knowledgeable about the program and enforcement. From pre to post in Wave 1, Hartford area respondents reported increased chances of getting tickets while there was no effect in the control area. In both Syracuse and the control site, Albany, respondents also reported hearing more general distracted driving information after Wave 1 than before. In Wave 1 there was a decrease in the percentage reporting that it is important for police to enforce the hand-held cell law in both Hartford and control areas, but much of the decrease was restored by Wave 2. There was a pre to post increase in the Hartford area in Wave 1 for reports of having ever gotten a cell phone ticket. Similarly there was a pre to post (Wave 1 only) increase in reports of getting a ticket in the past month (for the control area also).

During Wave 2 there was an increase in the percentage of respondents in the Hartford area who heard about enhanced police enforcement. There was no such increase during Wave 1, but there was an overall gain between the waves. There were no significant effects for the control area.

During Wave 1 there was actually a decrease in the percentage of people having heard about distracted driving in general (both areas) but in Wave 2 there was a large increase (pre to post) in recognition for the Hartford area (but not the control area).

Awareness of the *Phone in One Hand, Ticket in the Other* slogan started at 5% in the pre of Wave 1. Following the first wave, recognition rose significantly to 32%. There was also a significant increase in the control area but not of the same magnitude (5% to 11%). Wave 2 led to further increases in recognition in the Hartford areas (27% to 47%). There was no increase in the control areas (8% to 10%).

Recognition of other slogans was not as high. The other most recognized slogan in the Hartford area following Wave 2 was *I-Promise Not to Drive Distracted* which was recognized by 15% of respondents. A local TV station (WFSB) has been running messages with this slogan between enforcement waves. Ten percent of the respondents recognized *Hang Up or Pay Up*, an enforcement type distracter slogan not in use in the area. Recognition of Oprah Winfrey's *No Phone Zone* was at 8%.

There was an increase in Wave 1 for judgments of frequency of cell phone use while driving, with no effect for the control group. The effect dissipated by Wave 2 -- the Wave 2 pre and post measures were much lower than the post of Wave 1. There was also a significant increase in self-reported texting during the first wave in the Hartford area. During the second wave there was a significant decrease in reported use by the control area respondents.

### Self-Reported Cell Phone Use and Program Awareness in New York

Overall, Syracuse respondents knew about the enforcement and messaging campaign. Drivers in Syracuse reported having heard about the cell phone enforcement with significant pre to post increases for each wave. They also reported hearing about distracted driving (in general) more in the post of Wave 1 than in the pre of Wave 1 and this was also true in Albany. There was also an increase in self-reported tickets within the last month for Wave 1 in Syracuse. There was an increase in both waves for perceived strictness of police enforcement in Syracuse while there was a significant decrease during Wave 1 in Albany, the control site.

Unexpectedly, self-reported hand-held cell phone use increased from pre to post in Wave 1 in Syracuse. Albany's rates stayed the same. There were no changes in self-reported texting while driving.

Recognition of the main message, *Phone in One Hand, Ticket in the Other*, increased 32 percentage points in Syracuse (5% to 37%). The rates were flat in Albany, going from 4% to 5%.

Slogan recognition for Syracuse went from 5% to 21%. It is likely that recognition would have been even higher immediately following the campaign. Indeed, the recognition was

at 37% following Wave 1. Rates in Albany, the control site, stayed the same going from 4% to 5%.

Recognition of other slogans was considerably lower at the end of Wave 2 in Syracuse. For example *Hang Up or Pay Up*, (not in use in the area) was 11%. Eight percent of the respondents recognized Oprah Winfrey's *No Phone Zone*.

There was an unexpected increase from pre to post in the first wave in Syracuse respondents' judgment of how frequently they use a hand-held phone while driving, similar to the findings in Hartford. This increase was not present in Albany, and was not present in the second wave in either area. Self-reported cell phone use rates for both pre and post in the second wave were lower than the post in the first wave for Syracuse. Figures 4 through 8 show public awareness findings for Syracuse, Hartford, and the control sites over both waves.

Figure 4  
In the Past Month, Have You Seen or Heard About Distracted Driving in [Connecticut/New York]?

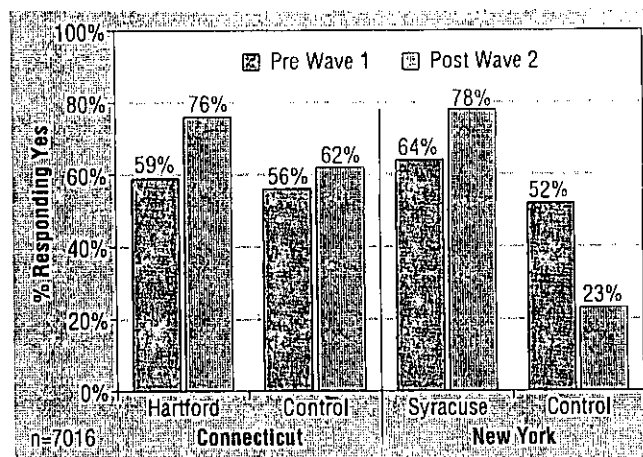


Figure 5  
Awareness of "Phone in One Hand, Ticket in the Other" Slogan in Connecticut and New York

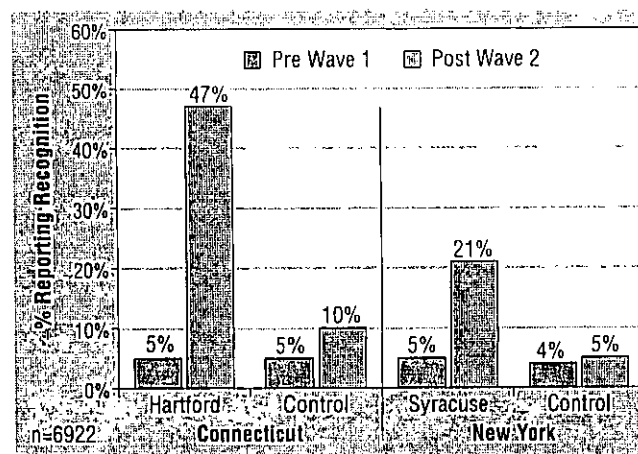


Figure 6

What do you think the chances are of getting a ticket if you use a hand-held cellular phone while driving?

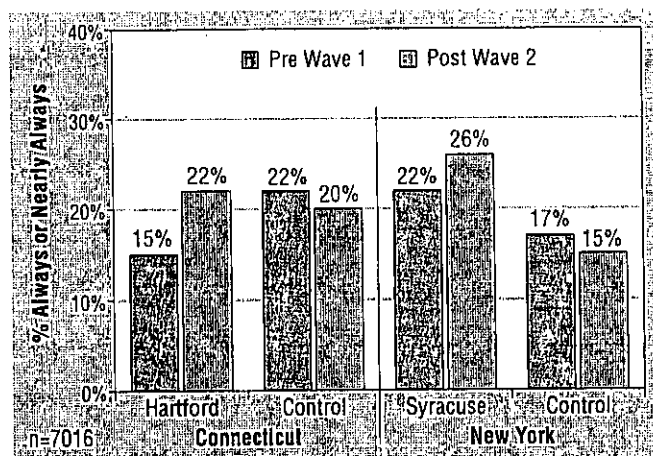


Figure 7

Strictness of Enforcement of Hand-Held Phone Law

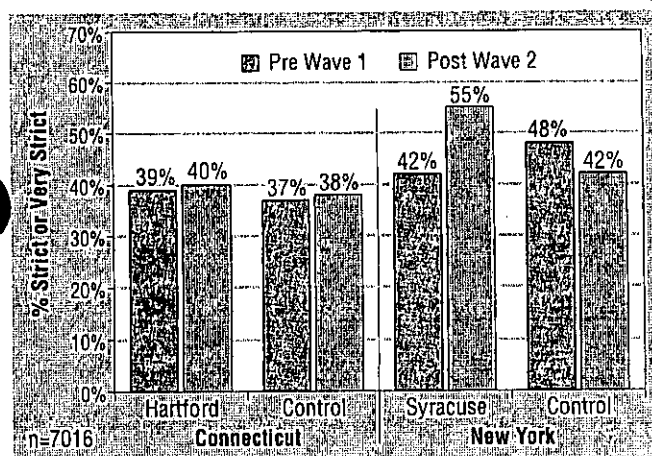
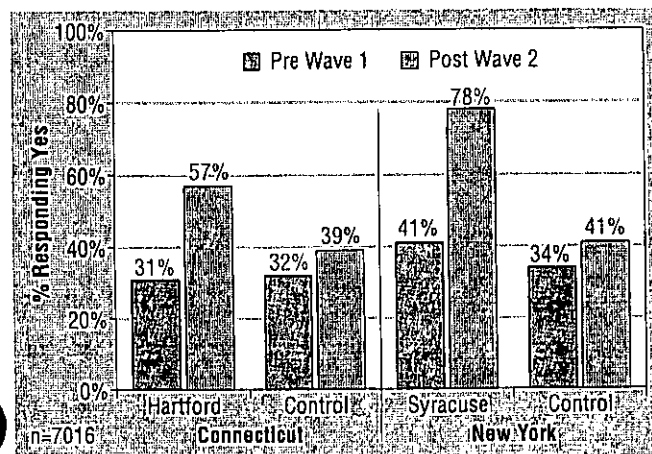


Figure 8

In the past month, have you seen or heard about police enforcement focused on hand-held cellular phone use?



## Discussion

The most apparent finding from the first two waves of NHTSA's distracted driving demonstration programs in Syracuse and Hartford is that awareness about cell phone use and texting is remarkably high. About 6 in 10 in both communities had heard something about distracted driving, even before the new *Phone in One Hand, Ticket in the Other* advertisements aired. This most likely reflects the influx in media discussing the issue. Insurance companies, mobile phone providers, and safety organizations have been addressing the dangers of using a cell phone and texting while driving, especially for teens, and have sponsored advertisements on national television. State legislatures have passed texting and cell phone bans. The U.S. Department of Transportation held a summit in Washington, DC, in September 2009 bringing together over 250 researchers, government agencies, industry representatives, public advocates, and elected officials to discuss what could be done to reduce the preventable deaths and injuries that distracted driving is causing in America. The President issued an Executive order advising Federal workers to "put it down." In January 2010 Oprah started the *No Phone Zone* and on April 30, the Oprah Winfrey Show launched a "No Phone Zone Day" with a live TV broadcast, rallies in six cities – Atlanta, Boston, Detroit, Chicago, Los Angeles, and Washington – and a national public service announcement campaign.

Despite the national attention and motorists' beliefs that distracted driving by others is a dangerous activity, surveys show that motorists are willing to engage in the behavior themselves. Changing driver behavior presents a challenge, but high visibility enforcement campaigns are a proven countermeasure in a variety of traffic safety areas. The intent of a high visibility enforcement campaign is not to issue tickets. Rather, the intent is to deter drivers from engaging in that particular behavior in the first place. In other words, if drivers violate a particular law, there should be a high certainty that they will receive a ticket. While issuing one citation to a motorist may persuade that person to avoid that offense in the future (known as specific deterrence), highly visible enforcement seeks to have 100 or 1,000 other drivers know about that one citation so they choose to avoid that behavior (general deterrence).

The new slogan, *Phone in One Hand, Ticket in the Other*, proved effective in conveying the message of increased cell phone enforcement to the public. Nearly 50% of respondents in Hartford and 20% in Syracuse reported that they had seen and heard about the program after just the first wave of the program. People reported having heard about the enforcement, recognized the increased strictness of the police, and thought that their chance of getting a ticket if they used a hand-held cell phone increased. An interesting anomaly in the public awareness data is that self-reported use of a hand-held cell phone actually increased during the first wave, before finally decreasing at the end of the second wave. One

explanation is that drivers were becoming more aware of their cell phone use while driving because of the increased media. There was strong public support for the program, with 8 out of 10 drivers believing that it is important for the police to enforce the hand-held cell phone law.

Observed cell phone use decreased in both sites by the end of the second wave of the *Phone in One Hand, Ticket in the Other* demonstration program. Before the distracted driving programs began, observed cell phone use in Syracuse was about half that of the rest of the Nation and Connecticut was close to average. Both States have had hand-held cell phone bans while driving for some time – 2001 for New York and 2005 for Connecticut. After the second wave of the high visibility enforcement campaign, hand-held cell phone use decreased 38% in Syracuse (from 3.7% to 2.3%) and 58% in Hartford (from 6.8% to 3.1%). The laws alone may have served to keep these States at or below the national average, but the addition of high visibility enforcement and media emphasizing the enforcement drove the rates down even lower. High levels of national media and celebrity attention to distracted driving, such as by the *Oprah Winfrey Show*, may account for some of the high public awareness of the issue and for the steady declines in observed hand-held cell phone use in the control sites and among women in three of the five sites overall.

Unlike other periodic traffic safety campaigns, there was no rebound or ratcheting effect during the period between waves where the observed behavior reverted close to previous levels. It remains to be seen whether this trend will continue throughout the remaining two waves, but it is promising and suggests that social norms towards phone use and texting are shifting towards finding it as unacceptable as driving while impaired by alcohol.

The law enforcement agencies in both sites exceeded program expectations. Ticketing rates of about 20 citations per 10,000 population are common benchmarks for effective belt enforcement programs, a rate deemed sufficient to change motorists' behaviors. Enforcement rates for the distracted driving demonstration programs in Syracuse and Hartford were more than five times that benchmark. Officers reported that they were enthusiastic about the dedicated advertising that focused on their increased enforcement. They reported that coordinated enforcement activities with neighboring law enforcement agencies expanded the visibility of their enforcement efforts. They reported positive public reactions -- the general theme was that "it was about time."

There are challenges to enforcing hand-held cell phone and texting bans. The most obvious challenge is the difficulty in observing the offense. Syracuse law enforcement officers preferred roving patrols and found higher observation locations or taller vehicles like SUVs useful in seeing down into a pas-

senger vehicle to observe texting offenses. Hartford officers found the spotter, or stationary, strategy effective but both chose strategies that suited their community and resources and both used other strategies as well. Because this was a demonstration program, additional reporting paperwork was required. The Hartford officers felt that their post ticketing paper work was more time consuming than a seat belt ticket but they are working to improve the process in time for the third wave.

There are two additional waves of enforcement planned in Hartford and Syracuse. The third wave will begin in October 2010; the fourth and final wave will occur in the spring of 2011. At the conclusion of the fourth wave, NHTSA's Office of Behavioral Safety Research will prepare a final report detailing all four waves.

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U.S. Department of Transportation  
**National Highway Traffic Safety  
Administration**

Bismarck Tribune

THURSDAY, OCTOBER 7, 2010

# Opinion

"Seeking to find and publish the truth, that the people of a great state might have a light by which to guide their destiny."

— Stella Mann,  
Tribune publisher, 1939

ESTABLISHED IN 1873

Herald Boston Herald 10

OH, WHILE I'M AT IT...  
I'LL TEXT MY MECHANIC.  
I KEEP HEARING A  
THUMPING NOISE



**TESTIMONY IN SUPPORT OF HB 1195**  
**House Transportation Committee**  
**January 27, 2011**

Chairman Ruby and Members of the House Transportation Committee:

My name is Patrick Ward. I am an attorney in the Bismarck law firm of Zuger Kirmis & Smith. I represent the Property and Casualty Insurance Association of America. PCI is composed of more than 1000 member companies, representing the broadest cross section of insurers of any national trade association. PCI members write over \$180 billion in annual premium, 37.4 percent of the nation's property and casualty insurance. Member companies write 44 percent of the U.S. automobile insurance market, 30.7 percent of the homeowners market, and 35.1 percent of the commercial property and liability market. Your North Dakota Domestic property and casualty companies (ANDI) include Nodak Mutual, Center Mutual, Hartland Mutual and Dakota Fire as well as several life companies. We urge a Do Pass on HB 1195.

PCI supports legislation intended to ban or limit the use of personal electronic devices for reading or writing messages, or accessing the internet while driving with reasonable exceptions for emergency situations. Exceptions should also include operation of commercial vehicle safety and security systems as well as navigation devices used to aid in the safe operation of the vehicle. PCI is composed of more than 1000 member companies, representing the broadest cross section of insurers of any national trade association. PCI members write over \$180 billion in annual premium, 37.4 percent of the nation's property and casualty insurance. Member companies write 44 percent of the

U.S. automobile insurance market, 30.7 percent of the homeowners market, and 35.1 percent of the commercial property and liability market. Your North Dakota Domestic property and casualty companies include Nodak Mutual, Center Mutual, Hartland Mutual and Dakota Fire as well as several life companies.

In recent years there has been a boom in text messaging or the use of a handheld device to send and read written messages. The nature of text messaging requires that the driver take his or her attention off the road and put it to the device which they are using to read or write the message. A recent study of truck drivers by the Virginia Tech Transportation Institute shows that the risk of crash or a near crash event while writing or reading a text message was 23.2 times higher than nondistracted driving. Text messaging is currently banned for all drivers in 30 states and the District of Columbia and for novice drivers in an additional 8 states. In addition several cities and towns including large cities like New York and Chicago, as well as cities in North Dakota, have banned texting while driving.

I plucked some facts from the Insurance Institute for Highway Safety website. Most of those states provide for primary enforcement. Young drivers ages 16 to 24 are much more likely to text than other drivers. One recent survey indicated that many people report texting while driving. A 2009 IIHS survey found that 13 percent of drivers of all ages have texted while driving and this jumps to 43 percent among 18-24 year olds. Similar results were found in other studies.

Those of you have tried it, will know that the amount of time necessary to send a text requires you to take your eyes off the road long enough that you may drift into another lane or not see a vehicle in front of you slowing down or stopping. States that have outlawed texting have seen a decrease in the number of drivers who text while driving as a result of such legislation. While it is true that some may continue to text in spite of the enactment of such a law, a significant percentage of responsible drivers will be much less likely to do so. It is common sense that such a ban will result in fewer accidents, fewer injuries, less property damage, fewer claims and thereby lead to lower premiums.

Please vote Do Pass on HB 1195.

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Century  
H.S.

# Texting Bill - Mr. Chairman, Members of the com. preform I'm

As one myself, I know that most teens the majority of their communicating through texting, email, and Facebook - all of which they can access anytime & anywhere through their cellular device.

phones have gone from being toys or accessories to essential devices necessary for staying ~~connected~~ and in-tune with the fast-paced society we live in.

Teens' phones go every where with them; and as teen get their licenses and get behind the wheel they're bringing their phones there too - mixing inexperience with distraction.

In the group of individuals who experience the most crashes on our roads, cell phones are a catalyst for disaster.

Composing, sending, and reading electronic messages while behind the wheel causes the individual to look away from the road, think about things other than driving,

and put everyone on the road, including themselves, at risk.

\* hands  
\* Excess  
As a teenager I know that my parents don't want me to text & drive before it was illegal in Bismarck. I still did it. This bill makes it clear that this type of risky behavior behind the wheel is not acceptable and will be tolerated. This bill is exactly what is needed to stop this dangerous habit in its tracks.

For my safety, your safety, the safety of teens on the road & those they share it with, I urge an affirmative vote.

**TESTIMONY BEFORE THE  
HOUSE TRANSPORTATION COMMITTEE**

January 27, 2011

House Bill No1195.

Testimony-Presented by:  
Terry Weaver - North Dakota Safety Council

Mr. Chairman, members of the Committee, my name is Terry Weaver and I am the Traffic Safety Coordinator for the North Dakota Safety Council. We would like to go on record as supporting HB1195.

Text messaging has grown dramatically in the last decade, increasing at almost 10,000-fold. As the activity increases, text messaging behind the wheel is a growing distraction to drivers, attributed to at least 200,000 crashes each year.

Reading, sending, typing or scrolling through an electronic message on any device is dangerous while driving. These tasks require drivers to take their eyes off the road, their hands off the wheel and their minds off the primary task at hand, which is driving safely and responsibly. Studies show texting increases crash risk by 8 to 23 times. There is near public consensus that texting while driving is a serious risk to safety, yet people still admit to doing it – about 14% of people admitted to texting while driving in the past 30 days, according to an AAA Foundation for Traffic Safety survey.

Texting is a relatively new problem, but growing evidence shows it is a major threat to the safety of roadway users. Thirty states and Washington, D.C. have already banned texting behind the wheel. In states without texting bans, some municipalities are passing ordinances to stop the behavior. (i.e. Bismarck and Grand Forks)

The U.S. Department of Transportation (DOT), along with traffic safety experts, safety advocates and industry groups, drafted a sample law for municipalities and states to use in creating their own texting prohibition. The sample law includes language barring drivers from manually typing multiple letters, numbers, symbols or other texts in a

wireless communication device, or sending or reading data in the device. This includes e-mailing and instant messaging.

A strong texting ban will be upheld through primary enforcement, allowing police to pull over and ticket a motorist solely for texting. Primary is stronger than secondary enforcement, under which police must witness another traffic offense before pulling over a driver. Primary laws are proven to save more lives and have greater compliance. Secondary laws send a dangerous message to drivers – it implies the activity is risky, but not risky enough to warrant enforcement unless the driver is simultaneously committing another risky act, such as speeding or driving through a red light.

Texting bans are enforceable, as proven in two DOT pilot programs in Syracuse, NY and Hartford, CT. High-visibility enforcement coupled with heightened public service announcements resulted in fewer incidents of texting behind the wheel – a drop of 42% in Syracuse and 68% in Hartford.

While the North Dakota Safety Council encourages a total prohibition on cell phone use behind the wheel, texting bans are a good start in the fight against distracted driving by cell phone. Strongly enforced primary laws and amplified public awareness are key factors in texting bans' success.

In summary Mr. Chairman, the North Dakota Safety Council would encourage you to recommend a "pass" for HB1195.

1195

**Backup information requested to be included with  
TESTIMONY BEFORE THE  
HOUSE TRANSPORTATION COMMITTEE  
January 27, 2011**

House Bill No1195.

Testimony-Presented by  
Terry Weaver - North Dakota Safety Council

I am submitting this additional information per Representative Delmore's request after my testimony regarding HB 1195 on Thursday.

The estimate of 200,000 crashes was made by the National Safety Council. It is a statistical estimate because actual crash data that is accurate in noting the involvement of texting in crashes does not exist in most states. So that makes this issue very different than other traffic safety issues in which we can get accurate injury and fatality counts and causes at every crash scene. For cell phone use, we must rely on statistical estimates.

Please see attached NSC information as well as a report provided by the Insurance Institute for Highway Safety which made a very comparable estimate.

Sincerely,

Terry Weaver  
North Dakota Safety Council  
701-751-6106

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[NSC HOME](#) > NSC estimates 1.6 million crashes caused by cell phone use and texting

**For Immediate Release,**

1/12/2010

**Contact:**

 Amy Williams  
 Communications  
 Director  
 (630) 775-2307  
[amy.williams@nsc.org](mailto:amy.williams@nsc.org)

## National Safety Council Estimates that At Least 1.6 Million Crashes are Caused Each Year by Drivers Using Cell Phones and Texting

Washington, DC – The National Safety Council announced today that it estimates at least 28% of all traffic crashes – or at least 1.6 million crashes each year – are caused by drivers using cell phones and texting. NSC estimates that 1.4 million crashes each year are caused by drivers using cell phones and a minimum of 200,000 additional crashes each year are caused by drivers who are texting. The announcement came on the one-year anniversary of NSC's call for a ban on all cell phone use and texting while driving.

"We now know that at least 1.6 million crashes are caused by drivers using cell phones and texting," said Janet Froetscher, president & CEO of the National Safety Council. "We know that cell phone use is a very risky distraction and texting is even higher risk. We now know that cell phone use causes many more crashes than texting. The main reason is that millions more drivers use cell phones than text," she said. "That is why we need to address both texting and cell phone use on our roads."

"This new estimate provides critical data for legislators, business leaders and individuals to evaluate the threat and need for legislation, business policies and personal actions to prevent cell phone use and texting while driving," Froetscher said. "There was great progress made in 2009, particularly regarding a broad recognition that texting is dangerous. We now need the same broad consensus that recognizes cell phone use while driving causes even more crashes."

Froetscher said public support for laws banning cell phone use while driving is gaining momentum.

"Public opinion research conducted in 2009 by the AAA Foundation for Traffic Safety and Nationwide Insurance show public support for total bans on cell phones at 43 and 57 percent respectively," Froetscher said. "With public support now around 50 percent, we will continue to educate people about the risks of cell phone use while driving and the value of effectively-enforced laws in changing behavior and reducing crashes."

In constructing its estimates, NSC used widely-accepted statistical methods and analysis based on data of driver cell phone use from the National Highway Traffic Safety Administration (NHTSA) and from peer-reviewed research that quantifies the risk of using a cell phone and texting while driving. NSC's statistical model and estimates were peer-reviewed by academic researchers in traffic safety and biostatistics.

The estimate of 25% of all crashes – or 1.4 million crashes – caused by cell phone use was derived from NHTSA data showing 11% of drivers at any one time are using cell phones and from peer-reviewed research reporting cell phone use increases crash risk by four times. The estimate of an additional minimum 3% of crashes – or 200,000 crashes – caused by texting was derived by NHTSA data showing 1% of drivers at any one time are manipulating their device in ways that include texting and from research reporting texting increases crash risk by 8 times. Using the highest risk for texting reported by research of 23 times results in a maximum of 1 million crashes due to texting; still less than the 1.4 million crashes caused by other cell phone use.

The National Safety Council ([www.nsc.org](http://www.nsc.org)) saves lives by preventing injuries and deaths at work, in homes and communities, and on the roads, through leadership, research, education and advocacy.

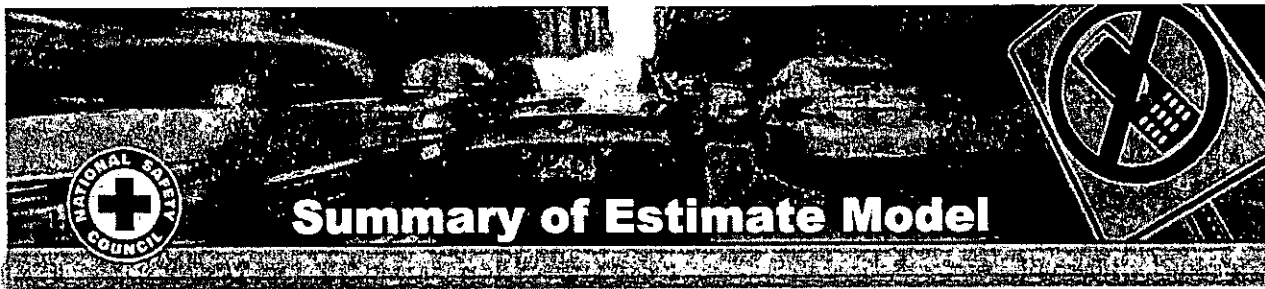
**NSC Press Kit**[Cell Phone Fact Sheet](#)[Public Opinion Fact Sheet](#)[Attributable Risk Estimate \(Cell Phones & Texting\)](#)[Risk Estimate Model \(Full Study\)](#)[Risk Estimate Summary](#)[Risk Estimate Table](#)[NSC Bios](#)**NSC Media Coverage**

NSC received significant media coverage on Jan. 12 when it announced that 28 percent of crashes are caused by drivers using their cell phones. NSC also announced the launch of FocusDriven - Advocates for Cell-Free Driving. Below are some highlights of this coverage.

[ABC News](#)[CBS News](#)[CBS News "The Early Show"](#)[FOX News](#)[MSNBC](#)[Oprah Winfrey Show](#)[New York Times Series on Distracted Driving](#)[DOT's Distracted Driving Site](#)[Disclaimer & Privacy Policy](#)[About Us](#)[Careers](#)[Sitemap](#)[Contact Us](#)

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The National Safety Council created the attributable risk estimate model to estimate the number of crashes due to cell phone use and texting. This kind of crash estimate analysis is necessary because data is not currently collected on cell phone use as a cause of motor vehicle crashes. While some states or police departments may collect some data, it is not done uniformly, as for other crash causes such as alcohol. In jurisdictions where police attempt to collect this data, they must rely almost entirely on driver self-reports of cell phone use at the time of the crash, resulting in significant under reporting.

### **Major Findings**

- In January 2009, using data from a 2003 Harvard Center for Risk Analysis<sup>1</sup> study, the National Safety Council estimated there were about 636,000 crashes attributable to cell phone use each year. NSC's new model estimates 28% of crashes, or 1.6 million crashes in 2008, were attributable to handheld and hands-free cell phone use and texting. This model estimates that 25% of crashes are due to cell phone use and a minimum of an additional 3% of crashes are caused by text messaging.
- NSC's attributable risk percent estimate of cell phones is based on two factors:
  - 1) the prevalence of drivers talking on cell phones and texting;
  - 2) the relative risk of cell phone use and texting compared to not using cell phones while driving.
- According to the CTIA-The Wireless Association<sup>2</sup>, in 2000 there were 97 million wireless subscribers and by 2009 there were 276.6 million, accounting for the rapid growth in crashes attributable to cell phone use while driving. CTIA<sup>2</sup> also reports a rapid increase in text messaging. In 2000, 12.2 million text messages were sent monthly and by 2009, those counts had grown to 135.2 billion.

<sup>1</sup> A revised economic analysis of restrictions on the use of cell phones while driving. Cohen & Graham. (2003) *Risk Analysis*, 23(1); 5-17.

<sup>2</sup> CTIA – The Wireless Association, an international nonprofit membership organization founded in 1984 and representing all sectors of wireless communications [http://www.ctia.org/media/industry\\_info/index.cfm/AID/10323](http://www.ctia.org/media/industry_info/index.cfm/AID/10323)



The following are frequently asked questions about NSC's attributable risk estimate model:

Question	Annual Estimate	Source
Background		
How many property damage-only crashes were there in 2008?	4,146,000	Traffic Safety Facts 2008 (Early Edition) National Highway Traffic Safety Administration
How many injury crashes were there in 2008?	1,630,000	Traffic Safety Facts 2008 (Early Edition) National Highway Traffic Safety Administration
How many people were injured in motor-vehicle crashes in 2008?	2,346,000	Traffic Safety Facts 2008 (Early Edition) National Highway Traffic Safety Administration
How many fatal crashes were there in 2008?	34,017	Traffic Safety Facts 2008 (Early Edition) National Highway Traffic Safety Administration
How many people were killed in motor-vehicle crashes in 2008?	37,261	Traffic Safety Facts 2008 (Early Edition) National Highway Traffic Safety Administration
What does attributable risk mean?	Attributable indicates that a behavior or circumstance is a contributing factor to a negative outcome.	
What is relative risk?	Relative risk is a measure of the risk of a certain event happening in one group compared to the risk of the same event happening in another group. Relative risk of one means there is no difference between two groups in terms of their risk. A relative risk of greater than one or less than one means an activity or circumstance either increases (relative risk greater than one) or decreases (relative risk less than one) the risk of the adverse outcome.	
What is an attributable risk percent estimate?	An attributable risk percent estimate is a mathematical model that estimates the percent of adverse outcomes that can be attributed to an unsafe activity or circumstance. The estimate is based on two factors: 1) the prevalence and 2) the relative risk of the unsafe activity or circumstance.	
Is attributable risk mutually exclusive?	Attributable risk estimates are not mutually exclusive. Multiple risks can attribute to one adverse outcome.	
Question	Annual Estimate	Source
Cell Phones		
How did the NSC estimate attributable risk percent for cell phones?	NSC's attributable risk percent estimate of cell phones is based on two factors: 1) the prevalence of drivers talking on cell phones and 2) the relative risk of this activity compared to not using cell phones while driving.	
What is the prevalence of drivers talking on cell phones in 2008?	11% of drivers during any daylight moment	National Highway Traffic Safety Administration's National Occupant Protection Use Survey (NOPUS), 2009

Question	Annual Estimate	Source
<b>Cell Phones</b>		
What is the relative risk of cell phone use while driving?	4 times increased crash risk (as measured by emergency department visits and property damage only crashes)	McEvoy et al (2005); Redelmeier & Tibshirani (1997)
What percent of injury crashes and property damage-only crashes are likely attributable to cell phone use in 2008?	25%	NSC's Attributable Risk Estimate (2009)
How many crashes are likely attributable to cell phone use in 2008?	1.4 million	NSC's Attributable Risk Estimate (2009) <ul style="list-style-type: none"> <li>Estimate uses a similar set of assumptions as were used by Cohen and Graham (2003).</li> <li>The attributable risk estimate based on emergency department visits was generalized to estimate crash numbers.</li> </ul>
Question	Annual Estimate	Source
<b>Text Messaging</b>		
What is the prevalence of drivers who are text messaging in 2008?	The prevalence of text messaging is not specifically measured. However, it has been observed that 1% of drivers manipulate handheld devices at any given daylight moment. Because text messaging is only one of several activities in this category (e.g. dialing phone numbers), it is assumed the prevalence of text messaging is 1% or less.	National Highway Traffic Safety Administration's National Occupant Protection Use Survey (NOPUS), 2009
What is the relative risk of text messaging while driving?	The relative risk of text messaging has not been studied to the same extent as it has for talking on cell phones. Two studies attempted to measure the relative risk of text messaging while driving. Due to methodological issues, the applicability of these studies is limited. At this time, no one risk level can be established for text messaging. Instead, a range from 8 to 23 times increased risk is currently the best estimate.	Drews et al (2009) and Olsen et al (2009)
How many crashes are likely attributable to text messaging in 2008?	200,000 to 1 million  Since the relative risk estimates available for text messaging are either based on computer simulations or factors other than crashes, NSC has low confidence in any precise number of crashes attributable to texting. Therefore, NSC is reporting the minimum number of 200,000 crashes.	NSC's Attributable Risk Estimate (2009)
What percent of crashes are likely attributable to text messaging in 2008?	3% to 18%	NSC's Attributable Risk Estimate (2009)

1/195

# DriveCam Distracted Driving Study

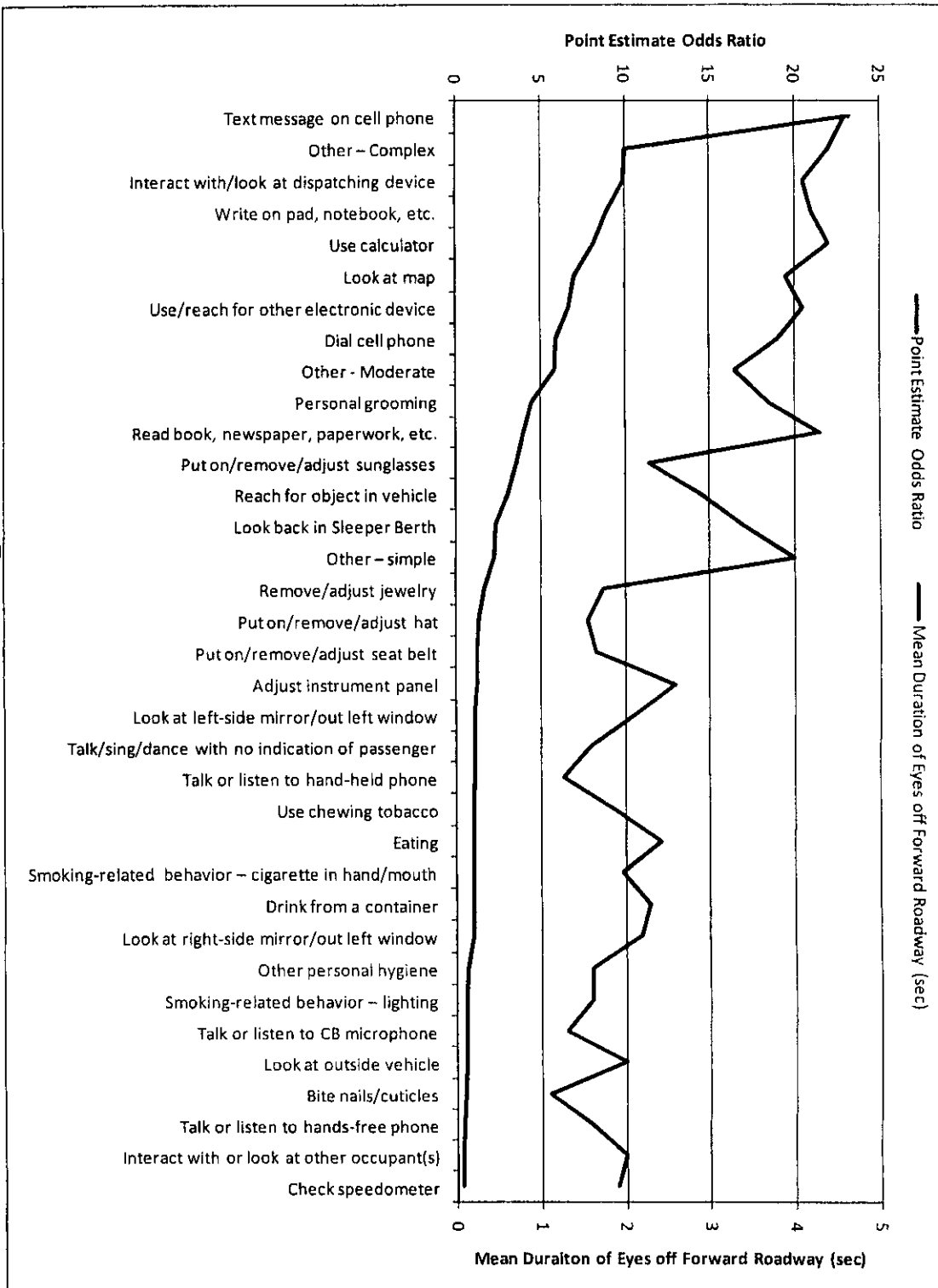
- 13,305 vehicles (trucks and buses)
- 1,085 crashes; 39,036 near-crashes and events
- 211,171 baselines

Driving Transportation with Technology

Tertiary Task	Odd Ratio	Lower Conf Limit	Upper Conf Limit	Freq of Safety Critical Events	Freq of Baselines
Cell Phone Usage	1.14*	1.06	1.23	895	4,262
Dialing Cell Phone	3.51*	2.89	4.24	165	256
Talk/Listen Hands Free Cell Phone	0.65*	0.56	0.76	194	1,626
Talk/Listen Hand Held Cell Phone	0.89	0.80	1.00	372	2,266
Reaching for Bluetooth Device	3.38*	2.64	4.31	104	168
Reaching for Cell Phone	3.74*	2.97	4.71	122	178

# Driving Transportation with Technology

“Vision is King”



#1

HOUSE BILL NO. 1195  
TESTIMONY OF REP. LAWRENCE R. KLEMIN  
SENATE TRANSPORTATION COMMITTEE  
MARCH 17, 2011

Mr. Chairman and Members of the Committee. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am here to testify in support of House Bill 1195, which bans driving while texting in North Dakota and imposes penalties.

In 2006, there were 158 billion text messages sent by cell phones. The latest statistics show that in the one year period from June of 2009 to June of 2010, there were **1.8 trillion** text messages sent by cell phones in the United States. We have seen a phenomenal increase in text messaging by cell phones. Many of these text messages were composed and sent, and received and read, while someone was driving a motor vehicle. There may be a time and place for everything, but driving while texting is not one of them.

In 2009, when I introduced a bill similar to House Bill 1195, 7 states and the District of Columbia had laws prohibiting texting. Today, there are 30 states and the District of Columbia that prohibit driving while texting by all drivers, and 8 additional states that prohibit texting while driving by novice drivers. 26 states have primary enforcement and 4 have secondary enforcement. See Government Highway Safety Association (GHSA), Cell Phone and Texting Laws, March 2011. See also, Map of Texting Bans, Insurance Institute for Highway Safety, January 2011. Additional states are considering texting bans this year. Two cities in North Dakota now have texting bans (Bismarck and Grand Forks). Other North Dakota cities are considering texting bans and are waiting to see what this Legislature does. This is something that we can no longer ignore in North Dakota. We need a **uniform law** that applies statewide.

Texting is a serious danger to the people doing it while they drive and is also a danger to others who use the roads, including other car drivers, truck drivers, motorcycle riders, bicycle riders, and pedestrians. We must do something about it this time. I think that the overwhelming majority of the people of North Dakota agree. This issue is getting a lot of attention from the public. This committee has the opportunity and the duty to make our roads safer for all of us.

We all know that there are many distractions while driving. However, none are as serious as texting. According to the National Highway Traffic Safety Administration (NHTSA), there are three main types of distractions while driving: **visual** – taking your eyes off the road; **manual** – taking your hands off the wheel; and **cognitive** – taking your mind off what you're doing. "While all distractions can endanger drivers' safety, texting is the most alarming because it involves all three types of distraction." See USDOT NHTSA, Statistics and Facts About Distracted Driving 2010. According to the NHTSA, research on distracted driving reveals these facts:

- 20% of injury crashes in 2009 involved reports of distracted driving.

- Of those killed in distracted driving related crashes, 995 involved reports of cell phones as a distraction (18% of the fatalities in distraction related crashes).
- Drivers who use hand held devices are four times as likely to get into crashes serious enough to injure themselves.
- Using a cell phone while driving delays a driver's reactions as much as having a blood alcohol concentration at the legal limit of .08 percent.
- In 2009, 5,474 people were killed in U.S. roadways and an estimated additional 448,000 were injured in crashes that involved distracted driving.

On January 27, 2010, the USDOT Federal Motor Carrier Safety Administration (FMCSA) issued a regulatory guidance concerning the applicability of Federal Motor Carrier Safety Regulations to texting by commercial vehicle drivers. The regulatory guidance states that texting by cell phones in commercial motor vehicles in interstate traffic is prohibited by 49 CFR 390.17. See 75 Federal Register 4305-4307. According to the Federal Register, FMCSA completed and released a final report of research on distracted driving by commercial motor vehicle (CMV) drivers on October 1, 2009. The most risky behavior identified by the research was text messaging by cell phone. In the report, FMCSA noted:

The most risky behavior identified by the research was "text message on cell phone," with an odds ratio of 23.2. **This means that the odds of being involved in a safety-critical event is 23.2 times greater for drivers who are texting while driving than for those who do not.** Texting drivers took their eyes off the forward roadway for an average of 4.6 seconds during the 6-second interval immediately preceding a safety-critical event. At 55 mph (or 80.7 feet per second), this equates to a driver traveling 371 feet, the approximate length of a football field, including the end zones, without looking at the roadway. At 65 mph (or 95.3 feet per second), the driver would have traveled approximately 439 feet without looking at the roadway. This clearly creates a significant risk to the safe operation of the CMV. (emphasis added)

The National Conference of State Legislatures (NCSL) issued its Transportation Series report in December, 2010, on "Traffic Safety and Public Health: State Legislative Action 2010". In this report, the NCSL referred to other studies and stated:

In 2009, Virginia Tech Transportation Institute research showed that drivers who text message while driving had over 20 times the risk of crash or near crash than a driver who was not using a phone.

A study published in the September 2010 *American Journal of Public Health* reports texting while driving likely caused more than 16,000 road fatalities between 2002 and 2007. University of North Texas researchers used statistical modeling to determine that the percentage of all traffic deaths caused by distracted driving rose from 11 percent in 1999 to 16

percent in 2008. The researchers noted that one-third of Americans had a cellular phone in 1999 but by 2008, the number jumped to 91 percent.

A "Consumer Text Messaging Habits" Report was issued by Vlingo on May 21, 2008, based on a survey of nearly 5,000 consumers that aimed to understand how, when and why consumers use text messaging. The 2008 report found that 28 percent of consumers admit to driving while texting. The report also uncovered the following:

- **85% of respondents say they would not DWT if it were illegal**
- 78% of all surveyed think DWT should be illegal
- 85% of teens and young adults (those 13-29) send text messages, and just over 50% of those ages admit to DWT

This 2008 report also looked at text message usage trends and stated:

- 55% of consumers use their mobile phones to text message
- 42% report that they use their mobile phones equally or more for texting than making phone calls
- 44% of teens (13-19) send 500 or more texts each month
- 64% text more than they call

Now that the number of text messages per year has risen to **1.8 trillion** as of June, 2010, it is likely that the number of text messages sent by teens has increased substantially since 2008. It is also likely that the number of text messages sent by drivers, both teens and others, has also increased substantially.

A recent survey in 2010 by the North Dakota State University Department of Communications disclosed the following:

- 91.4% of NDSU students admitted to texting and driving
- 29.3% of those NDSU students claimed that they text and drive almost every time they drive
- 75.6% of NDSU students stated that they did not feel safe while riding in a car with someone who was texting and driving

See Report, "Have Bison Pride: Don't Text and Drive," Fall 2010.

The public supports a ban on texting while driving. According to Nationwide Insurance, 80% of drivers support a ban on texting and e-mailing while driving. Nearly 3 in 4 drivers believe a ban on texting should apply to all drivers, not just specific groups. See Nationwide Insurance report. Major wireless service providers support a ban on texting while driving. See Verizon report: "Please don't text and drive". See also at&t report: "Texting & Driving ... It Can Wait". CTIA - The Wireless Association, represents the nation's wireless communication industry. The CTIA position on texting while driving is stated as follows:

CTIA - The Wireless Association and the wireless industry believe that when it comes to using your wireless device behind the wheel, it's important to remember safety always comes first and should be every driver's top priority. While mobile devices are important safety tools, there's an appropriate time and an inappropriate time to use them. [W]e believe text-messaging while driving is incompatible with safe driving, and we support state and local statutes that ban this activity while driving.

The federal government, by Executive Order, now prohibits texting while driving for federal employees driving federal vehicles. Many employers who have employees driving company vehicles prohibit texting while driving in their vehicles. I submit that most North Dakotans agree that texting while driving should be banned in North Dakota.

House Bill 1195 addresses the texting problem in North Dakota by imposing a ban on driving while texting that is uniform statewide and provides for primary enforcement. Sections 1, 2 and 3 of the bill relate to penalties. Section 1 provides for a monetary penalty of \$100 for a violation. Section 2 includes texting as a moving violation. Section 3 provides for demerit points, 2 points for a first offense, and 4 points for a second or subsequent offense.

In a recent editorial in The Bismarck Tribune, the editorial board stated:

The penalty seems minor – a \$100 fine and two penalty points added to the offender's driver's license. That might not be enough to stop the abuse. A \$500 fine and more penalty points might serve as a better deterrent. . . . We urge the Legislature to move forward for the good of all North Dakotans.

See Opinion, The Bismarck Tribune, January 3, 2011.

I have looked at the state laws for all of the states that have enacted bans on texting while driving. The monetary fines range from \$20 to \$500 for a violation, with some states providing for a fixed fine and other states providing for a range of fines. Many states have fines over \$100. In Minnesota, the fine is up to is \$300 per violation.

In the House Transportation Committee, a representative of the North Dakota Motor Carriers Association testified in support of HB 1195 and told the committee that truck drivers know that the roads are getting much more dangerous because they see other drivers texting every day. They see the accidents that are caused by texting drivers. The federal government now imposes penalties for interstate truckers who are found to have been driving while texting, and provides for civil penalties up to \$2,750. Truck drivers who violate federal law are also subject to having their driving privileges suspended for up to 120 days. Employers of truck drivers who text and drive are subject to civil penalties up to \$11,000.

There is no imprisonment provided by HB 1195. Before discounting the thought of imprisonment, especially for multiple offenses, this committee should recall that texting while driving impairs a driver's reactions as much as driving under the influence of alcohol or drugs. We send people to jail for multiple DUI offenses. A texting bill recently passed by the South Dakota Senate provides for a Class B misdemeanor, which in South Dakota is a maximum of 30 days in jail or a \$500 fine, or both.

Section 4 is the main part of the bill. The operator of a motor vehicle that is part of traffic may not use a wireless communications device to compose, read, or send an electronic message. Subsection 2.a defines an "electronic message" to include e-mail, a text message, an instant message, or surfing the Internet. It also says what is not an "electronic message" for purposes of the ban. The use of a cell phone for voice communication is not prohibited. GPS or other navigational devices, including the use of a cell phone as a GPS device, are not prohibited. Fleet management systems, dispatching devices, CD radios, and music players are not prohibited. The use of a Smartphone is not prohibited as long as it is not used while driving for the purpose of texting, e-mails, or surfing the Internet.

The exceptions in House Bill 1195 have been drafted to be consistent with Senate Bill 2112, which was introduced by the North Dakota Department of Transportation to comply with federal law relating to commercial drivers. Senate Bill 2112 now passed both the House and the Senate unanimously.

House Bill 1195 also contains a definition of "traffic" in subsection 2.b. because subsection 1 provides that the ban applies when a motor vehicle is "part of traffic." The term "traffic" means the operation of a motor vehicle while in motion for the purpose of travel on any street or highway and includes a temporary stop or halt of motion. "Traffic" does not include a motor vehicle that is lawfully parked. This definition was added at the suggestion of local law enforcement in Bismarck.

Subsection 3 provides an exception to the ban on electronic messages for emergencies, to report a traffic accident or serious traffic hazard or to prevent a crime. Although these exceptions are in the bill, I think most people would make a voice call rather than texting for these purposes.

Subsection 4 imposes an additional penalty – suspension of a license for one year for a third or subsequent offense. This is a tough penalty, but I think this committee should get tough on multiple offenders, just like we do for DUI's. We need to get multiple offenders off the roads. A person who has been **convicted three times** for driving while texting is a serious danger on the roads and has probably been texting most of the time while driving. That person failed to learn a lesson from the two previous convictions and needs to be taken off the road for a while. We need to send a message: "Do you want to drive or do you want to text? You can't do both at the same time." The North Dakota DOT can still give a person a temporary restricted license to drive to work, so that shouldn't be a concern to this committee.

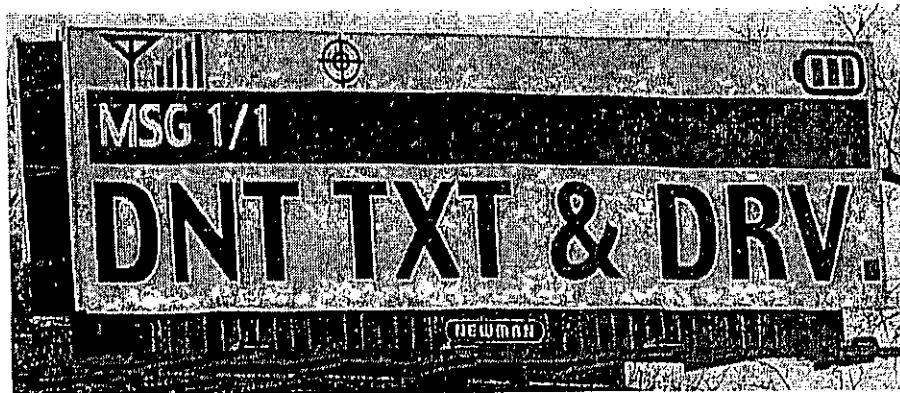
I have not mentioned any examples of horrific accidents caused by driving while texting. There are many. You need only go on the Internet (using your computer at your desk) to find many reports about fatal accidents. The statistics for deaths, injuries, and property damage that I previously cited in my testimony should give us all pause to think about what we can do to stop this.

I have heard some people say that enforcement of a ban on texting will be difficult. Most of our citizens are law abiding people. Studies show that up to 85% of the people who text while driving would not do it if it was illegal. This is **self-enforcement** and solves most of the enforcement problem. **Education** about the dangers of texting will take care of an additional percentage. The Fargo Police Department has been making public service announcements about the danger of texting. That helps, but it's not enough. Parents need a law to support their directions to their children. As you know, children don't always listen to their parents, but a law will help parents enforce restrictions on their student drivers.

I have also attached a report from the NHTSA from September, 2010, on Traffic Safety Facts entitled "High Visibility Enforcement Demonstration Programs in Connecticut and New York Reduce Hand-Held Phone Use." According to this report, laws prohibiting texting, coupled with a public information campaign and high enforcement in the demonstration areas, reduced texting while driving 68% in Hartford, CT, and 42% in Syracuse, NY, during the demonstration project. The laws are enforceable. Enforcement reduces texting. Lives can be saved.

There is now an overwhelming amount of evidence available to support a ban on driving while texting. All of the evidence leads to the inescapable conclusion that we need to ban this dangerous practice in North Dakota. Reasonable minds can reach no other conclusion. We need to join the majority of the other states and the federal government in banning driving while texting in our state for the safety of our citizens and our children. This is distracted driving at its worst and is unlike any other type of distracted driving that we've ever seen. Almost everyone now realizes that.

I would appreciate your support for House Bill 1195. We have the functional equivalent of a large number of drunken drivers on the road. We need to take action to stop driving while texting.



2010

USA Today  
Dec. 30, 2010

# The year we stopped talking

## By the numbers

**93%**  
Percentage of Americans  
with cellphones/wireless

**29.7%**  
Percentage of cellphone  
users with smartphones

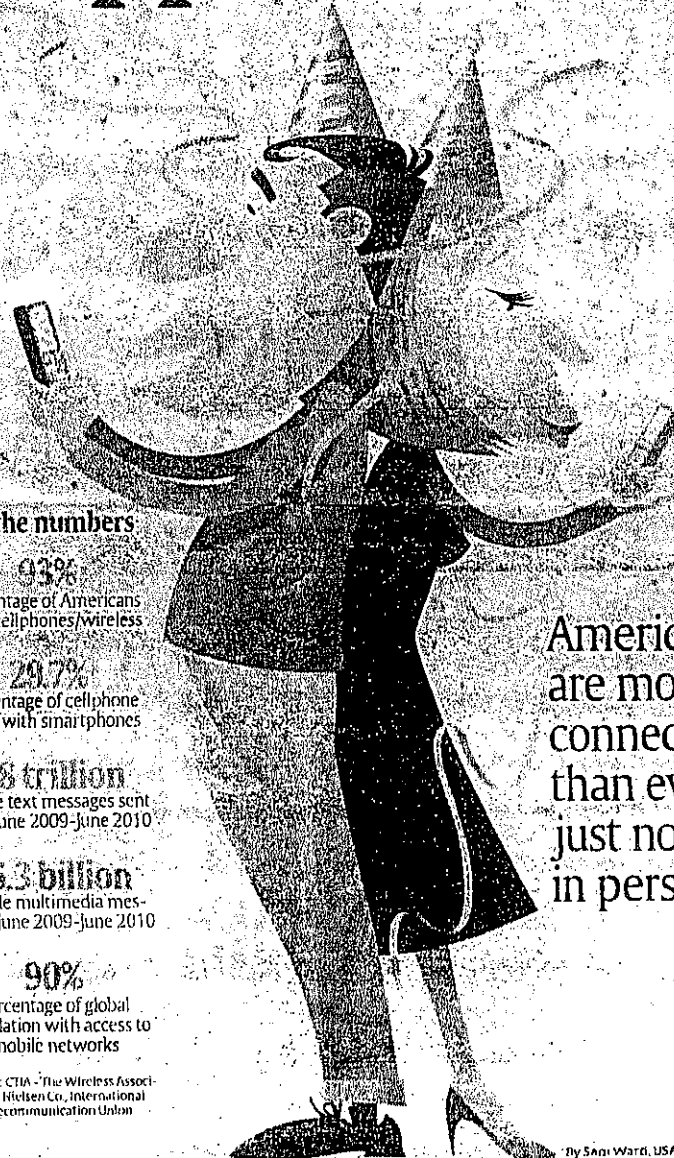
**1.8 trillion**  
Mobile text messages sent  
from June 2009-June 2010

**56.3 billion**  
Mobile multimedia mes-  
sages June 2009-June 2010

**90%**  
Percentage of global  
population with access to  
mobile networks

Sources: CTIA - The Wireless Associ-  
ation, Nielsen Co., International  
Telecommunication Union

Americans  
are more  
connected  
than ever —  
just not  
in person



By Sam Ward, USA TODAY

## Governors Highway Safety Association

## Cell Phone and Texting Laws

March 2011

This chart outlines all state cell phone and text messaging laws. Some local jurisdictions may have additional regulations. Enforcement type is shown in parenthesis.

**Handheld Cell Phones:** 8 states (Calif., Conn., Del., Md., N.J., N.Y., Ore. and Wash.), D.C. and the Virgin Islands prohibit all drivers from using handheld cell phones while driving.

Except for Maryland, all laws are **primary enforcement**—an officer may cite a driver for using a handheld cell phone without any other traffic offense taking place.

**All Cell Phone Use:** No state bans all cell phone use (handheld and hands-free) for all drivers, but many prohibit all cell phone use by certain drivers:

**Novice Drivers:** 28 states and D.C. ban all cell phone use by novice drivers.

**School Bus Drivers:** Bus drivers in 18 states and D.C. may not use a cell phone when passengers are present.

**Text Messaging:** 30 states, D.C. and Guam ban text messaging for all drivers. 11 of these laws were enacted in 2010. 26 states, D.C., and Guam have primary enforcement. In the other four, texting bans are secondary.

**Novice Drivers:** An additional 8 states prohibit text messaging by novice drivers.

**School Bus Drivers:** 2 states restrict school bus drivers from texting while driving.

Some states such as Maine, N.H. and Utah treat cell phone use and texting as part of a larger distracted driving issue. In Utah, cellphone use is an offense *only* if a driver is also committing some other moving violation (other than speeding).



## Learn More

[Issue Brief: Distracted Driving](#)

[Public Awareness Campaigns](#)

[10 Tips to Avoid Distractions](#)

[Letters Supporting Federal Role](#)  
(October 21, 2009)

[U.S. House](#)

[U.S. Senate](#)

[Distraction.gov](#)

**Crash Data Collection:** Many states include a category for cell phone/electronic equipment distraction on police accident report forms. Recently proposed federal legislation would require states to collect this data in order to qualify for certain federal funding.

**Preemption Laws:** Many localities have passed their own distracted driving bans. However, some states – such as Fla., Ky., La., Miss., Nev., and Okla. – prohibit localities from enacting such laws.

State	Handheld Ban	All Cell Phone Ban		Text Messaging Ban			Crash Data
		School Bus Drivers	Novice Drivers	All Drivers	School Bus Drivers	Novice Drivers	
<a href="#">Alabama</a>			16, and 17 with intermediate license <6 months (Primary)			16, and 17 with intermediate license <6 months (Primary)	
<a href="#">Alaska</a>				Yes (Primary)	Covered under all driver ban		Yes
<a href="#">Arizona</a>		Yes (Primary)					
<a href="#">Arkansas</a> <sup>1</sup>	18 - 20 years old (Primary)	Yes (Primary)	<18 (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
<a href="#">California</a>	Yes (Primary)	Yes (Primary)	<18 (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
<a href="#">Colorado</a>			<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<a href="#">Connecticut</a>	Yes (Primary)	Yes (Primary)	Learners Permit and <18 (Primary)	Yes (Primary)	Covered under all driver ban		
<a href="#">Delaware</a>	Yes (Primary)	Yes (Primary)	Learner's permit and intermediate license holders (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<a href="#">D.C.</a>	Yes (Primary)	Yes (Primary)	Learners Permit (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<a href="#">Florida</a>							
<a href="#">Georgia</a>		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<a href="#">Guam</a>				Yes (Primary)	Covered under all driver ban		
<a href="#">Hawaii</a> <sup>2</sup>	See footnote						

<u>Idaho</u> <sup>1</sup>							See footnote
<u>Illinois</u> <sup>1</sup>	See footnote	Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Indiana</u>			<18 (Primary)			<18 (Primary)	Yes
<u>Iowa</u>			Restricted or Intermediate Licenses (Primary)	Yes (Secondary)	Covered under all driver ban		Yes
<u>Kansas</u>			Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Kentucky</u>		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		
<u>Louisiana</u>	Learner or Intermediate License (regardless of age)	Yes (Primary)	1st year of licensure (Primary for <18)	Yes (Primary)	Covered under all driver ban		Yes
<u>Maine</u> <sup>1</sup>			<18 (Primary)			<18 (Primary)	Yes
<u>Maryland</u>	Yes (Secondary)		<18 w/ Learner or Provisional License (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Massachusetts</u>		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Michigan</u> <sup>2</sup>			See footnote	Yes (Primary)	Covered under all driver ban		Yes
<u>Minnesota</u>		Yes (Primary)	<18 w/ Learner or Provisional License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Mississippi</u>						Learner or Provisional License (Primary)	
<u>Missouri</u>						≤21 (Primary)	
<u>Montana</u>							Yes
<u>Nebraska</u>			<18 w/ Learners or Provisional License (Secondary)	Yes (Secondary)	Covered under all driver ban		Yes
<u>Nevada</u>							Yes
<u>New Hampshire</u> <sup>2</sup>				Yes (Primary)	Covered under all driver ban		
<u>New Jersey</u>	Yes (Primary)	Yes (Primary)	<21 w/ GDL or Provisional License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>New Mexico</u>	In State vehicles						Yes
<u>New York</u>	Yes (Primary)			Yes (Secondary)	Covered under all driver ban		Yes
<u>North Carolina</u>		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		
<u>North Dakota</u>							Yes
<u>Ohio</u>							
<u>Oklahoma</u>	Learners Permit or Intermediate License (Primary)	Yes (Primary)			Yes (Primary)	Learners Permit or Intermediate License (Primary)	Yes
<u>Oregon</u>	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Pennsylvania</u>							Yes
<u>Rhode Island</u>		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>South Carolina</u> <sup>1</sup>							See footnote
<u>South Dakota</u>							Yes

<u>Tennessee</u>		Yes (Primary)	Learners Permit or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>Texas</u> <sup>2</sup>		Yes, w/ passenger ≤17 (Primary)	Intermediate Stage, 1st 12 mos. (Primary)		Yes, w/ passenger ≤17 (Primary)	Intermediate Stage, 1st 12 mos. (Primary)	Yes
<u>Utah</u> <sup>10</sup>	See footnote			Yes (Primary)	Covered under all driver ban		Yes
<u>Vermont</u>			<18 (Primary)	Yes (Primary)	Covered under all driver ban		
<u>Virgin Islands</u>	Yes						Yes
<u>Virginia</u>		Yes (Primary)	<18 (Secondary)	Yes (Secondary)	Covered under all driver ban (Primary)	Covered under all driver ban	Yes
<u>Washington</u>	Yes (Primary)		Learner or Intermediate Stage (Primary)	Yes (Primary)	Covered under all driver ban		Yes
<u>West Virginia</u>			Learner or Intermediate Stage (Primary)			Learner or Intermediate Stage (Primary)	
<u>Wisconsin</u>				Yes (Primary)	Covered under all driver ban		
<u>Wyoming</u>				Yes (Primary)	Covered under all driver ban		Yes
<b>Total</b>	<b>8 + D.C., Virgin Islands Primary (7) Secondary (1)</b>	<b>18 + D.C. All Primary</b>	<b>28 + D.C. Primary (23 + D.C.) Secondary (5)</b>	<b>30 + D.C., Guam Primary (26 + D.C., Guam) Secondary (4)</b>	<b>2 Both Primary</b>	<b>8 All Primary</b>	<b>34 + D.C., Virgin Islands</b>

<sup>1</sup> Effective 10/1/2011, Arkansas also bans the use of handheld cell phones while driving in a school zone or in a highway construction zone. This law is secondarily enforced.

<sup>2</sup> Hawaii does not have a state law banning the use of handheld cell phones. However, all of the state's counties have enacted distracted driving ordinances.

<sup>3</sup> Idaho has a "Distraction in/on Vehicle (List)" attribute as part of its Contributing Circumstances element, and officers are supposed to list the distractions in the narrative.

<sup>4</sup> Illinois bans the use of handheld cell phones while driving in a school zone or in a highway construction zone.

<sup>5</sup> Maine has passed a law making it against the law to drive while distracted in the state.

<sup>6</sup> In Michigan, teens with probationary licenses whose cell phone usage contributes to a traffic crash or ticket may not use a cell phone while driving.

<sup>7</sup> Dealt with as a distracted driving issue; New Hampshire enacted a comprehensive distracted driving law.

<sup>8</sup> South Carolina has a Distracted/inattention attribute under Contributing Factors.

<sup>9</sup> Texas has banned the use of hand-held phones and texting in school zones.

<sup>10</sup> Utah's law defines careless driving as committing a moving violation (other than speeding) while distracted by use of a handheld cellphone or other activities not related to driving.

Sources: Insurance Institute for Highway Safety (IIHS) and State Highway Safety Offices.

Disclaimer: The information on this page is for general information purposes only and is not to be considered legal authority. For clarification on any law, consult the appropriate State Highway Safety Office.

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phone 202.789.0942, fax 202.789.0946, [headquarters@ghsa.org](mailto:headquarters@ghsa.org)

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[Report newsletter](#)

## Cellphone laws

**January 2011**

A jurisdiction-wide ban on driving while talking on a hand-held cellphone is in place in 9 states (California, Connecticut, Delaware, Maryland, New Jersey, New York, Oregon, Utah, and Washington) and the District of Columbia. Utah has named the offense careless driving. Under the Utah law, no one commits an offense when speaking on a cellphone unless they are also committing some other moving violation other than speeding.

Local jurisdictions may or may not need specific state statutory authority to ban cellphones or text messaging. Several of the many localities that have enacted restrictions on cellphone use include: Oahu, HI; Chicago, IL; Brookline, MA; Detroit, MI; Santa Fe, NM; Brooklyn, North Olmstead, and Walton Hills, OH; Conshohocken, Lebanon, and West Conshohocken, PA; Waupaca County, WI; and Cheyenne, WY.

The use of all cellphones while driving a school bus is prohibited in 19 states and the District of Columbia.

The use of all cellphones by novice drivers is restricted in 28 states and the District of Columbia.

Text messaging is banned for all drivers in 30 states and the District of Columbia. In addition, novice drivers are banned from texting in 13 states (Alabama, Indiana, Maine, Mississippi, Missouri, Oklahoma, Texas, and West Virginia) and school bus drivers are banned from text messaging in 2 states (Oklahoma and Texas).

The table below shows the states that have cellphone laws, whether they specifically ban text messaging, and whether they are enforced as primary or secondary laws. Under secondary laws, an officer must have some other reason to stop a vehicle before citing a driver for using a cellphone. Laws without this restriction are called primary.

- Table. [Map: hand-held bans](#). [Map: young driver bans](#). [Map: bus driver bans](#). [Map: texting bans](#)

### Map of texting bans

(hover over the map for more detail)

©1996-2011,

Insurance Institute

for Highway Safety,

Highway Loss Data Institute

1005 N. Glebe Road, Suite 800,

703/247-1500

| fax 703/247-1588

# USDOT National Highway Traffic Safety Admin.

## Statistics and Facts About Distracted Driving

What does it mean to be a distracted driver? Are you one? Learn more here.

### What is Distracted Driving?

#### Did You Know?

#### Examination of Driver Distraction by NHTSA

#### Use of Electronic Devices While Driving

### What Is Distracted Driving?

There are three main types of distraction:

- Visual — taking your eyes off the road
- Manual — taking your hands off the wheel
- Cognitive — taking your mind off what you're doing

Distracted driving is any non-driving activity a person engages in that has the potential to distract him or her from the primary task of driving and increase the risk of crashing.

While all distractions can endanger drivers' safety, texting is the most alarming because it involves all three types of distraction.

### Other distracting activities include:

- Using a cell phone
- Eating and drinking
- Talking to passengers
- Grooming
- Reading, including maps
- Using a PDA or navigation system
- Watching a video
- Changing the radio station, CD, or Mp3 player

[back to top](#)

### Did You Know?

Research on distracted driving reveals some surprising facts:

- 20 percent of injury crashes in 2009 involved reports of distracted driving. (NHTSA)
- Of those killed in distracted-driving-related crashes, 995 involved reports of a cell phone as a distraction (18% of fatalities in distraction-related crashes). (NHTSA)
- In 2009, 5,474 people were killed in U.S. roadways and an estimated additional 448,000 were injured in motor vehicle crashes that were reported to have involved distracted driving. (FARS and GES)
- The age group with the greatest proportion of distracted drivers was the under-20 age group — 16 percent of all drivers younger than 20 involved in fatal crashes were reported to have been distracted while driving. (NHTSA)
- Drivers who use hand-held devices are four times as likely to get into crashes serious enough to injure themselves. (Source: Insurance Institute for Highway Safety)
- Using a cell phone use while driving, whether it's hand-held or hands-free, delays a driver's reactions as much as having a blood alcohol concentration at the legal limit of .08 percent. (Source: University

■ 2. Section 723.250 is amended by adding the definitions below in alphabetical order to paragraph (b) and by adding a new paragraph (d)(6) to read as follows:

§ 723.250 Polymers.

\* \* \* \* \*

(b)

*Fluorotelomers* means the products of telomerization, which is the reaction of a telogen (such as pentafluoroethyl iodide) with an ethylenic compound (such as tetrafluoroethylene) to form low molecular weight polymeric compounds, which contain an array of saturated carbon atoms covalently bonded to each other (C-C bonds) and to fluorine atoms (C-F bonds). This array is predominantly a straight chain, and depending on the telogen used produces a compound having an even number of carbon atoms. However, the carbon chain length of the fluorotelomer varies widely. The perfluoroalkyl groups formed by this process are usually, but do not have to be, connected to the polymer through a functionalized ethylene group as indicated by the following structural diagram: (Rf-CH<sub>2</sub>CH<sub>2</sub>-Anything).

\* \* \* \* \*

*Perfluoroalkyl carboxylate (PFAC)* means a group of saturated carbon atoms covalently bonded to each other in a linear, branched, or cyclic array and covalently bonded to a carbonyl moiety and where all carbon-hydrogen (C-H) bonds have been replaced with carbon-fluorine (C-F) bonds. The carbonyl moiety is also covalently bonded to a hetero atom, typically, but not necessarily oxygen (O) or nitrogen (N).

*Perfluoroalkyl sulfonate (PFAS)* means a group of saturated carbon atoms covalently bonded to each other in a linear, branched, or cyclic array and covalently bonded to a sulfonyl moiety and where all carbon - hydrogen (C-H) bonds have been replaced with carbon - fluorine (C-F) bonds. The sulfonyl moiety is also covalently bonded to a hetero atom, typically, but not necessarily oxygen (O) or nitrogen (N).

\* \* \* \* \*

(d)

(6) *Polymers which contain certain perfluoroalkyl moieties consisting of a CF<sub>3</sub>- or longer chain length.* Except as provided in paragraph (d)(6)(i), after February 26, 2010, a polymer cannot be manufactured under this section if the polymer contains as an integral part of its composition, except as impurities, one or more of the following perfluoroalkyl moieties consisting of a CF<sub>3</sub>- or longer chain length: Perfluoroalkyl sulfonates (PFAS),

perfluoroalkyl carboxylates (PFAC), fluorotelomers, or perfluoroalkyl moieties that are covalently bound to either a carbon or sulfur atom where the carbon or sulfur atom is an integral part of the polymer molecule.

(i) Any polymer that has been manufactured previously in full compliance with the requirements of this section prior to February 26, 2010 may no longer be manufactured under this section after January 27, 2012.

(ii) [Reserved]

\* \* \* \* \*

[FR Doc. 2010-1477 Filed 1-26-2010; 8:45 am]

BILLING CODE 6560-50-S

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Chapter III

#### Regulatory Guidance Concerning the Applicability of the Federal Motor Carrier Safety Regulations to Texting by Commercial Motor Vehicle Drivers

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of regulatory guidance.

**SUMMARY:** The FMCSA announces regulatory guidance concerning texting while driving a commercial motor vehicle (CMV). The guidance is applicable to all interstate drivers of CMVs subject to the Federal Motor Carrier Safety Regulations (FMCSRs). **DATES:** *Effective Date:* This regulatory guidance is effective on January 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Thomas L. Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590.

*E-mail:* MCPSD@dot.gov. Phone (202) 366-4325.

#### SUPPLEMENTARY INFORMATION:

##### Legal Basis

The Motor Carrier Safety Act of 1984 (Pub. L. 98-554, Title II, 98 Stat. 2832, October 30, 1984) (the 1984 Act) provides authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary of Transportation to prescribe regulations which ensure that: (1) CMVs are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of CMVs do not impair their ability to operate the

vehicles safely; (3) the physical condition of operators of CMVs is adequate to enable them to operate the vehicles safely; and (4) the operation of CMVs does not have a deleterious effect on the physical condition of the operators. (49 U.S.C. 31136(a)). Section 211 of the 1984 Act also grants the Secretary broad power in carrying out motor carrier safety statutes and regulations to "prescribe recordkeeping and reporting requirements" and to "perform other acts the Secretary considers appropriate." (49 U.S.C. 31133(a)(8) and (10), respectively).

The Administrator of FMCSA has been delegated authority under 49 CFR 1.73(g) to carry out the functions vested in the Secretary of Transportation by 49 U.S.C. chapter 311, subchapters I and III, relating to commercial motor vehicle programs and safety regulation.

##### Background

This document provides regulatory guidance concerning the applicability of 49 CFR 390.17, "Additional equipment and accessories," to CMV operators engaged in "texting" on an electronic device while driving a CMV in interstate commerce.

Currently, 49 CFR 390.17 states, "Nothing in this subchapter shall be construed to prohibit the use of additional equipment and accessories, not inconsistent with or prohibited by this subchapter, *provided such equipment and accessories do not decrease the safety of operation of the commercial motor vehicles on which they are used.*" [Emphasis added]. As used in § 390.17, "this subchapter" means Subchapter B [49 CFR parts 350-399] of Chapter III of Subtitle B of Title 49, Code of Federal Regulations (CFRs).

CMVs are defined in 49 CFR 390.5 as "any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—

(1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or

(2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or

(3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(4) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed

by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C."

Section 390.17 is therefore applicable to drivers of CMVs, as defined by § 390.5, when the CMV is being used by a motor carrier operation subject to the FMCSRs. The general applicability of Parts 390 through 399 [49 CFR Parts 390 through 399] of the FMCSRs is prescribed by § 390.3.

#### Basis for This Notice

FMCSA recently completed its "Driver Distraction in Commercial Vehicle Operations" study and released the final report on October 1, 2009.<sup>1</sup> The purpose of the study was to investigate the prevalence of driver distraction in CMV safety-critical events (e.g., crashes, near-crashes, lane departures) recorded in a naturalistic data set that included over 200 truck drivers and 3 million miles of data. The dataset was obtained by placing monitoring instruments on vehicles and recording the behavior of drivers conducting real-world revenue operations.

Odds ratios (OR) were calculated to identify tasks that were high risk. For a given task, an odds ratio of "1.0" indicated the task or activity was equally likely to result in a safety-critical event as a non-event or baseline driving scenario. An odds ratio greater than "1.0" indicated a safety-critical event was more likely to occur, and odds ratios of less than "1.0" indicated a safety-critical event was less likely to occur. The most risky behavior identified by the research was "text message on cell phone,"<sup>2</sup> with an odds ratio of 23.2. This means that the odds of being involved in a safety-critical event is 23.2 times greater for drivers who are texting while driving than for those who do not. Texting drivers took their eyes off the forward roadway for an average of 4.6 seconds during the 6-second interval immediately preceding a safety-critical event. At 55 mph (or 80.7 feet per second), this equates to a driver traveling 371 feet, the approximate length of a football field, including the end zones, without looking at the roadway. At 65 mph (or 95.3 feet per second), the driver would have traveled approximately 439 feet without looking at the roadway. This clearly creates a significant risk to the safe operation of the CMV.

Because of the safety risks associated with texting, FMCSA will address the

problem of texting in an expedited, stand-alone rulemaking to be completed in 2010. In addition to studies documenting the safety risks associated with texting while driving, the feedback the Department received during its Distracted Driving Summit, held September 30–October 1, 2009, in Washington, DC, from four United States Senators, several State legislators, safety advocacy groups, senior law enforcement officials, the telecommunications industry, and the transportation industry suggest there is widespread support for a ban against texting while driving. However, until the Agency has the opportunity to complete a notice-and-comment rulemaking proceeding to adopt an explicit prohibition against texting, the regulatory guidance below informs motor carriers and drivers about the applicability of the existing regulations to the use of electronic devices for texting.

#### Other Electronic Devices

FMCSA acknowledges the concerns of motor carriers that have invested significant resources in electronic dispatching tools and fleet management systems; this regulatory guidance should not be construed to prohibit the use of such technology. The regulatory guidance below should also not be construed to prohibit the use of cell phones for purposes other than text messaging.

The Agency will address the use of other electronic devices while driving in a notice-and-comment rulemaking proceeding rather than through regulatory guidance.

It is worth noting, however, that while fleet management systems and electronic dispatching tools are used by many of the Nation's largest trucking fleets, the Department believes safety-conscious fleet managers would neither allow nor require their drivers to type or read messages while driving. To the extent that there are fleets that require drivers to type and read messages while they are driving, the Agency will consider appropriate regulatory action to address the safety problem.

#### Compliance With State and Local Laws, Ordinances and Regulations

In addition to announcing regulatory guidance on CMV drivers' use of electronic devices to engage in texting while driving, FMCSA reminds motor carriers and drivers subject to the FMCSRs that the Federal regulations require compliance with the laws, ordinances, and regulations of the jurisdiction in which the CMV is being operated. Section 392.2, "Applicable

operating rules," requires that "Every commercial motor vehicle must be operated in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated. However, if a regulation of the Federal Motor Carrier Safety Administration imposes a higher standard of care than that law, ordinance or regulation, the Federal Motor Carrier Safety Administration regulation must be complied with." Thus, in the States and localities having laws, ordinances, and regulations related to "texting" while driving, non-texting cell phone use, or any other similar traffic offenses, a violation of the State or local provision is also a violation of § 392.2 for those CMV drivers to whom it applies.

#### Summary

Based on the clear consensus that emerged from the Distracted Driving Summit, FMCSA's top priority is to initiate a rulemaking to address the safety risks associated with texting by prohibiting all truck and bus drivers from texting while they are operating on public roads. The regulatory guidance issued today clarifies the applicability of the Agency's current safety regulations and serves as an interim measure to deter texting while driving.

#### Regulatory Guidance

*Part 390—Federal Motor Carrier Safety Regulations; General*

#### Sections Interpreted

*Section 390.17 Additional equipment and accessories:*

*Question 1: Do the Federal Motor Carrier Safety Regulations prohibit "texting" while driving a commercial motor vehicle in interstate commerce?*

*Guidance:* Yes. Although the current safety regulations do not include an explicit prohibition against texting while driving by truck and bus drivers, the general restriction against the use of additional equipment and accessories that decrease the safety of operation of commercial motor vehicles applies to the use of electronic devices for texting. Handheld or other wireless electronic devices that are brought into a CMV are considered "additional equipment and accessories" within the context of § 390.17. "Texting" is the review of, or preparation and transmission of, typed messages through any such device or the engagement in any form of electronic data retrieval or electronic data communication through any such device. Texting on electronic devices while driving decreases the safety of operation of the commercial vehicles on which the devices are used because the

<sup>1</sup> This report is available at FMCSA's Research Web page at: <http://www.fmcsa.dot.gov/facts-research/art-research.aspx?>

<sup>2</sup> Although the final report does not elaborate on text messaging, the drivers were engaged in the review of, or preparation and transmission of, typed messages via wireless phones.

activity involves a combination of visual, cognitive and manual distraction from the driving task. Research has shown that during 6-second intervals immediately preceding safety-critical events (e.g., crashes, near crashes, lane departure), texting drivers took their eyes off the forward roadway an average of 4.6 seconds. Therefore, the use of electronic devices for texting by CMV operators while driving on public roads in interstate commerce decreases safety and is prohibited by 49 CFR 390.17.

Issued on: January 22, 2010.

Anne S. Ferro,  
Administrator.

[FR Doc. 2010-1573 Filed 1-22-10; 4:15 pm]

BILLING CODE 4910-EX-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281-0369-02]

RIN 0648-XU01

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS closes the commercial run-around gillnet fishery for king mackerel in the exclusive economic zone (EEZ) in the southern Florida west coast subzone. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** The closure is effective 6 a.m., local time, January 23, 2010, through 6 a.m., local time, January 18, 2011.

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, telephone: 727-824-5305, fax: 727-824-5308, e-mail: Susan.Gerhart@noaa.gov.

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero,

cobia, little tunny, and, in the Gulf of Mexico only, dolphin and bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001), NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate quotas. The quota implemented for the southern Florida west coast subzone is 1,040,625 lb (472,020 kg). That quota is further divided into two equal quotas of 520,312 lb (236,010 kg) for vessels in each of two groups fishing with run-around gillnets and hook-and-line gear (50 CFR 622.42(c)(1)(i)(A)(2)(i)).

The southern subzone is that part of the Florida west coast subzone, which from November 1 through March 31, extends south and west from 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL, boundary) to 25°20.4' N. lat. (a line directly east from the Monroe/Miami-Dade County, FL, boundary), i.e., the area off Collier and Monroe Counties. From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone which is between 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL, boundary) and 25°48' N. lat. (a line directly west from the Collier/Monroe County, FL, boundary), i.e., the area off Collier County (50 CFR 622.42(c)(1)(i)(A)(3)).

Under 50 CFR 622.43(a)(3), NMFS is required to close any segment of the

king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined that the commercial quota of 520,312 lb (236,010 kg) for Gulf group king mackerel for vessels using run-around gillnet gear in the southern Florida west coast subzone will be reached on January 23, 2010. Accordingly, the commercial fishery for king mackerel for such vessels in the southern Florida west coast subzone is closed at 6 a.m., local time, January 23, 2010, through 6 a.m., local time, January 18, 2011, the beginning of the next fishing season, i.e., the day after the 2011 Martin Luther King Jr. Federal holiday.

#### Classification

This action responds to the best available information recently obtained from the fisheries. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(3), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the closure.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

**Dated:** January 21, 2010.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2010-1574 Filed 1-22-10; 4:45 am]

BILLING CODE 3510-22-5

# TRANSPORTATION SERIES

NATIONAL CONFERENCE OF STATE LEGISLATURES

December 2010, No. 35

## Traffic Safety and Public Health: State Legislative Action 2010

By Melissa A. Savage and Anne Teigen

### Summary

**Occupant Protection.** At least 26 states considered bills to strengthen seat belt laws in 2010. These proposals included efforts to enact primary enforcement of existing seat belt laws and changing requirements for child restraint use.

**Impaired Driving Issues.** In 2010, lawmakers in 46 states introduced more than 300 bills related to impaired driving. They considered legislation related to stricter penalties for high blood alcohol concentration (BAC), ignition interlocks, breath tests and treatment.

**Distracted Driving.** Since 2000, legislatures in every state, the District of Columbia and Puerto Rico have considered legislation related to distracted driving and driver cell phone use. In 2010, legislators in 40 states considered 181 driver distraction bills.

**Driver's Licensing.** Each year, state legislatures debate hundreds of bills relating to various aspects of driver licensing, including REAL ID, unlicensed driving, older drivers and teen drivers. In 2010, 40 states debated more than 200 bills relating to drivers licensing.

**Aggressive Driving.** Laws in 10 states penalize aggressive drivers. Hand gestures, shouting, speeding, tailgating, driving on the shoulder, weaving in and out of traffic, or any combination of these activities may fall within the definition of aggressive driving.

**Speed Limits.** In 2010, 21 states considered bills regarding speed, including increased fines for speeding, setting speed limits, and punishing serious speeding offenders.

**Automated Enforcement.** Because law enforcement agencies struggle with limited resources, many municipal governments have turned to automated enforcement to control speed and reduce red light violations without diverting law enforcement resources from other areas. During 2010, legislators in 28 states debated nearly 100 bills regarding automated enforcement.

**Motorcycle Safety.** During the 2010 legislative session, 38 states considered more than 100 bills related to motorcycle helmets or driver training.

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- \* Thirty days of community service or not less than five days in jail for a second offense and not less than 60 days' community service or not less than 10 days' imprisonment for third and subsequent offenses.

According to NHTSA, as of November 2010, 39 states and the District of Columbia comply with federal repeat offender requirements.

A California law passed in 2010 authorizes the court to order a 10-year driver's license revocation if the person has been convicted of impaired driving three or more times. The law allows those with a 10-year suspension to apply for reinstatement after five years. Kansas increased the fine from \$1,500 to \$2,500 for a third impaired driving offense. Mississippi considered but did not pass a measure that would have prohibited plea bargaining for all repeat impaired driving offenders.

## Distracted Driving

*Of overall  
traffic fatalities  
in 2009, 16  
percent were  
distraction-  
related.*

Most experts agree that distracted driving is a significant traffic safety problem. In 2009, 5,474 people were killed on U.S. roadways and an estimated 448,000 were injured in motor vehicle crashes that were reported to have involved distracted driving. Distraction-related fatalities represented 16 percent of overall traffic fatalities in 2009. According to a 2010 Insurance Institute for Highway Safety survey, 40 percent of drivers reported talking on phones at least a few times each week, and 13 percent reported text messaging.

In 2009, Virginia Tech Transportation Institute research showed that drivers who text messaged while driving had over 20 times the risk of crash or near crash than a driver who was not using a phone. The study also revealed that drivers who text messaged while driving took their eyes off the road for 4.6 seconds over a 6-second interval. This equates to a driver traveling the length of a football field at 55 mph without looking at the road. The study concluded that talking on a cell phone slightly increased the risk of a crash or near crash but not to the same degree as texting while driving.

A study published in the September 2010 *American Journal of Public Health* reports texting while driving likely caused more than 16,000 road fatalities between 2002 and 2007. University of North Texas researchers used statistical modeling to determine that the percentage of all traffic deaths caused by distracted driving rose from 11 percent in 1999 to 16 percent in 2008. The researchers noted that only one-third of Americans had a cellular phone in 1999 but by 2008, the number jumped to 91 percent.

## State Legislation

The prevalence of cellular phones, new research and publicized crashes have started many debates over the role cell phones play in driver distraction. Since 2000, legislatures in every state, the District of Columbia and Puerto Rico have considered legislation related to distracted driving or, more specifically, driver cell phone use. In 2010, legislators in 40 states considered 181 driver distraction bills.

No state completely bans all phones for all drivers. Instead, state legislation usually addresses a range of issues, including particular wireless technologies and specific types of drivers. California, Connecticut, Delaware, Maryland, New York, New Jersey, Oregon,

Washington and the District of Columbia prohibit driver use of hand-held phones. Utah considers speaking on a cell phone without a hands-free device to be an offense only if a driver also is committing some other moving violation (other than speeding). Delaware's 2010 law states that violators will be fined \$50 upon first conviction. Oregon's law prohibits drivers younger than age 18 from using any kind of cellular device. Drivers over age 18 can use a mobile communications device only with a hands-free accessory.

Georgia and Massachusetts enacted laws in 2010 that prohibit drivers younger than age 18 from using cellular phones while driving. The use of all cell phones by teen drivers is prohibited in 28 states and the District of Columbia.

The most common driver distraction measure debated by legislatures this year was texting while driving. As of November 2010, laws in 30 states—Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Iowa, Louisiana, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Michigan, Nebraska, New Jersey, New Hampshire, New York, North Carolina, Oregon, Rhode Island, Tennessee, Utah, Vermont, Virginia, and Washington, Wisconsin, Wyoming and the District of Columbia specifically ban text messaging while driving for all drivers. Eleven states passed this legislation in 2010. Oklahoma, which does not have a texting ban for all drivers, passed a law in 2010 that prohibits public transit drivers from texting. Washington made its texting ban a primary offense in 2010.

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*Text messaging while driving is specifically banned in 30 states for all drivers.*

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Penalties for violating texting bans vary among the states. In Georgia, texting while driving is a misdemeanor carrying a \$150 fine; in California, the traffic infraction carries a \$20 fine. Violators in Nebraska will have points assessed against their license and pay a \$200 fine.

### *Federal Action*

U.S. Department of Transportation (DOT) Secretary Ray LaHood held the second annual Distracted Driving Summit in September 2010. Leading transportation officials, safety advocates, law enforcement personnel, industry representatives, researchers and victims affected by distraction-related crashes convened to address challenges and identify opportunities for national anti-distracted driving efforts. At the summit, Secretary LaHood announced a U.S. DOT proposed rule that would prohibit texting on the job by commercial bus and truck drivers. Train operators also are restricted from using cell phones and other electronic devices while in the conductor's seat. NHTSA also provided model legislation for state texting while driving bans; this language can be found at <http://www.distraction.gov/state-laws/>.

Congress also is considering legislation related to texting while driving. On July 29, 2009, New York Senator Chuck Schumer introduced the "Avoiding Life-Endangering and Reckless Testing by Drivers Act" (ALERT Drivers Act). The bill would require that states enact a law to prohibit text messaging while driving by a certain date, or be penalized by having 25 percent of the state's highway funds withheld. West Virginia Senator Jay Rockefeller also introduced a distracted driving bill in 2009, the "Distracted Driving Prevention Act". This bill would provide incentive grants to states that: ban texting while driving for all drivers, require drivers to use hands-free devices, and prohibit any drivers under age 18 to use any cell phone while driving. As of September 2010, both bills remain in committee.

## Driver Licensing

The states, the District of Columbia and the U.S. territories license more than 245 million drivers who represent roughly 88 percent of those eligible to drive. States have administered their driver's licensing systems since 1903, when Massachusetts and Missouri enacted the first state driver's licensing laws. Since 1959, all states have required an examination to test driving skills and traffic safety knowledge before a license is issued. Testing drivers and issuing licenses, however, no longer is the sole concern of state licensing agencies. Because the driver's license now serves a role beyond traffic safety—where both government and private entities rely on it for personal identification—state legislatures and driver's license agencies are concerned about the safety and security of using the license as an identifier. Each year, state legislatures debate hundreds of bills related to various aspects of driver's licensing, including REAL ID, unlicensed driving, older drivers and teen drivers. In 2010, 40 states debated more than 200 bills relating to driver's licensing.

### *REAL ID*

In January 2008, the Department of Homeland Security (DHS) issued the long-awaited final regulations on implementation of the REAL ID Act of 2005, a mere four months before the May 11, 2008, statutory implementation date. Under the act, unless states adopt federal standards for driver's licenses and identification cards, the federal government will not accept the licenses or identification cards for federal purposes such as boarding commercial aircraft, entering a federal building or nuclear power plant, or other purposes as determined by the secretary of Homeland Security.

States were required to certify compliance to DHS by May 11, 2008, or request an extension until Dec. 31, 2009. All 56 U.S. jurisdictions received an initial extension. To merit a second extension through May 11, 2011, states must demonstrate material compliance with REAL ID by meeting many or all of 18 benchmarks. By Dec. 1, 2014, they must begin issuing REAL IDs to applicants born after Dec. 1, 1964. The re-issuance process for all driver's license and identification card holders is to be completed by Dec. 1, 2017. During any extension, the state's non-REAL ID-compliant driver's license and identification card will be recognized for federal purposes. States that choose not to comply or seek the second extension need not take action.

Legislators in Kentucky, Louisiana, New Hampshire, Oklahoma, Utah and Virginia debated legislation related to REAL ID in 2010. Kentucky, Louisiana, New Hampshire, Oklahoma and Utah considered bills that would have prohibited the state from complying with REAL ID provisions. The Utah bill passed. Legislators in Virginia proposed a bill that would have required compliance, but it did not pass. State legislative REAL ID activity was markedly lower in 2010, given the extension granted through May 2011.

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*Unlicensed  
drivers are  
involved in 20  
percent of fatal  
motor vehicle  
crashes.*

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### *Unlicensed Drivers*

Twenty percent of fatal motor vehicle crashes involve unlicensed drivers who either are driving with a suspended or revoked license or have never been licensed. Many drivers who lose their license due to a traffic-related offense such as a DUI or to a non-traffic-related offense—such as failure to appear, poor school attendance or child support enforcement—continue to drive. AAA estimates that 66 percent of those who have lost their license

## **FOR IMMEDIATE RELEASE**

### **Contact:**

Erin Keleher  
vlingo  
617-283-2285  
erin@vlingo.com

Beth Monaghan  
InkHouse (for vlingo)  
781-916-9090 x801  
vlingo@inkhousepr.com

## **Vlingo Issues "Consumer Text Messaging Habits" Report**

*Study reveals that nearly 30 percent of mobile phone users drive while texting;  
South Carolina, Tennessee and Georgia are the states with the worst offenders*

**CAMBRIDGE, MA (MAY 21, 2008)** – Vlingo Corporation today issued the "Consumer Text Messaging Habits" report, based on research completed by independent research firm Common Knowledge Research Services. Based on a survey of nearly 5,000 U.S. consumers that aimed to understand how, when and why consumers use text messaging, the report revealed that texting has taken hold as a mainstream communication vehicle. The study found that 55 percent of consumers now use text messaging and 42 percent use their mobile phones to text as much or more than they do to make calls. Additionally, 28 percent of consumers admit to driving while texting (defined as emailing, instant messaging or texting). Drivers in the state of South Carolina are the worst offenders, with the highest percentage of respondents who drive while texting (DWT), while Arizona drivers boast the lowest number who text behind the wheel.

The full report can be downloaded at [www.vlingo.com/habits](http://www.vlingo.com/habits).

### **Driving While Texting**

Today, 23 states are considering legislation to ban driving while texting. Overall, 55 percent of respondents send text messages, and 28 percent admit to DWT. Among respondents, 78 percent believe DWT should be illegal. The report also uncovered the following:

- 85 percent of respondents say they would not DWT if it were illegal.
- 78 percent of all surveyed think DWT should be illegal.
- 85 percent of teens and young adults (those 13-29) send text messages, and just over 50 percent of those ages 16-29 admit to DWT.

"In this data what we see is an approaching tidal wave of a public policy and safety issue," said Dave Grannan, CEO of vlingo. "Text messaging has become an integral part of how younger generations communicate, and right now their behavior and attitudes suggest that 50 percent will be driving and texting. This problem is only going to get worse and we need to develop public policies and technologies to address this challenge."

### **States with the Most and Least TWD Offenders**

The report compared driving while texting habits on a state-by-state basis. South Carolina texters have the worst record, with 40 claiming to DWT and Arizona has the best record with just 17 percent of respondents admitting to DWT. The five states with the highest percentage of respondents who admit to DWT are:

1. South Carolina (worst record)
2. Tennessee
3. Georgia
4. Maryland
5. Louisiana

The five states with the lowest percentage of respondents who DWT are:

1. Arizona (best record)
2. Maine
3. Vermont
4. New Hampshire
5. Delaware

### **Overall Text Messaging Usage Trends**

The study showed that 55 percent of consumers use their mobile phones to text message. Moreover, 42 percent report that they use their mobile phones equally or more for texting than making phone calls. Teens (ages 13-19) and young adults (ages 20-29) are the most inclined to use text messaging, each with 85 percent currently using texting to some extent. Yet teens are the most active users with:

- 34 percent sending 500 or more texts each month.
- 65 percent saying an inability to send text messages would have a negative impact on their lives.
- 64 percent texting more than they call.

### **What's Holding Back Usage?**

Of the 45 percent of respondents who do not text, the top reasons included the following (respondents could select more than one reason):

- 44 percent cite expense as the gating factor.
- 40 percent say it takes too much time.
- 30 percent say it's too difficult to type on a mobile phone.

Nearly 90 percent of respondents use the standard 12 numeric keys as their mobile phone interfaces.

### **Methodology**

Responses were generated from a survey among 4,820 online opinion panel members (age 13 or older) living in the continental United States. The sample was matched to U.S. Census proportions on gender, age and ethnicity and included approximately 100 respondents from each of the 48 contiguous U.S. states. Respondents were also screened for mobile phone ownership and usage. The survey bears a statistical accuracy of +/- 1.41% for the total sample at the 95% confidence level.

### **About vlingo**

Vlingo is a voice-powered user interface that unlocks access to mobile phone wireless data services. Vlingo allows users to speak or type into any vlingo-enabled text box and get accurate, easy and consistent access to all the information, entertainment and communication made possible through today's mobile applications. By giving consumers control of the mobile Internet with the power of their voices, vlingo provides a quantum leap in usability for mobile data services that are currently restricted by limited user interfaces. IDC has named vlingo one of the "Ten Emerging Mobile Players to Watch in 2008." The company secured its venture capital financing from Charles River Ventures, Sigma Partners and Yahoo! Inc. Founded in 2006, vlingo is headquartered in Cambridge, Massachusetts. Why talk when you can talk? [www.vlingo.com](http://www.vlingo.com).

## ***Vote YES on HB 1195***

North Dakota State University Report  
"Don't Text and Drive"  
Department of Communications  
Fall, 2010

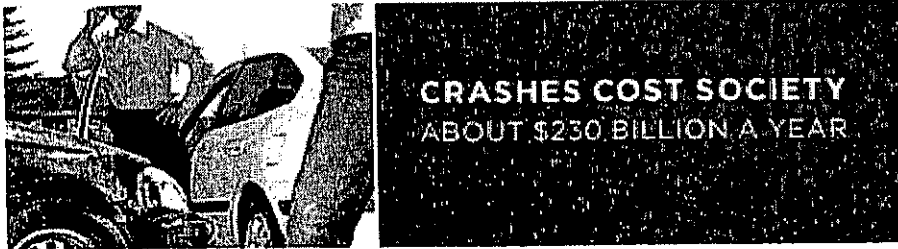
Did you know . . .

- When you read or write a text message you take your eyes off the road for almost 5 seconds. This increases your risk of a collision up to 23 times.
- 30 states have already banned texting and driving.
- 80% of Americans support legislation to restrict cell phone use while driving.
- The North Dakota cities Grand Forks and Bismarck recently banned texting and driving within their city limits.
- The action of texting and driving is compared to be as bad as or worse than drunk driving.
- In a recent survey, 91.4% of NDSU students admitted to texting and driving.
- 29.3% of those NDSU students claimed they text and drive almost every time they drive.
- The 2 most popular places in which NDSU students partake in texting and driving is first at red lights and stop signs, and second on the interstate.
- 75.6% of NDSU students stated they did not feel safe while riding in a car with someone who was texting and driving.



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## Driving While Distracted: Statistics To Know

### Learn about the risks of driving while distracted with texting while driving statistics from Nationwide

Learn about the danger of driving while distracted (DWD) and cell phone use while driving with helpful information from Nationwide Insurance to help prevent driving while texting accidents when you're behind the wheel.

A new *On Your Side*® survey by Nationwide verifies with concrete cell phone driving statistics the general assumption that there is strong public support for legislation to restrict cell phone usage while driving.

The results of the new survey show there are varying degrees of support for different types of restrictions based on these texting while driving statistics.

- 8 in 10 drivers support some type of cell phone usage restriction.
  - The majority of respondents say they are supportive of laws restricting any type of cell phone use while driving.
  - 80 percent respondents support a ban on text messaging while driving.
  - 80 percent of respondents support a ban on e-mailing while driving.
  - Two thirds (67 percent) of respondents say they are supportive of laws restricting phone calls while driving.
- Of those who supported enacting some type of cell phone usage restriction, nearly 3 in 4 believed the law should apply to all drivers, not just specific groups.

### Read other cell phone driving statistics

- Distraction from cell phone use while driving (hand held or hands free) extends a driver's reaction as much as having a blood alcohol concentration at the legal limit of **.08 percent**. (University of Utah)
- The **No.1** source of driver inattention is use of a wireless device. (Virginia Tech/NHTSA)
- Drivers that use cell phones are **four times** as likely to get into crashes serious enough to injure themselves. (NHTSA, Insurance Institute for Highway Safety)

serious enough to injure themselves. (NHTSA, Insurance Institute for Highway Safety)

- **10 percent** of drivers aged 16 to 24 years old are on their phone at any one time.
- Driving while distracted is a factor in **25 percent** of police reported crashes.
- Driving while using a cell phone reduces the amount of brain activity associated with driving by **37 percent** (Carnegie Mellon)

# Drive Responsibly

## Wireless Issues Drive Responsibly

# Please don't text and drive.



A lot of people want you to get home safely, so please don't text and drive.

Take a look at a variety of components of our current "Don't Text and Drive" Campaign.

[Television Ad](#)

[Radio Ad](#)

[Billboard](#)



"We support federal legislation to ban texting and e-mailing while driving. This approach is a logical extension of our previous breaks with other wireless companies to support state-wide legislation banning texting and e-mailing while driving."

— Verizon Wireless vice president and general counsel Steven E. Zipperstein

**When behind the wheel, safe driving is your responsibility, and it should always be your first priority.**

Since 2000, Verizon Wireless has led the wireless sector in supporting laws to eliminate driver distractions from using wireless devices. Verizon Wireless has not only supported state and federal legislation to ban hand-held texting and e-mailing while driving, but has been the only wireless service provider to support state-wide legislation requiring drivers to use hands-free devices while talking. California State Assemblyman Joe Simitjan has credited Verizon Wireless for helping him enact the nation's first state-wide texting ban.

Verizon Wireless' own policies require employees to use hands-free devices if they choose to talk on their mobile phones while driving, and forbid texting and e-mailing while driving.

If you choose to use your wireless phone while driving, several jurisdictions have adopted "hands-free" and other restrictions on the use of wireless devices while driving. It is your responsibility to know and to comply with the law in your area.

### **Additional Research on using a wireless phone while driving**

Scientific research on the subject of wireless phone use and driving has been conducted worldwide for several years. According to the National Highway Traffic Safety Administration (NHTSA), the available research indicates that using a wireless phone while driving degrades a driver's performance, whether it is a hands-free or hand-held wireless phone. NHTSA advises that the "safest course of action is to refrain from using a cell phone while driving." NHTSA's policy on "Cell Phone Use While Driving," as well as Frequently Asked Questions on the subject, are available at [www.nhtsa.gov](http://www.nhtsa.gov) (click on "Traffic Safety" then on "Drowsy and Distracted Driving"). For your well being and the well being of those around you, you should consider turning your phone off and allowing calls to go to Voice Mail while you are driving.



## Texting & Driving ... It Can Wait: Safety Tips

Text messaging has experienced a tenfold increase in the last three years\*, according to CTIA – The Wireless Association. Texting is increasingly becoming the way we communicate. Unfortunately, some people may be texting from behind the wheel of a moving vehicle.

AT&T wants to inform all wireless users that safety comes first when you're in the driver's seat. To help battle unsafe texting, especially by teens, following are a few key tips:

### Tips for Teens:

- **Be smart.** Don't text and drive. No text message is worth being distracted while you drive.
- **Be in control.** Remember it's your phone. You decide if and when to send and read texts so take control. Consider turning your phone off, setting it to silent or even storing it in the glove box before hitting the road.
- **Be caring.** Never send a text message to a friend who is driving to meet you, or to anyone you know is likely behind the wheel.
- **Be a BFF.** Friends don't let each other text and drive. Visit [www.facebook.com/att](http://www.facebook.com/att) to take a pledge not to text and drive, and encourage your friends to do the same. You can also print and sign AT&T's pledge, available in our online toolkit at [www.att.com/txtngcanwait](http://www.att.com/txtngcanwait).

### Tips for Adults:

- **Be a resource.** Share information with your teen about the risks of texting while driving. Download resources from our toolkit, [www.att.com/txtngcanwait](http://www.att.com/txtngcanwait).
- **Be an example.** Don't send the wrong message by texting while you drive. Your teen will follow your example. Visit the toolkit, [www.att.com/txtngcanwait](http://www.att.com/txtngcanwait), to print, discuss and sign the Parent/Teen Pledge. And, if you're on Facebook, visit [www.facebook.com/att](http://www.facebook.com/att) to take the pledge online and encourage your friends (and family) to do the same.
- **Be caring.** Don't send a text when you know your teen is driving. Wait for them to call or text you once they have arrived safely at their destination.
- **Be aware.** Know your options. AT&T Smart Limits\*\* offers parents an easy way to manage their teen's cell phone and text messaging activity. Go to [www.att.com/smartlimits](http://www.att.com/smartlimits) for more information.

***Above all else, our message is simple, yet vital: When it comes to texting and driving, it can wait.***

\* <http://ctia.org/advocacy/research/index.cfm/AID/10323>

\*\*Smart Limits for Wireless cannot currently set monthly limits for minutes; incoming calls are allowed at all times except from numbers designated as "Blocked Numbers." Browsing Limits and Time of Day Restrictions will not work for restricting Web browsing usage while the user is in Wi-Fi mode on Wi-Fi capable devices such as iPhone. As your child approaches the text and download limits, he/she will receive an advance warning. Once a limit is reached, there will be a notification the action is restricted and the service will be stopped until the next billing cycle begins. Calls and text messages to and from phone numbers you designate as "Allowed Numbers" and calls to 911 will continue to be permitted regardless of the limits you set. For more information, visit AT&T Smart Limits for Wireless Terms of Use, <http://www.wireless.att.com/learn/articles-resources/parental-controls/smart-limit-terms.jsp>.



CTIA is the International Association for the Wireless Telecommunications Industry. Dedicated to Expanding the Wireless Frontier.

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1400 16th Street, NW  
Suite 600  
Washington, DC 20036

Phone: (202) 736-3200  
Fax: (202) 785-0721

### About Us

CTIA-The Wireless Association® is an international nonprofit membership organization that has represented the wireless communications industry since 1984. Membership in the association includes wireless carriers and their suppliers, as well as providers and manufacturers of wireless data services and products.

The association advocates on behalf of its members at all levels of government. CTIA also coordinates the industry's voluntary efforts to provide consumers with a variety of choices and information regarding their wireless products and services. This includes the voluntary industry guidelines; programs that promote mobile device recycling and reusing; and wireless accessibility for individuals with disabilities.

CTIA also supports important industry initiatives such as Wireless AMBER Alerts; "On the Road, Off the Phone," a teen-focused safe driving public service announcement campaign; text4baby, a free mobile educational service to promote the birth of healthy babies; and the "Be Smart. Be Fair. Be Safe: Responsible Wireless Use" program to help parents, educators and policymakers teach kids about responsible mobile behavior, driving and eco-friendly initiatives.

The association also operates the industry's leading trade shows, as well as equipment testing and certification programs to ensure a high standard of quality for consumers.

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### Safe Driving

CTIA-The Wireless Association® and the wireless industry believe that when it comes to using your wireless device behind the wheel, it's important to remember safety always comes first and should be every driver's top priority. While mobile devices are important safety tools, there's an appropriate time and an inappropriate time to use them.

The wireless industry generally defers to consumers and the driving legislation they support – whether that's hands-free regulations or bans on talking on their mobile devices while driving.

At the same time, we believe text-messaging while driving is incompatible with safe driving, and we support state and local statutes that ban this activity while driving. We also agree with proposals that restrict or limit cellular use by inexperienced or novice drivers. Just as many states have graduated drivers' laws, such as restricting the number of passengers or nighttime hours of driving, the industry believes restricting a young driver's use of wireless while becoming better-skilled at the primary driving tasks makes sense.

We believe there are three vital components to developing safer drivers and safer roads.

1. State and local legislation, which is uniform across the nation, can be a part of the solution. We are working with the National Conference of State Legislatures, the American Legislative Exchange Council and other state organizations to craft model legislation that could be adopted across the country that would prohibit manual texting and emailing while driving.
2. Technological advancements are also a vital piece of the safety puzzle. However, they cannot be based on inflexible mandates that could stifle innovation. They must also be affordable and consumer-friendly.
3. Most importantly, we believe, and have clearly shown our commitment to, education as key to stopping distracted driving.

In September 2009, CTIA, in partnership with the National Safety Council, launched a teen-focused education campaign to provide parents and teens with information on the dangers of distracted driving. As part of the campaign, a television public service announcement (PSA) and website ([www.onroadoffphone.org](http://www.onroadoffphone.org)) were developed to remind teens and novice drivers that when they're "On the Road, Off the Phone." As part of the continued partnership, NSC and CTIA released a sixty-second national radio PSA in June 2010, which was distributed to 5,000 radio stations across the country.

#### **Key Points:**

- **Education is Key to Making Drivers More Aware of their Responsibilities Behind-the-Wheel.**

CTIA, in partnership with the wireless industry, has developed programs and sponsored public service announcement (PSA) campaigns designed to educate distracted drivers. Many of the programs target young drivers, on the theory that more experienced drivers are better prepared to handle distractions behind the wheel. The wireless industry also encourages drivers to follow some basic driving do's and don'ts to ensure that a wireless device doesn't become a distraction.

- **There are Numerous Potential Driving Distractions.**

Since safety should be the first concern when behind the wheel, drivers need to be aware of the wide array of potential distractions, including drowsiness, reaching for moving objects, pushing audio buttons, eating, personal grooming, other passengers and reading to name a few. Wireless use has often been listed behind many of these activities in terms of how distracting of a behavior it might be while driving.

- Over -

*Last Updated: August 2010*

- **New Research and Technological Advancements Provide Innovative Solutions to the Problem of Distracted Driving.**

Wireless companies are developing inventive solutions, such as "hands-free car kits" and the "Polite Phone" prototype, to utilize ground-breaking Bluetooth technology to provide a voice-command interface between the car and the cell phone. This enables actions such as hands-free voice dialing, answering, and hanging up. The next generation of hands-free cell phone technology for vehicles will help to decrease distraction and ensure that drivers keep their eyes on the road and hands on the wheel.

**Brief History of CTIA's Support of Safe Driving Education:**

- **1997** – "Safety-Your Most Important Call"™ campaign with print, outdoor and radio PSAs
- **2000** – TV and radio PSAs focused on telling all drivers about the dangers of distracted driving
- **2004/2005** – TV PSA with CTIA's President & CEO Steve Largent
- **2007** – Developed 10 radio PSAs with 10 different driving scenarios to educate and remind people about responsible driving behavior. Scenarios included:
  - Teen-focused to tell them to tell them to not text and drive
  - Bad weather as a time to not use your mobile device
  - Offered to co-brand the PSAs to the Governors National Highway Safety Association affiliates; 13 affiliates took advantage of CTIA's offer. They were: Alaska, Arizona, Delaware, Florida, Illinois, Oregon, Tennessee, Nevada, New Jersey, Maryland, Minnesota, Missouri and Wisconsin.
- **2009** – TV PSA focused on teens to tell them, "On the Road, Off the Phone" with the National Safety Council and website ([www.onroadoffphone.org](http://www.onroadoffphone.org))
- **2010** – International CTIA WIRELESS 2010 Show created a Safe Driving Solutions pavilion which displayed the latest technology to combat driver distraction and featured live demos on a track at the convention center
- **2010** – As part of CTIA's "Be Smart. Be Fair. Be Safe: Responsible Wireless Use" campaign ([www.besmartwireless.com](http://www.besmartwireless.com)), information is available for kids on how to be responsible drivers and passengers
- **2010** – Produced a national radio PSA with the National Safety Council

For more information, please visit: [http://www.ctia.org/advocacy/policy\\_topics/](http://www.ctia.org/advocacy/policy_topics/)

MONDAY, JANUARY 3, 2011

Bismarck Tribune

"Seeking to find and publish the truth, that the people of a great state might have a light by which to guide their destiny."

— Stella Mann,  
Tribune publisher, 1939

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TRIBUNE EDITORIAL

ESTABLISHED IN 1873

# Opinion

## Taking care of younger drivers

As the story goes, there once was a 12-year-old boy who was showing off by riding his bicycle without steering. "Look ma, no hands," he yelled, hands held high over his head. About that time, the front wheel hit a large stone causing the bike to swerve to the left. He hit the curb and flew over the handle bars to land straddle-legged on the curb. It was one of the most painful days of his life.

A few years earlier, according to family legend, his father crashed and totaled the family car when he took his eyes off the road, trying to secure a sliding cake in the back seat — using both hands. It was also a painful day.

While both situations could have turned out much worse, there are lessons for today that can help prevent minor or major catastrophes. Be it resolved that there is no room for showing off or not giving complete concentration and focus while driving an automobile, or for that matter, any "vehicle." That includes keeping both hands on

the wheel and eyes on the road when piloting a 3,000-pound steel, plastic and glass box on wheels that has the capacity to travel at speeds up to and more than 100 mph.

Many, however, don't seem to understand the concept. For some reason, some can't drive a car without talking or texting on a phone, or blaring music loud enough to puncture an eardrum — or at least discombobulate any and all road focus.

How did we survive without mobile phones?

A recent Associated Press survey found there is growing support in the Legislature to ban texting while driving. There also seems to be a plan about to place stronger restrictions on teen drivers.

Two years ago, the Legislature rejected a proposed ban on texting while driving, and proposed new

### State lawmakers should look at texting and driver licensing

teen driving restrictions. That was a mistake. Texting while driving is not safe and statistics indicate teen drivers need more controls.

The legislator who introduced the texting bill in 2009 says he will re-introduce it in the 2011 session. How about making it a priority as well? And do the same for a "graduated driver's license," which also makes tremendous sense.

North Dakota has been known as a leader in many ways, but now it's time to follow. The AP reported that 30 states and the District of Columbia have banned texting while driving, including 11 that took the step in 2010.

Lawrence Klemm's legislation would ban drivers from sending text messages or e-mail, or surfing the Internet. The penalty seems minor — a \$100 fine and two penalty points added to the offend-

er's driver's license. That might not be enough to stop the abuse. A \$500 fine and more penalty points might serve as a better deterrent.

"I think there's greater awareness of how dangerous this is, and a number of states have done something on this issue," Klemm told the AP.

The graduated driver's license proposal would likely restrict the ability of 14- and 15-year-olds to drive at night, carry passengers and use cell phones while driving. After six months, a 14-year-old could likely move from an instructional permit to a restricted driver's license, allowing the young driver to drive a parent's or guardian's vehicle without an adult present. At 16, full driving privileges would be possible.

These actions are not assaults on North Dakota's young drivers. They are being proposed for reasons of safety.

We urge the Legislature to move forward for the good of all North Dakotans.



U.S. Department  
of Transportation  
National Highway  
Traffic Safety  
Administration

# TRAFFIC SAFETY FACTS

## Research Note

★★★★★  
**NHTSA**  
www.nhtsa.gov

DOT HS 811 376

September 2010

## High Visibility Enforcement Demonstration Programs in Connecticut and New York Reduce Hand-Held Phone Use

By Linda Cosgrove, Neil Chaudhary, and Scott Roberts

Driving while distracted increases the likelihood of a crash (NHTSA, 2010), and recent well-publicized events have brought this unsafe driving behavior to the forefront of the public eye. According to CTIA-The Wireless Association (2009) about 285 million Americans (91% of all Americans) now own cell phones, compared to only 1 million in 1987. The National Health Interview Survey (Blumberg & Luke, 2010) found that nearly one in four households were wireless only (no land line), up nearly 2 percentage points from the year before. The popularity of text messaging is increasing, and videotaped footage of drivers who were texting immediately before a crash has circulated widely on television and the Internet.

The National Highway Traffic Safety Administration estimates that 6% of drivers nationwide were using an electronic device at any given time in 2008 (Pickrell & Ye, 2009). A meta-analysis (Horrey & Wickens, 2006) of 23 experiments that measured the effects of cell phone use on driving performance found that, across all studies, reaction times were consistently slower when using a cell phone than when not using a phone.

To address this problem, NHTSA initiated distracted driving demonstration programs in two communities to test whether a high visibility enforcement (HVE) model could reduce two specific instances of distracted driving—talking or texting using a hand-held cell phone. The HVE model combines dedicated law enforcement during a specific period, paid and earned media emphasizing an enforcement-based message, and evaluation before and after. *Click It or Ticket*, NHTSA's best known and most successful HVE campaign for seat belt use, has also been effective in areas of aggressive driving and impaired driving. This report summarizes results from the first two of four waves of enforcement and media for distracted driving high visibility enforcement campaigns in two communities.

### Background

Over the past several years legislatures have introduced laws banning hand-held cell phone use and texting in a number of States. New York and Connecticut passed laws banning hand-held cell phone while driving in 2001 and 2005 respectively. At the time of this report, 8 States and the District of Columbia have banned hand-held cell phone use for all drivers, and 30 States and the District have banned texting for all drivers (GHSA, 2010). Many States also ban any use of a cell phone (even with a hands-free device) for novice teen drivers. The demonstration projects were aimed to test whether HVE would be effective in persuading drivers not to use hand-held phones to talk or text, whether law enforcement would be able to observe violations, and whether an HVE campaign would increase drivers' perceived risk of receiving a citation for violating the law.

Under the leadership of the U.S. Department of Transportation Secretary Ray LaHood, NHTSA awarded cooperative agreements to Connecticut and New York to implement and evaluate demonstration programs that apply the high visibility enforcement model to distracted driving at the community level. Syracuse, New York, and Hartford, Connecticut, (a combination of three contiguous cities -- East Hartford, Hartford, and West Hartford) conducted the demonstrations.

**Hand-held cell phone use while driving dropped 56% in Hartford (from 6.8% to 3.1%) and 38% in Syracuse (from 3.7% to 2.3%).**

**Texting while driving declined 68% in Hartford (from 3.9% to 1.4%) and 42% in Syracuse (from 2.8% to 1.6%).**



## Program Description

NHTSA worked with the Connecticut Department of Transportation and the New York Department of Motor Vehicles' (DMV) Governor's Traffic Safety Committee to conduct model high visibility enforcement programs in the two selected communities. In Connecticut, the participating law enforcement agencies were the Connecticut State Police and the Hartford, West Hartford, and East Hartford Police Departments. In New York, the New York State Police, the Syracuse Police Department, and the Onondaga County Sheriff's Office participated. Both communities planned to conduct four waves of enforcement over the course of one year.

Under separate contracts, NHTSA provided evaluation and communications support to both sites. Preusser Research Group was the evaluation firm and the Tombras Group was the communications firm.

Table 1  
Demonstration Program and Evaluation Schedule

	Wave 1		Wave 2	
	CT	NY	CT	NY
Pre Wave Observations	March 18-22	March 25-27	July 28-12	July 8-10
Pre Wave Awareness	March 23-27	March 15-19	July 26-10	July 5-9
Media Flight	April 4-16	April 4-16	July 22-28	July 20-26
Enforcement Dates	April 10-16	April 8-17	July 24-30	July 22-31
Post Wave Observations	April 15-19	April 15-17	July 29-August 2	July 29-31
Post Wave Awareness	April 15-20	April 19-22	July 29-August 3	August 2-6

The first two waves of focused enforcement took place in April and July 2010. Table 1 shows the timeline for pre and post evaluation data collection, media flights, and enforcement in test and control sites.

### Development of the Creative Material

In September 2009 NHTSA explored a variety of project themes and held focus groups in Syracuse and Hartford (four in each city). Six potential taglines were selected for assessment. The line "A phone in one hand leads to a ticket in the other" received the highest marks. Based on additional comments, the line for the demonstration project was shortened to *Phone in One Hand, Ticket in the Other*.

The creative material was designed to generate high awareness of stepped-up enforcement efforts regarding local cell phone laws and convince drivers to adhere to those laws. In December 2009, eight more focus groups were held in Hartford and Syracuse to test four TV commercial ideas. The "BAM!" concept received the highest marks, and became the ad for the demo project.

### Earned Media

Secretary LaHood and NHTSA Administrator David Strickland launched the campaign with press events (U.S. DOT, 2010) in each State on April 8, 2010. These events generated considerable coverage from local and national media outlets including a feature on ABC-TV's *Good Morning America* (Clarke, 2010) and a feature on ABC News (San Miguel, 2010).

Each of the demonstration sites received sample earned media templates so that they could develop localized press releases, fact sheets and post wave press releases. Outreach with the news media and various partners during each wave resulted in scores of articles and events in both States. In Connecticut and New York, more than 100 news organizations developed news stories about the demonstration projects. Syracuse and Hartford actively generated opportunities to earn additional media for the program. For instance, New York initiated a media tour and the Connecticut DMV joined with Traveler's Insurance Company to sponsor a teen driving video contest.

### Paid Media

NHTSA's Office of Communications and Consumer Information purchased air time to promote the program activity and emphasize the enforcement component among the target audience of men and women 18 to 45 years old. The television spots are available online at [distraction.gov/hartford](http://distraction.gov/hartford) and [distraction.gov/syracuse](http://distraction.gov/syracuse). Figure 1 shows a still shot from one of the animated Internet ads also located on the Web site.

Advertisers use "gross rating points" (GRPs) to determine how much of their target audience is reached by a specific advertisement multiplied by the number of times the target audience sees it. For the first wave in April 2010, NHTSA purchased two weeks of advertising in each demonstration location at a level of about 535 GRPs for television/cable, 400 GRPs for radio, and an additional 2 million online impressions on Web sites like USA Today.com. This was considered a strong buy that would reach the target audience enough times that the ad's message would resonate with them. For the second wave in July 2010, NHTSA purchased one week of advertising in each demonstration location at a level of about 300 GRPs for television/cable, approximately 240 GRPs for radio, and an additional 1.5 million online impressions. The media expenditures were \$219,290 in Hartford and \$88,904 in Syracuse for both waves combine (see Table 2).

The Connecticut Highway Safety Office also ran the *Phone in One Hand, Ticket in the Other* slogan on variable message boards in and around the pilot area and purchased digital billboards on major Hartford Interstate Highways I-84 and I-91. The billboard message also ran at the XL Center, a sports and concert venue in downtown Hartford. This message ran on the XL Center digital billboard and outdoor marquee.

## Enforcement

Hartford and Syracuse chose enforcement strategies tailored to their communities. Hartford preferred a spotter technique, where an officer, usually standing on the side of the road, radioed ahead to another officer whenever a passing motorist using a hand-held cell phone was observed. The second officer made the stop and wrote the ticket. The Connecticut Highway Safety Office prepared citation holders, short brochures that officers used to hold the tickets to provide specific information about Connecticut's cell phone law, the fine amount, and the risks associated with distraction.

Syracuse preferred roving patrols where officers drove through their jurisdiction actively seeking out distracted drivers using cell phones or texting. Officers reported that higher vantage points, SUVs, and unmarked vehicles were particularly effective in identifying violators. Both States found that having the flexibility to schedule overtime shifts as needed was critical to the successful implementation of the enforcement mobilizations.

Figure 1  
Scene From Animated Internet Banner Ad

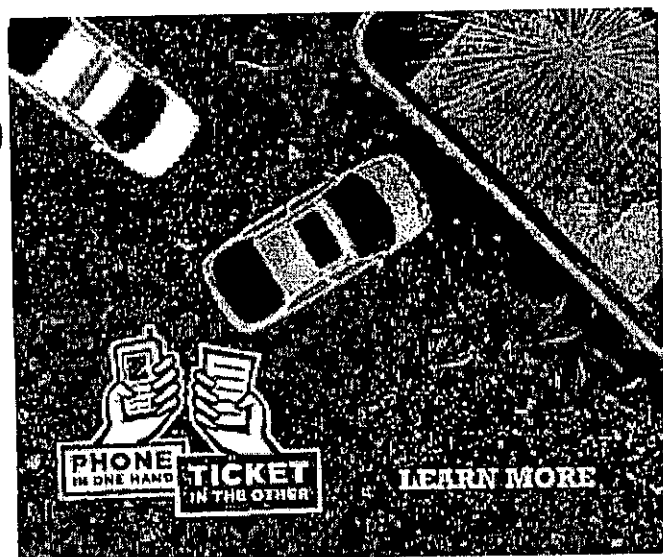


Table 2  
Media Buy

	Wave 1 (2 weeks)		Wave 2 (11 weeks)	
	Hartford	Syracuse	Hartford	Syracuse
TV Cost	\$108,651	\$36,898	\$57,098	\$21,517
Radio Cost	\$108,651	\$36,898	\$57,098	\$21,517
Online Cost	\$5,000	\$5,000	\$3,750	\$3,750
Total Cost	\$140,855	\$54,159	\$78,435	\$34,745

Table 3  
Enforcement Hours and Citations Issued

	Wave 1		Wave 2	
	Hartford	Syracuse	Hartford	Syracuse
Dedicated Hours	1,345	1,370	1,856	1,337
Hand-Held Phone Use	2,329	2,185	2,327	1,977
Text/E-mail/Distracted	279	115	211	169
Citations/10k Population	107	167	100	156

Both Hartford and Syracuse dedicated officers to vigorously enforce the hand-held cell phone ban during the two waves, exceeding benchmarks based on previous high visibility enforcement campaigns. Table 3 shows the number of enforcement hours and phone and texting citations issued in each site, along with the rate of citations per 10,000 of each city's population.

## Evaluation Methodology

Before and after each enforcement wave, NHTSA conducted observations of driver cell phone use and collected public awareness surveys at driver licensing offices in each test and comparison site.

Albany, New York, served as the comparison area for Syracuse. Bridgeport and Stamford, Connecticut, were non-contiguous control areas to match the demographics of the three Hartford area cities. Control sites allow evaluators to separate the effect of the demonstration program from extraneous influences that may be going on in the State. None of the control sites received the paid media advertising and law enforcement officers continued their usual enforcement activities without special emphasis on cell phone laws.

## Cell Phone Observations

Cell phone observations were taken at 15 sites in each intervention area, plus 15 sites in Albany, 15 in Stamford, and 7 sites in Bridgeport. Sites were selected from road segments based on traffic volume estimates. Three of the sites in each area were highway off-ramps. The rest of the sites were identified from the highest volume segments, assuring that they were geographically dispersed throughout the areas. The main goal of site selection was to capture the bulk of the traffic streams in the given area.

Observation protocols were based on NHTSA's National Occupant Protection Use Survey (NOPUS) observation protocols, adapted to increase sample size. An earlier formulation of the method, consistent with NOPUS observation protocols, had observers sampling from traffic stopped at red lights. Therefore all selected sites were at traffic light controlled intersections. Pilot testing of this method resulted in few observations and NHTSA modified its method to observe moving traffic only. Observations were made from

street corners observing one direction of traffic (the vehicles traveling in the lanes nearest the observer) for one hour at each site. When traffic signals turned red, observers pivoted and sampled vehicles from the moving traffic on the cross street. Observers coded vehicle type, sex, estimated age (16-24, 25-59, 60+) and whether the driver was holding a hand-held phone to her or his ear, manipulating a cell phone (other than by holding to one's ear) and if the driver had a hands-free headset (e.g., Bluetooth) in the visible ear.

The main analyses were the average percentage of each of the three cell phone use categories separately for each test and control area. Weighting of data occurred prior to analysis so that each site held equal weight. That is, for a 15-site survey in which the number of observed drivers varied between sites, the percentage use recorded in each site contributed an equal 1/15 of the total use rate for that area. Binary logistic regressions analyses evaluated the significance of differences and chi squares were conducted for raw data for subsets of the data (e.g., age). Over 121,000 vehicles were observed for the first two waves of the demonstration program.

### Self-Reported Use and Awareness Surveys

Motorists who visited driver licensing offices in the test and comparison sites completed a single page questionnaire asking whether they had seen or heard of the distracted driving program, enforcement, or messaging. They were asked about their cell phone use while driving and whether they had changed their cell phone use in the past 30 days, among other topics. Surveyors collected more surveys for the first (pre Wave 1) administration and will do the same for the final (post Wave 4) administration to increase the power of analyses for both baseline and final data. Over 11,000 self-report surveys were collected for the first two waves of the demonstration program.

Researchers collected some data a bit later than originally planned (Table 1). In Syracuse there was a clerical error on the final question about slogan recognition. For this question, the analyses report data from another survey administered two weeks later in both Syracuse and Albany. There were inexplicable fluctuations in the Wave 2 results (pre and post) in the Albany surveys compared to Wave 1. For example there were 14% (pre) and 11% (post) of the respondents who reported having gotten a ticket for using a hand-held phone in the past month for Wave 2. This value was only 1% in both pre and post Wave 1 surveys. The data collected two weeks later were more comparable to Wave 1 results. For this reason the researchers deemed the original data from Albany Wave 2 unreliable. The analyses report only the re-sampled post wave data for Albany.

## Results

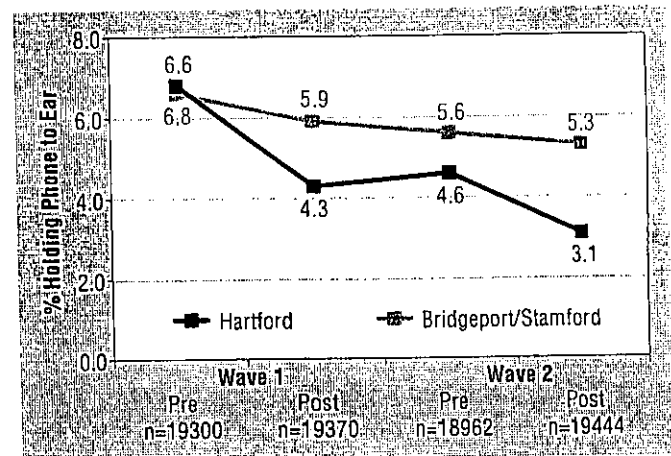
### Observed Phone Use in Connecticut

The results of Wave 1 showed a significant decrease ( $p < .01$ ) in hand-held cell phone use in the Hartford areas from 6.8%

before the program to 4.3% afterwards (see Figure 2). The control areas also showed a slight decrease in hand-held cell phone use, but this was not statistically significant (6.6% to 5.9%,  $p > .05$ ).

Figure 2

### Observed Hand-Held Phone Use in Connecticut



There were further reductions in observed hand-held cell phone use in the second wave in the Hartford intervention area. In between waves, there was minimal increase in hand-held cell phone use in the Hartford areas, when the program was silent. Observed use was 4.6% at the pre measurement of the second wave, dropping to 3.1% in the post measurement ( $p < .01$ ). Use in the control areas continued a slight, although not statistically significant, downward trend, starting at 5.6% and dropping to 5.3% ( $p > .05$ ).

From the baseline (pre Wave 1) to the end of the second wave (post Wave 2) hand-held cell phone use dropped 56% (from 6.8% to 3.1% in the Hartford areas compared to 20% (6.6% to 5.3%) in the control areas.

Most of the decrease in cell phone use was attributed to drivers age 25 to 59 in the Hartford area. Young drivers 16 to 24 dropped 5.3 percentage points (from a pre of 9.0% to a post of 3.7%) following enforcement during Wave 1. However, relatively small sample sizes for this group made this drop only marginally significant ( $p < .06$ ). There was no change for the second wave for the young drivers and there was also no change in use among this group for control areas in either wave. For the 25- to 59-year-old age group, there were significant pre to post drops for both waves in the Hartford area. The changes in the control areas were not significant for either wave and there were no significant effects for the oldest drivers in either wave in either area.

There were significant drops in observed phone use for men and women in both waves in the Hartford area. Surprisingly, there were significant ( $p$ 's  $< .05$ ) pre to post decreases among female drivers in the control area for both waves but no change for male drivers.

For Wave 1, headset use significantly decreased from pre to post in both the Hartford area (3.5% to 2.8%) and in the control area (4.1% to 2.7%). For Wave 2, none of the pre to post differences were significant in either the test or control sites.

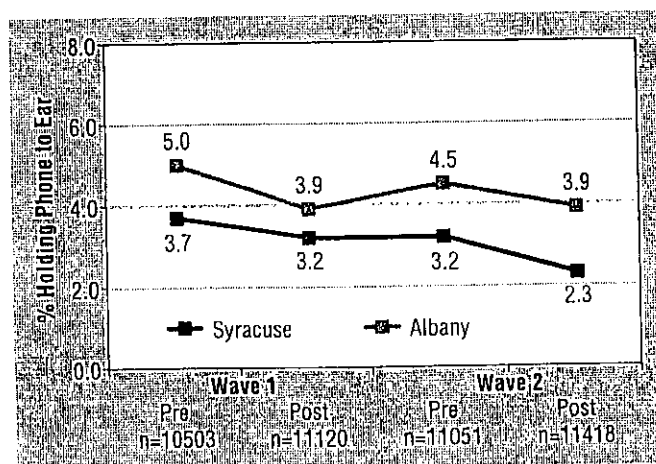
The percentage of people observed manipulating their phones decreased significantly in Wave 1 from pre to post. There was a larger decrease in the Hartford area (3.9% to 2.7%) than in the control area (2.8% to 2.1%). For Wave 2 there was another significant pre to post decrease without much of an increase between waves in the Hartford area (2.6% to 1.4%). There was no change in the control area for the second wave (2.6% to 2.6%).

### Observed Phone Use in New York

The results of Wave 1 showed a non-significant decrease in hand-held cell phone use in Syracuse going from 3.7% to 3.2% ( $p > .05$ ) (see Figure 3). There was an unexpected decrease in use in the control area that did reach significance. In Albany use started at 5.0% and dropped to 3.9%.

Wave 2 results were more in line with expectations. Between waves there was no increase in hand-held cell phone in Syracuse and use remained at 3.2%. After the second wave there was a significant drop in use to 2.3% ( $p < .01$ ). Use in Albany rebounded between waves and was 4.5% prior to Wave 2. There was a drop in hand-held cell phone use in Albany (to 3.9%) but this decrease was not significant.

Figure 3  
Observed Hand-Held Phone Use in New York



From the baseline (pre Wave 1) to the end of the second wave (post Wave 2) hand-held cell phone use dropped 38% (from 3.7% to 2.3%) in Syracuse compared to a 22% decline (from 5.0% to 3.9%) in Albany.

Drivers 25 to 59 accounted for most of the decrease in cell phone use in Syracuse in Wave 1, but not enough to influence the overall observation rate. None of the other age categories in Syracuse showed a decrease for this wave. The same age group was also the only significant decrease for the Albany

drivers in Wave 1. For Wave 2, this group was again the only age group showing a significant decrease in Syracuse. In Albany, despite no overall significant drop, the drivers under 25 showed a significant decrease in driving while using a hand-held phone.

During Wave 1, male drivers showed a significant decrease in driving while on a hand-held phone in Syracuse while women did not. This effect for men was also the only significant drop in Albany. In the second wave men again significantly reduced their use in Syracuse while women did not. Conversely, there was a small but significant decrease in use by women in Albany but not men.

Observations of phone manipulation (e.g., texting, dialing) significantly decreased ( $p < .05$ ) in Syracuse in Wave 1 (2.8% to 2.2%). There was also a decrease in Wave 2 (2.2% to 1.6%), but this decrease was not significant. The observed rate of manipulating a phone while driving was much higher in Albany than Syracuse. In both waves there was a significant pre to post decrease in observed phone manipulation in Albany (Wave 1: 6.3% to 5.3%, Wave 2: 5.7% to 3.0%). Both cities showed an overall decrease of 43% in observed phone manipulation from the baseline to the end of the second wave, with an absolute change of 1.2 percentage points in Syracuse and 3.3 points in Albany.

There were no significant changes in Syracuse in the percentage of drivers observed with hands-free headset. In both waves (pre and post) the rate was about 2% (ranging from 1.7% to 2.3%). Albany's rate of hands-free use was more variable ranging from 4.4% to 2.6%. There was a significant decrease between pre and post use rates during Wave 1 (4.4% to 2.8%).

### Self-Reported Cell Phone Use and Program Awareness in Connecticut

Respondents in Connecticut were aware of and knowledgeable about the program and enforcement. From pre to post in Wave 1, Hartford area respondents reported increased chances of getting tickets while there was no effect in the control area. In both Syracuse and the control site, Albany, respondents also reported hearing more general distracted driving information after Wave 1 than before. In Wave 1 there was a decrease in the percentage reporting that it is important for police to enforce the hand-held cell law in both Hartford and control areas, but much of the decrease was restored by Wave 2. There was a pre to post increase in the Hartford area in Wave 1 for reports of having ever gotten a cell phone ticket. Similarly there was a pre to post (Wave 1 only) increase in reports of getting a ticket in the past month (for the control area also).

During Wave 2 there was an increase in the percentage of respondents in the Hartford area who heard about enhanced police enforcement. There was no such increase during Wave 1, but there was an overall gain between the waves. There were no significant effects for the control area.

During Wave 1 there was actually a decrease in the percentage of people having heard about distracted driving in general (both areas) but in Wave 2 there was a large increase (pre to post) in recognition for the Hartford area (but not the control area).

Awareness of the *Phone in One Hand, Ticket in the Other* slogan started at 5% in the pre of Wave 1. Following the first wave, recognition rose significantly to 32%. There was also a significant increase in the control area but not of the same magnitude (5% to 11%). Wave 2 led to further increases in recognition in the Hartford areas (27% to 47%). There was no increase in the control areas (8% to 10%).

Recognition of other slogans was not as high. The other most recognized slogan in the Hartford area following Wave 2 was *I-Promise Not to Drive Distracted* which was recognized by 15% of respondents. A local TV station (WFSB) has been running messages with this slogan between enforcement waves. Ten percent of the respondents recognized *Hang Up or Pay Up*, an enforcement type distracter slogan not in use in the area. Recognition of Oprah Winfrey's *No Phone Zone* was at 8%.

There was an increase in Wave 1 for judgments of frequency of cell phone use while driving, with no effect for the control group. The effect dissipated by Wave 2 -- the Wave 2 pre and post measures were much lower than the post of Wave 1. There was also a significant increase in self-reported texting during the first wave in the Hartford area. During the second wave there was a significant decrease in reported use by the control area respondents.

### Self-Reported Cell Phone Use and Program Awareness in New York

Overall, Syracuse respondents knew about the enforcement and messaging campaign. Drivers in Syracuse reported having heard about the cell phone enforcement with significant pre to post increases for each wave. They also reported hearing about distracted driving (in general) more in the post of Wave 1 than in the pre of Wave 1 and this was also true in Albany. There was also an increase in self-reported tickets within the last month for Wave 1 in Syracuse. There was an increase in both waves for perceived strictness of police enforcement in Syracuse while there was a significant decrease during Wave 1 in Albany, the control site.

Unexpectedly, self-reported hand-held cell phone use increased from pre to post in Wave 1 in Syracuse. Albany's rates stayed the same. There were no changes in self-reported texting while driving.

Recognition of the main message, *Phone in One Hand, Ticket in the Other*, increased 32 percentage points in Syracuse (5% to 37%). The rates were flat in Albany, going from 4% to 5%.

Slogan recognition for Syracuse went from 5% to 21%. It is likely that recognition would have been even higher immediately following the campaign. Indeed, the recognition was

at 37% following Wave 1. Rates in Albany, the control site, stayed the same going from 4% to 5%.

Recognition of other slogans was considerably lower at the end of Wave 2 in Syracuse. For example *Hang Up or Pay Up*, (not in use in the area) was 11%. Eight percent of the respondents recognized Oprah Winfrey's *No Phone Zone*.

There was an unexpected increase from pre to post in the first wave in Syracuse respondents' judgment of how frequently they use a hand-held phone while driving, similar to the findings in Hartford. This increase was not present in Albany, and was not present in the second wave in either area. Self-reported cell phone use rates for both pre and post in the second wave were lower than the post in the first wave for Syracuse. Figures 4 through 8 show public awareness findings for Syracuse, Hartford, and the control sites over both waves.

Figure 4  
In the Past Month, Have You Seen or Heard About Distracted Driving in [Connecticut/New York]?

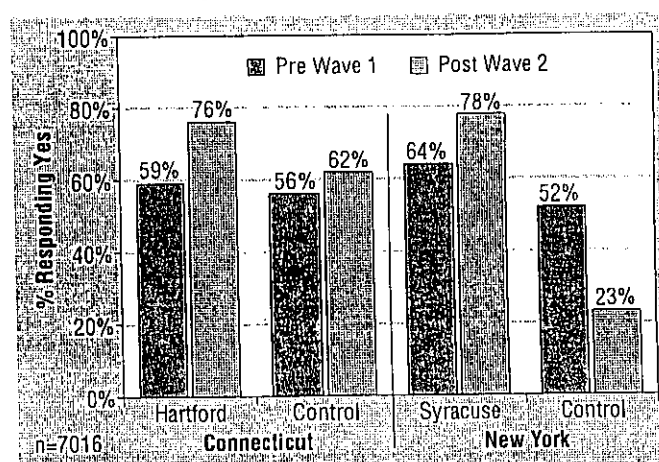


Figure 5  
Awareness of "Phone in One Hand, Ticket in the Other" Slogan in Connecticut and New York

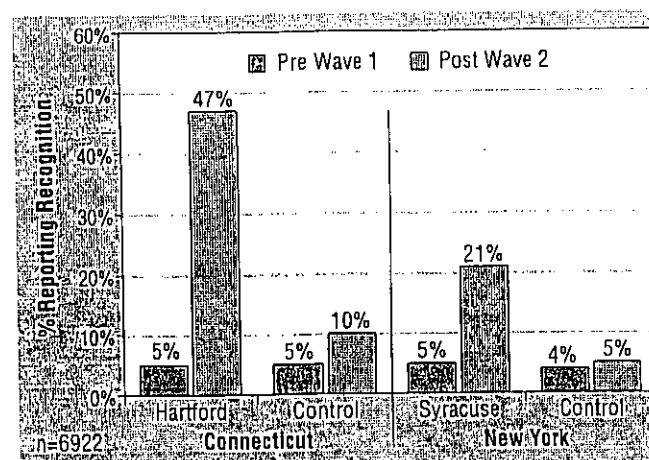


Figure 6

What do you think the chances are of getting a ticket if you use a hand-held cellular phone while driving?

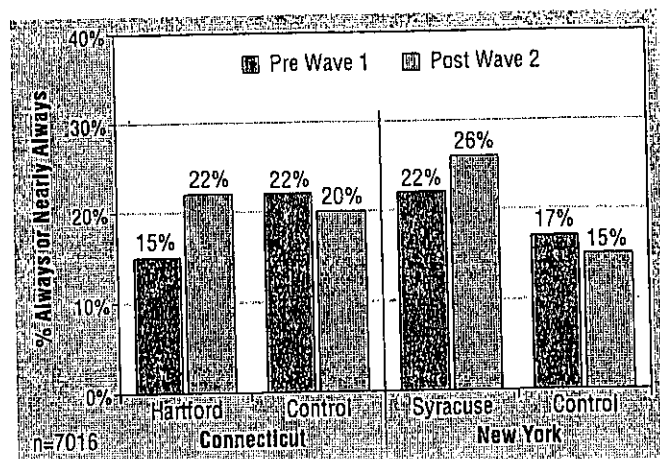


Figure 7

Strictness of Enforcement of Hand-Held Phone Law

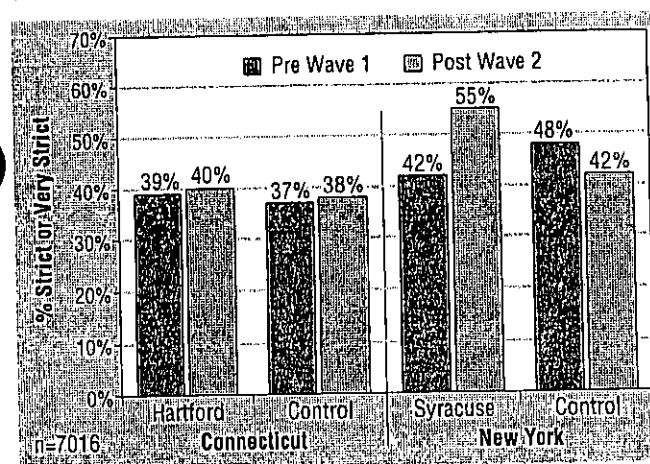
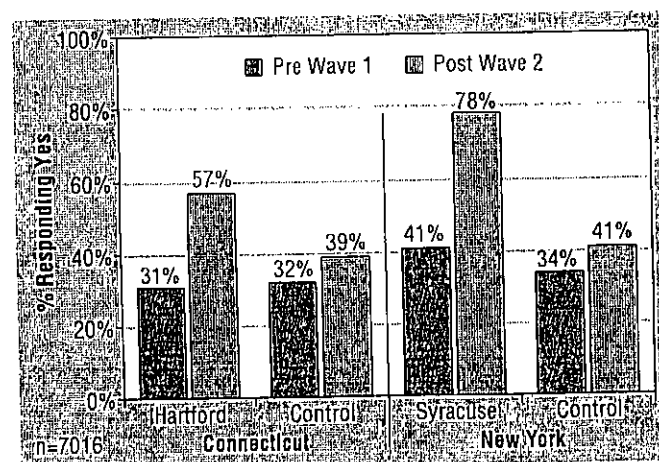


Figure 8

In the past month, have you seen or heard about police enforcement focused on hand-held cellular phone use?



## Discussion

The most apparent finding, from the first two waves of NHTSA's distracted driving demonstration programs in Syracuse and Hartford is that awareness about cell phone use and texting is remarkably high. About 6 in 10 in both communities had heard something about distracted driving, even before the new *Phone in One Hand, Ticket in the Other* advertisements aired. This most likely reflects the influx in media discussing the issue. Insurance companies, mobile phone providers, and safety organizations have been addressing the dangers of using a cell phone and texting while driving, especially for teens, and have sponsored advertisements on national television. State legislatures have passed texting and cell phone bans. The U.S. Department of Transportation held a summit in Washington, DC, in September 2009 bringing together over 250 researchers, government agencies, industry representatives, public advocates, and elected officials to discuss what could be done to reduce the preventable deaths and injuries that distracted driving is causing in America. The President issued an Executive order advising Federal workers to "put it down." In January 2010 Oprah started the *No Phone Zone* and on April 30, the Oprah Winfrey Show launched a "No Phone Zone Day" with a live TV broadcast, rallies in six cities – Atlanta, Boston, Detroit, Chicago, Los Angeles, and Washington – and a national public service announcement campaign.

Despite the national attention and motorists' beliefs that distracted driving by others is a dangerous activity, surveys show that motorists are willing to engage in the behavior themselves. Changing driver behavior presents a challenge, but high visibility enforcement campaigns are a proven countermeasure in a variety of traffic safety areas. The intent of a high visibility enforcement campaign is not to issue tickets. Rather, the intent is to deter drivers from engaging in that particular behavior in the first place. In other words, if drivers violate a particular law, there should be a high certainty that they will receive a ticket. While issuing one citation to a motorist may persuade that person to avoid that offense in the future (known as specific deterrence), highly visible enforcement seeks to have 100 or 1,000 other drivers know about that one citation so they choose to avoid that behavior (general deterrence).

The new slogan, *Phone in One Hand, Ticket in the Other*, proved effective in conveying the message of increased cell phone enforcement to the public. Nearly 50% of respondents in Hartford and 20% in Syracuse reported that they had seen and heard about the program after just the first wave of the program. People reported having heard about the enforcement, recognized the increased strictness of the police, and thought that their chance of getting a ticket if they used a hand-held cell phone increased. An interesting anomaly in the public awareness data is that self-reported use of a hand-held cell phone actually increased during the first wave, before finally decreasing at the end of the second wave. One

explanation is that drivers were becoming more aware of their cell phone use while driving because of the increased media. There was strong public support for the program, with 8 out of 10 drivers believing that it is important for the police to enforce the hand-held cell phone law.

Observed cell phone use decreased in both sites by the end of the second wave of the *Phone in One Hand, Ticket in the Other* demonstration program. Before the distracted driving programs began, observed cell phone use in Syracuse was about half that of the rest of the Nation and Connecticut was close to average. Both States have had hand-held cell phone bans while driving for some time – 2001 for New York and 2005 for Connecticut. After the second wave of the high visibility enforcement campaign, hand-held cell phone use decreased 38% in Syracuse (from 3.7% to 2.3%) and 58% in Hartford (from 6.8% to 3.1%). The laws alone may have served to keep these States at or below the national average, but the addition of high visibility enforcement and media emphasizing the enforcement drove the rates down even lower. High levels of national media and celebrity attention to distracted driving, such as by the *Oprah Winfrey Show*, may account for some of the high public awareness of the issue and for the steady declines in observed hand-held cell phone use in the control sites and among women in three of the five sites overall.

Unlike other periodic traffic safety campaigns, there was no rebound or ratcheting effect during the period between waves where the observed behavior reverted close to previous levels. It remains to be seen whether this trend will continue throughout the remaining two waves, but it is promising and suggests that social norms towards phone use and texting are shifting towards finding it as unacceptable as driving while impaired by alcohol.

The law enforcement agencies in both sites exceeded program expectations. Ticketing rates of about 20 citations per 10,000 population are common benchmarks for effective belt enforcement programs, a rate deemed sufficient to change motorists' behaviors. Enforcement rates for the distracted driving demonstration programs in Syracuse and Hartford were more than five times that benchmark. Officers reported that they were enthusiastic about the dedicated advertising that focused on their increased enforcement. They reported that coordinated enforcement activities with neighboring law enforcement agencies expanded the visibility of their enforcement efforts. They reported positive public reactions -- the general theme was that "it was about time."

There are challenges to enforcing hand-held cell phone and texting bans. The most obvious challenge is the difficulty in observing the offense. Syracuse law enforcement officers preferred roving patrols and found higher observation locations or taller vehicles like SUVs useful in seeing down into a pas-

senger vehicle to observe texting offenses. Hartford officers found the spotter, or stationary, strategy effective but both chose strategies that suited their community and resources and both used other strategies as well. Because this was a demonstration program, additional reporting paperwork was required. The Hartford officers felt that their post ticketing paper work was more time consuming than a seat belt ticket but they are working to improve the process in time for the third wave.

There are two additional waves of enforcement planned in Hartford and Syracuse. The third wave will begin in October 2010; the fourth and final wave will occur in the spring of 2011. At the conclusion of the fourth wave, NHTSA's Office of Behavioral Safety Research will prepare a final report detailing all four waves.

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U.S. Department of Transportation  
**National Highway Traffic Safety  
Administration**

Bismarck Tribune

THURSDAY, OCTOBER 7, 2010

# Opinion

"Seeking to find and publish  
the truth, that the people of a  
great state might have a light by  
which to guide their destiny."

— Stella Mann,  
Tribune publisher, 1939

ESTABLISHED IN 1873

~~FROM~~ BOSTON HERALD 10



# Don't Text and Drive

## Have Bison pride

EMILY KRIER  
LOGAN BUHR  
JUSTIN JERDIE  
CAMILLE FJELD  
KYLE HANSON  
DENISE HAGEN  
CALLI CEBULSKI  
CHAD DZIENGEL  
DEVAN MCCARTHY  
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CHRISTINA HAWLEY  
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CASEY KRAFT  
LAURA MUZ  
CASSI WIKI



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## Introduction

As upper level communications students enrolled in a Public Relations Campaigns class, we were tasked with developing a campaign pertaining to texting and driving. From that single idea the class established a comprehensive plan to inform students at North Dakota State University (NDSU), the largest university in the state, about the dangers of texting and driving.

It is clear that texting and driving is dangerous and a rapidly growing problem in the United States. When sending a text, drivers spend nearly five seconds looking at their phone and not at the road<sup>1</sup>. This is enough time to travel the length of a football field at typical highway speed. In a survey done by Nationwide Insurance, eight of ten people polled said they would like some sort of regulations and would support a ban on texting while driving<sup>2</sup>.

We posed a simple question to students at NDSU: "If you have bison pride, will you pledge to not text and drive?" Focusing on the negative consequences of texting and driving as well as the unique conditions in which residents can drive in North Dakota, our campaign provided a very real and local value to the community of Fargo-Moorhead.

With 91.4% of NDSU students surveyed admitting to texting and driving<sup>3</sup>, and the fact that texting and driving increases your collision rate by 23 times<sup>4</sup>, the team had a substantial opportunity to improve the safety and well being of NDSU students.

Utilizing the state and local momentum of grassroots campaigns and legislative action, we created a public awareness and social action campaign targeting NDSU students. The scope of this campaign has the potential to be widespread not only throughout NDSU's community, but also throughout Fargo, its surrounding area and North Dakota.

## Campaign Summary

The goal of the *Have Bison Pride, Don't Text and Drive* campaign was simple; to educate students about the dangers of texting and driving and to encourage students to take a pledge to not text and drive on their way home for the upcoming holiday season. We worked toward our goal through a multi-faceted communication approach incorporating principles used in public awareness, social action, and educational campaigns.

After research and several large group discussions, our team determined that while the bad habits formed as a young driver do play a large role in how we drive throughout our lifetime, our campaign would be most effective if targeted towards our peers. This approach allowed our team to create a strong presence around campus that focused on educating NDSU students through messages designed for our age group.

Our primary research indicated that Fargo's driving culture and policies coupled with North Dakota's largest university (NDSU) creates an environment that has an audience in need of education regarding the dangers of texting and driving. Our campaign communicated with students in ways that fit student's lifestyles. Students received our message through social media websites, special events, and messages disseminated throughout campus.

The *Have Bison Pride, Don't Text and Drive* team used expert's opinions and testimonials to help shape the messages presented throughout the campaign. Our team of experts included law enforcement from North Dakota and Minnesota, the Director of Public and Governmental Affairs with AAA of North Dakota, as well as members of the campaign team. Each expert was informed of our campaign's goals, target audiences, and key messages.

Our research indicated that a significantly larger portion of students recognized the dangers of texting and driving than those who said they do not text and drive. As a result, our team relied heavily on a visually distinctive design placed in a variety of mediums and a word of mouth campaign.

To further promote the campaign, our team hosted a booth in two high traffic locations on campus to both inform students of the basic information about texting and driving and to receive more pledges. In addition to a display board presenting information discovered through both primary and secondary research, each booth distributed "pledge" stickers to those who pledged. Midway through the campaign we hosted an educational special event featuring a public service announcement and opinion leaders which informed over 140 students about the dangers of texting and driving.

As a final way to obtain large amounts of pledges, we enacted a "classroom blitz" in which members of the campaign team went to 16 classes on campus to show a short presentation on the dangers of texting and driving as well as to engage students in a question-answer session with prizes.

The overall campaign garnered nearly, 372,878 individuals through media impressions, and obtained 1,881 pledges.

### Situation Analysis

The United States is currently riding on a wave of legislation about distracted driving, with the issue of texting and driving taking center stage. Thirty states as well as Washington, D.C. and Guam, have enacted laws prohibiting texting while driving<sup>5</sup>. In 2010 alone, 11 states have enacted laws banning texting while driving<sup>6</sup>. As a result, high profile celebrities such as Oprah Winfrey have taken roles as advocates against texting and driving by implementing her *No Phone Zone* campaign<sup>7</sup>.

North Dakota, a state characterized by long harsh winters, and summers filled with road construction, presents individuals with a unique scenario in regards to driving. In addition to its unmatched road conditions, drivers may receive their license at age 14 years and six months of age; lower than any other state in the union.

Of all North Dakota cities with a population over 50,000 people, Fargo, the state's largest city, is the only one that has not imposed a ban on texting and driving<sup>8</sup>. As the largest higher educational institution in the city of Fargo a significant portion of the population is enrolled at North Dakota State University. The total undergraduate enrollment at the beginning of the fall 2010 semester was over 12,200 students<sup>9</sup>.

In a study conducted by our research team, of 702 NDSU students surveyed, 91.4% admitted to texting and driving<sup>10</sup>. This percentage is consistent with the national average<sup>11</sup>. These findings have presented a great opportunity to inform students as well as to prompt a call to action to help improve the safety of all those in the community of Fargo.

Our campaign not only focuses on informing people about the dangers of texting and driving, but also encourages students to take action and pledge to not text and drive.

### SWOT Analysis

#### *Strengths*

- The national media has already placed texting and driving on to the nation's agenda as a hotly contested issue.
- Both the national and local media have provided extensive coverage of the issue.
- 82% of NDSU students surveyed believe that a person is distracted when they text while driving<sup>12</sup>.
- 75.6% of students surveyed said they do not feel safe in a vehicle while the driver is texting while driving<sup>13</sup>.

### *Weaknesses*

- While students may take the pledge to not text and drive, this does not guarantee that this pledge will be followed through.
- Due to time constraints, primary survey research is based on self reports, which may cause inaccuracies.
- One major concern of readers of the Fargo Forum's article published in November 2010 was that if legislation is passed banning texting while driving, there will be an adverse effect because drivers will attempt to be more discreet while texting<sup>14</sup>.
- The campaign will take place during a limited time frame which narrows both the reach and frequency of our message delivery.

### *Opportunities*

- The Fargo Forum featured an article about the facts and dangers of texting and driving, placing this issue into the dialogue of the residents of Fargo<sup>15</sup>.
- The media plan utilizes multiple channels to inform students including: print, social networking, special events, radio, and broadcast and non-traditional channels around NDSU's campus.
- North Dakota is the only state where students are eligible to receive their drivers license at 14 years and 6 months of age. In addition, over half of North Dakota State University students surveyed said that they had their first cell phone before the age of 16.
- This campaign provides an opportunity to promote legislation against texting while driving in the city of Fargo as well as the state of North Dakota.
- As students, we have designed the campaign with students in mind to present the ideas in new, innovative, and interactive formats.

### *Threats*

- The topic of texting while driving has taken a prominent role in the national agenda, which can cause people to ignore the overall message of our campaign.
- Due to the amount of information given to students on a daily basis, many students choose to block out the message that we are attempting to convey.
- The dates of the campaign's execution fall during the holiday and finals season for students, which can result in a lack of interest.
- Due to the size of our class, one consistent message was difficult to achieve. With so many people working towards one overall goal, it was hard to achieve one unified voice.

### *Research*

The *Have Bison Pride, Don't Text and Drive* team conducted extensive primary and secondary research about the dangers of texting and driving. Secondary research was conducted through the consultation of journal articles

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and various studies about texting and driving. It was also done through on campus resources to determine key demographic information about NDSU undergraduate students. Through this secondary research the team was able to determine pertinent information about the current trends and legislation regarding texting and driving.

In addition to the in-depth secondary research, a variety of primary research techniques were utilized to gain information more applicable to the local environment. Two focus groups, 42 student interviews, a survey (yielding 702 participants), and an interview with a local police officer were all vital to creating the message that was distributed throughout the campaign. Each of these sources indicated that texting and driving is a problem that NDSU students are concerned about.

### *Focus Groups*

Prior to the execution of the campaign, two focus groups consisting of four people each were conducted. Participation was limited to NDSU students who hold a valid driver's license, drive a vehicle, and use a cell phone. Both focus groups were asked the same questions associated with texting and driving.

Throughout the focus groups, several themes emerged:

In an attempt to minimize danger, respondents stated that they often held the phone near the steering wheel so they could see the road while texting.

Respondents said they felt more comfortable texting and driving if they were at a stoplight, on the interstate, or on a straight road.

Despite each individual's texting habits, all respondents said that they were uncomfortable in a vehicle when the driver was texting and the vehicle was in motion.

Legal punishment would deter the respondents from texting and driving but they did not feel that the same would be true for their peers.

### *Surveys*

The team conducted a survey of 702 NDSU students (46.2% male, 53.8% female). Respondents were asked several questions, including; "Have you ever texted while driving?" An overwhelming percentage (91.4%) answered yes to the question. Of those that answered "yes", 29.3% agreed that they text every time they drive, and 82% of respondents agreed that they are distracted when they are texting and driving. Much like the focus group, a large percentage of students, 75.6%, agreed they do not feel safe when riding in a car with someone who is texting and driving.

### *Interviews*

In addition to focus groups and surveys, 42 personal interviews were conducted. Over half of the interviewed students admitted to texting and driving and one in 18 respondents said that they had been in an accident due to texting and driving. The frequency of texting and driving ranged from once every few days to texting each time they drove.

All of the primary research findings were consistent with the nationwide averages and information found through secondary research.

## Content Analysis

A significant portion of the research conducted consisted of analyzing media content. The examination of media trends coupled with in-depth research helped to formulate key messages, goals, and objectives which led the team through the rest of the campaign.

## Target Audience

The breadth and depth of the campaign was a major consideration when determining the campaign's target audience. After careful research, the target audience was chosen, and from that decision, the campaign's messages were formed.

### *Primary Audience*

After thorough consideration, NDSU students, ages 18-24 were identified as our primary audience. It was understood that while students recognize the dangers of texting and driving and that it causes distractions, many continue to do so each day. Our team posed a call to action for students by encouraging them to make a positive change in their everyday behavior.

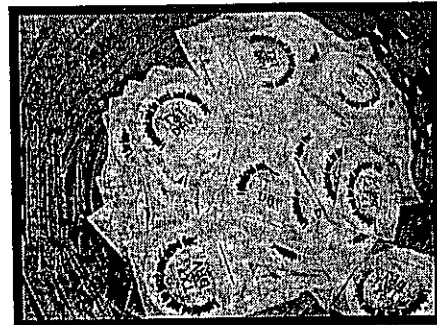
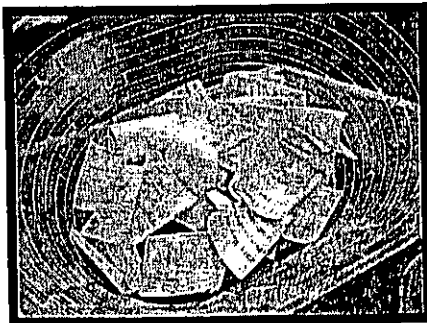
### *Secondary Audience*

The breadth of our campaign was much wider than just NDSU students. The campaign's secondary audience included NDSU faculty and staff, students not included in the target age range, and others who consume media through channels in which our message was being relayed (i.e.: social networks, The Spectrum, Bison Illustrated, potential television, radio, and newspaper coverage of campaign news and events).

## Conclusion

The methods of research chosen for the campaign allowed members to better understand the necessary information to be presented in the *Have Bison Pride, Don't Text and Drive* campaign. The findings from both primary and secondary research helped to formulate a comprehensive strategy as to the most effective means by which to reach our target audience.

The campaign aimed at educating NDSU students about the dangers of texting and driving as well as to encourage action by having students pledge to not text and drive.



## Goals and Objectives

Goal: To educate NDSU students about the dangers of texting and driving.

Objective #1: Inform 5,000 NDSU students about the dangers of texting and driving from November 30 to December 8, 2010.

### Tactics

- Host information tables in the highly trafficked Memorial Union and Residence Dining Center on four days during the campaign.
- Create a presence in the residential halls by displaying posters, distributing mail stuffers, and being featured in hall newsletters.
- Distribute information to on campus and local media outlets to further the campaign's message. These media outlets include: the Spectrum, Bison Information Network (BIN), the Fargo Forum, GoRadio, Bison Illustrated, and It's Happening at State.
- Host a special event on December 1, featuring speakers from North Dakota and Minnesota law enforcement and the Director of Public and Governmental Affairs with AAA of North Dakota
- Disperse promotional items such as pledge stickers and decals featuring the campaign's logo.
- Utilize the table tents located in the food court of the Memorial Union to display information about the dangers of texting and driving.
- Produce and distribute advertisements, posters, mail stuffers, and stickers.
- Execute a classroom blitz on November 30 and December 1 to place team members into large classrooms to do short presentations about the dangers of texting and driving as well as gain more pledges.
- Utilize social media sites such as Facebook and Twitter.
- Display information on the informational televisions in the Memorial Union.

Objective #2: Collect 3,000 pledges from students to not text and drive on their way home for the holidays.

### Tactics

- Host information tables in the highly trafficked Memorial Union and Residence Dining Center on four days during the campaign.
- Host a special event on December 1, featuring speakers from North Dakota and Minnesota law enforcement and the Director of Public and Governmental Affairs with AAA of North Dakota
- Execute a classroom blitz on November 30 and December 1 to place team members into large classrooms to do short presentations about the dangers of texting and driving as well as gain more pledges.
- Create and utilize a Facebook page in which each "Like" is counted as one pledge.

## Results

### Goal #1: Exceeded

#### Objective #1: Exceeded

Through advertisements in both the Spectrum and Bison Illustrated, the team achieved 127,000 media impressions. This is much higher than the objective of informing 5,000 NDSU students about the dangers of texting and driving.

#### Objective #2: Not Met

Throughout the campaign, the team collected 1,881 pledges from students, missing the objective by 1,119 pledges. This was not from a lack of interest. The short time frame presented us with our largest problem. Had the campaign been extended the team would have easily met the objective. Another contributing factor was the long holiday weekend coupled with a blizzard at the beginning of the campaign. This caused a shortage of students on campus during a key moment in the campaign.

Another contributing factor to the shortcoming of pledges was the times and frequency of the pledge booths. Each feel on the same day and at the same time. This resulted in encounters with the same students several times instead of a wider range of students.

## Event Summary

Throughout the campaign execution weeks, the team reached out to inform students about the dangers of texting and driving in both direct and indirect ways. Each student encountered was encouraged to take the pledge to not text and drive and to attend a special event featuring expert speakers from around the Fargo-Moorhead community.

The goal of the pledge booths were to make personal contact to inform students about the dangers of texting and driving as well as to obtain pledges. To get students involved, the two pledge booths were staffed with a minimum of three team members at all times with the intention of making contact with each student that walked by the locations. The booths were strategically located in both the Memorial Union and the Residence Dining Center to attract a variety of students. A variety of tactics were used to attract students to our booth, including; posing a question, answering questions, inquired about holiday plans, and informed of prizes that would be distributed throughout the duration of the campaign. All tactics were presented in a positive manner to attract students rather than to deter them. The pledge booth was designed to be interactive and featured a trivia board, pictures, and statistics gathered through research. The top priority of the pledge booths was to gain pledges to meet the campaign objectives and to educate students of the dangers of texting and driving.



## Media

- Throughout the duration of the campaign, several methods of communicating with the public were enacted. A media kit highlighting the campaign and the events set to occur throughout the execution was distributed to media outlets throughout the NDSU and Fargo-Moorhead communities. The media coverage included:
- A one column article in the Sunday edition of the Fargo Forum with a circulation of 57,387. The article was presented in a neutral tone and introduced the campaign and its goals to the community. The article also appeared on in-forum.com which generates 350,000 visitors per month.
- A newscast on WDAY, at 5:00 and 10:00 p.m. The 5:00 p.m. viewership is 14,000 and the 10:00 p.m. viewership is 50,000. The total viewership equates to 64,000. WDAY-TV reaches the southern portion of the designated market area including areas in North Dakota, South Dakota and Minnesota reaching 18 counties and 135,500 television households. The broadcast was neutral and focused on the awareness event held on December 1, 2010.
- A front page article in The Spectrum with a circulation of 7,000. The Spectrum is distributed throughout the state of North Dakota and to senators in Washington. The article was written in a neutral tone and detailed the awareness even on December 1, 2010.
- A letter to the editor appeared in the Spectrum addressing the campaign as a whole and its final outcome.
- Throughout the campaign the PSA's that were read on Go Radio stations garnered a listenership of 119,000. Go Radios reach includes 62% of the metro population. The PSA's were presented in a neutral tone and highlighted the pledge booths, the awareness event and facts regarding the dangers of texting and driving.
- An editorial was submitted to "It's Happening at State" and is scheduled for the January 12, 2011 issue. "It's Happening at State" is a publication designed for faculty and staff. It is distributed to 1,800 campus personnel and approximately 850 off-campus retirees, alumni and friends. The editorial was submitted in a neutral tone and discussed the overall campaign.
- A broadcast was aired through BIN and Cable One Network from Friday, December 3- Sunday, December 6. As of December 13, 2010 the broadcast had 191 YouTube viewers. The broadcast was a neutral tone and covered the event on December 1, 2010.
- Two ad placements appeared in the November and December issue of Bison Illustrated and also appeared on their website. Bison Illustrated averages 45,000 to 60,000 readers per issue with a distribution of 17,000 to 20,000+ per issue. Distribution covers the state of North Dakota and eastern Minnesota. The November ad focused on the pledge booths and awareness event and the December ad was an informational ad regarding the dangers of texting and driving.
- A display ad appeared on the Memorial Union eight Televisions from November 28, 2010 - December 4, 2010. About 12,000 people travel through the Memorial Union each day for a potential 100,000 views. The ad promoted our campaign, pledge booths and the event.

## Event Promotions

Strategically placed promotional advertisements were distributed throughout campus. These included:

- Advertisements run in *Bison Illustrated*. (A monthly publication highlighting NDSU athletics)
- Flyers distributed to all mailboxes in residence halls.
- Social media outlets such as Facebook and Twitter.
- Large flyers in most buildings on campus.
- An advertisement on the information televisions in the Memorial Union for seven days.
- Table tents in the Memorial Union food court.
- A cage prominently displaying all of the pledges received.

## Conclusion

NDSU student's knowledge of the dangers of texting and driving prior to the *Have Bison Pride, Don't Text and Drive* campaign was very low. Now, through the team's use of strategic communication and well planned events, many students have had the opportunity to learn more about this very salient topic. Through our simple question, "If you have Bison pride, will you pledge to not text and drive," our team effectively engaged a growing student body into an active discussion.

Through extensive research and ample planning, our campaign educated 1,881 NDSU students. The campaign also earned 372,878 media impressions via local and on campus television, newspapers, and radio. In addition to traditional media outlets, the team utilized social media, the most rapidly growing method of reaching audiences. Both Facebook and Twitter pages were launched and frequently updated to include facts, information, and YouTube videos about texting and driving.

Our campaign created awareness and sparked conversation among students about the dangers of texting and driving. Its impact has enacted change on both a personal and cultural level in just a few short weeks. Looking out for the herd is important to NDSU. *Have Bison Pride, Don't Text and Drive*.

<sup>1d</sup>Richtel, M. (2009), July 29). In study, texting lifts crash risk by large margin. *The New York Times*, <http://www.nytimes.com/2009/07/28/technology/28texting.html?r=1&>

<sup>2</sup>*Driving while distracted: know the statistics*. (2010). Retrieved from <http://www.nationwide.com/newsroom/dwd-facts-figures.jsp>

<sup>1,9,12,13</sup>[Texting While Driving]. Unpublished Raw Data

<sup>5a</sup>*Cell phone and texting laws*. (2010). Retrieved from [http://www.ghsa.org/html/stateinfo/laws/cellphone\\_laws.html](http://www.ghsa.org/html/stateinfo/laws/cellphone_laws.html)

<sup>7</sup>Oprah's no texting campaign. (2010). Retrieved from <http://www.oprah.com/oprahshow/End-Distracted-Driving/pring/1>

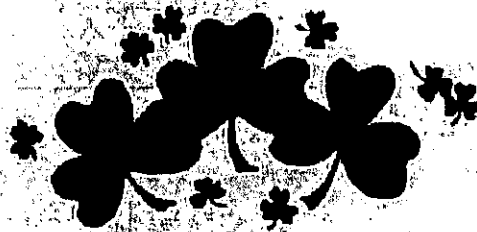
<sup>8</sup>Associated Press, . (2010, October 28). Bismark bans texting while driving. *Fargo Forum*, [http://www.inforum.com/event/article/id/296294/publisher\\_ID/1/](http://www.inforum.com/event/article/id/296294/publisher_ID/1/)

<sup>9</sup>North Dakota state university-main campus. (2010). Retrieved from <http://northdakota.stateuniversity.com/>

<sup>11</sup>Hans, S., & Masis, J. (2009). Texting while driving: the new drunk driving. *Christian Science Monitor*, (11/5/2009), 1.

<sup>14</sup>McClatchy newspapers, . (2010, September 29). Crashes increase after texting bans, study says. *Fargo Forum*, pp. A11-1

<sup>15</sup>McClatchy newspapers, . (2010, September 29). Teens think drunken driving more dangerous than texting. *Fargo Forum*, pp. A11-1



# 3

**TESTIMONY IN SUPPORT OF HB 1195**  
**Senate Transportation Committee**  
**March 17, 2011**

Chairman Lee and Members of the Senate Transportation Committee:

My name is Patrick Ward. I am an attorney in the Bismarck law firm of Zuger Kirmis & Smith. I represent the Property and Casualty Insurance Association of America, State Farm, American Family, and Allstate in support of the bill. PCI is the largest property and casualty insurance trade association in the country and has within its membership several North Dakota domestic insurance companies which I also represent. PCI is composed of more than 1000 member companies, representing the broadest cross section of insurers of any national trade association. Your North Dakota Domestic property and casualty companies include Nodak Mutual, Center Mutual, Hartland Mutual, and Dakota Fire, as well as several life companies. We urge a Do Pass on HB 1195.

We support legislation intended to ban or limit the use of personal electronic devices for reading or writing messages, or accessing the internet while driving, with reasonable exceptions for emergency situations. Exceptions should also include commercial vehicle safety and security systems as well as navigation devices used to aid in the safe operation of the vehicle.

In recent years there has been a boom in text messaging or the use of a handheld device to send and read written messages. The nature of text messaging requires that the driver take his or her attention off the road and put it

to the device which they are using to read or write the message. A recent study of professional truck drivers by the Virginia Tech Transportation Institute showed that the risk of crash or near crash event while writing or reading a text message was 23.2 times higher than nondistracted driving. Text messaging is currently banned for all drivers in 30 states and the District of Columbia and for novice drivers in an additional 8 states. In addition several cities and towns including large cities like New York and Chicago, as well as smaller cities in North Dakota like Bismarck, have banned texting while driving. Most of those states provide for primary enforcement.

One recent survey indicated that many people report texting while driving.

Young drivers ages 16 to 24 are much more likely to do so than other drivers. A 2009 IIHS survey found that 13 percent of drivers of all ages have texted while driving and this jumps to 43 percent among 18-24 year olds. Similar results were found in other studies. Some say just ban the young drivers from texting. We believe this should apply to all drivers. For many of us, reading small print becomes more difficult as we age making it even more difficult to text and drive. Some people may think they can do it safely. I can show you a video of two NASCAR drivers trying it and even they could not.

Those of you who have tried it, will know that the amount of time necessary to send a text requires you to take your eyes off the road long enough that you may drift into another lane or not see a vehicle in front of you slowing down or stopping, or even worse a pedestrian or child run out into the street.

States that have outlawed texting have seen a decrease in the number of drivers who text while driving as a result of such legislation. While it is true that some may continue to do so in spite of the enactment of such a law, a significant percentage of responsible drivers and law abiding citizens will be much less likely to do so.

Since Bismarck banned texting, I have learned to put my phone on silent or shut it off when I get in the car. I find I enjoy not being distracted and I still get all my messages and return all my calls when I get to where I am going. I am enjoying the freedom from my Blackberry. Driving is back the way it was the first 30 years I had my license, without this dangerous distraction. Nothing is as important as safety!

Please vote Do Pass on HB 1195.

Mr. Chairman, members of the committee, my name is Carrie Sandstrom and I'm a junior at Century High School. I'm also an active member of SADD, or Students Against Destructive Decisions.

As one myself I know that most teens do the majority of their communication through texting, emailing, and Facebook. A phone has gone from being a toy or accessory to something essential for staying connected and in tune with the fast paced society we live in. Teens' phones go everywhere with them. However, as teens get their licenses and get behind the wheel, they're bringing their phones there too- mixing inexperience with distraction. In the group of individuals who experience the most crashes on our roads, cell phones are a catalyst for disaster.

Sending electronic messages while behind the wheel causes the individual to look away from the road, think about things other than driving, present similar driving patterns to those driving under the influence, and put everyone on the road, including themselves, at risk.

While some may argue that they can text without looking, myself included, even I can't claim the ability to text without using my hands, nor can I steer the car without my hands. Distraction is inevitable.


This bill makes it clear that this type of risky behavior behind the wheel is not acceptable and will not be tolerated. With the rule of the law enforcing this common sense measure teens and adults alike will put the phone down while driving. Before regulations were passed in Bismarck I texted regularly while driving even though I knew my parents didn't want me to. Once the regulations were passed I put the phone down and others did the same. Please, for the safety of teens on the road and the individuals they share it with I urge and affirmative vote.

## IN SUPPORT OF HB 1195

Chairman Lee, members of the Senate Transportation Committee, my name is Dale Haake. I am the Director of Casualty Claims for Nodak Mutual Insurance Company, whom I also represent. I am here today to speak in support of HB 1195.




I believe this to be a clean and well written bill which speaks directly to the specific activity of texting, which is well known to be dangerous both to the person engaged in the act and also to all others in their close proximity. There are, however, those who speak against this bill, saying that it is unenforceable, or that the youth of today are so skilled in texting that they really are not distracted. In response, I say that we all know certain people who appear very skilled at driving while intoxicated, yet we are not about to say that doing so should be legal. It still remains unacceptable behavior, and the same holds true for texting.

We may not be able to enforce such a law to a high degree, just like we have difficulty enforcing open container laws unless an accident or some other behavior draws it to an officers attention. However, by taking a stand on the issue and making it illegal, we set the standard for acceptable behavior. Surely some people will violate this law, just like some violate the open container laws. All the same, with it being clearly illegal, the attitudes of society, and eventually the behavior of society, will begin to change, just like it has changed regarding driving under the influence.



To do nothing, leaving texting while driving legal, is to put a stamp of approval on such behavior. I therefore ask that you vote **“DO PASS”** on HB 1195.

Thank you.



Jay Godda #6

# DISTRACTED DRIVING



**State Farm**

In August 2010, State Farm Insurance Company's Strategic Resources Department conducted an online survey to examine drivers' attitudes and behaviors related to distracted driving. This survey was the second wave of a study first conducted in August 2009. Feedback was also obtained from the State Farm Consumer Consultants proprietary online community. This report highlights results from this research.

**As in 2009, drivers were more likely to talk on a hand-held cell phone than to text message while driving; younger drivers were more likely than older drivers to engage in both of these activities.**

Sixty-two percent of drivers reported that they talked on a hand-held cell phone while driving.

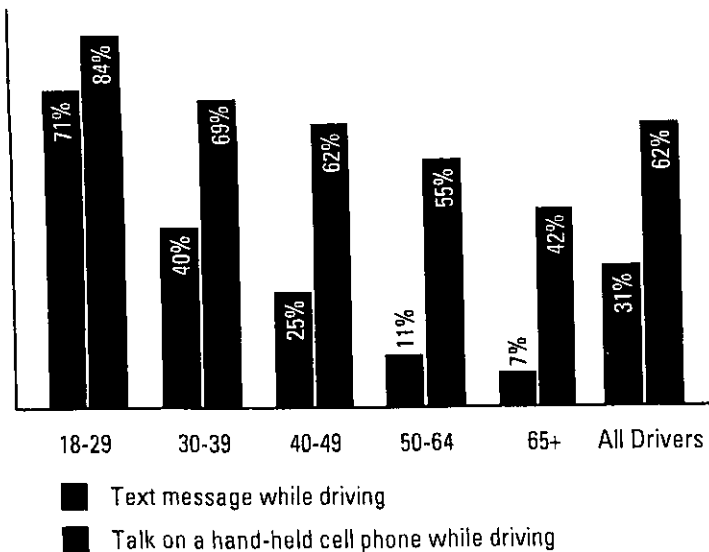
Twenty-three percent of drivers read, and 16 percent responded to, text messages "frequently" or "sometimes" while driving.

More than 70 percent of drivers in the youngest age group engaged in text messaging while driving, and more than 8 out of 10 drivers in this age group talked on a hand-held cell phone while driving.

Drivers listened to directions from a navigation system/GPS, used an iPod or Mp3 player, and accessed the Internet on a cell phone while driving significantly more in 2010 than in 2009.

**Percentage of Drivers Who Talk on a Hand-Held Cell Phone and or Text Message While Driving**

n=899\*



\*Of the 1,005 total respondents, these are respondents who had a valid drivers license, owned a cell phone, and drove between 1 and 80 hours per week. Driving was defined as any time the car was en route to a destination, including being stopped in traffic or at a stoplight.

**Activities Drivers Engage in While Driving**

	All Drivers		Drivers 18-29	
	2009 n=851*	2010 n=899*	2009 n=194*	2010 n=202*
Talk on a hand-held cell phone	65%	62%	78%	84%
Text message	31%	31%	71%	71%
Listen to directions from a navigation system/GPS	41%	47%	57%	64%
Program a navigation system/GPS	30%	33%	54%	62%
Use an iPod or Mp3 player	27%	32%	58%	64%
Read e-mail on cell phone	15%	17%	32%	37%
Access the Internet on cell phone	13%	17%	29%	43%
Respond to e-mail on cell phone	12%	12%	27%	26%
Read Social Media Networks	9%	11%	21%	28%
Update Social Media Networks	9%	8%	20%	23%

## Online Consumer Comments

"I know how dangerous this is and I see on the news a lot – how texting gets people injured or killed and I do not want this to happen to my kids, myself, my husband or anyone that I know. Any measures that can prevent this I support wholeheartedly."

"Doing these activities while driving is extremely distracting and I am always fearful I will be hit by someone who is not paying attention to the road. These types of laws are necessary to discourage people from doing distracting activities while driving."

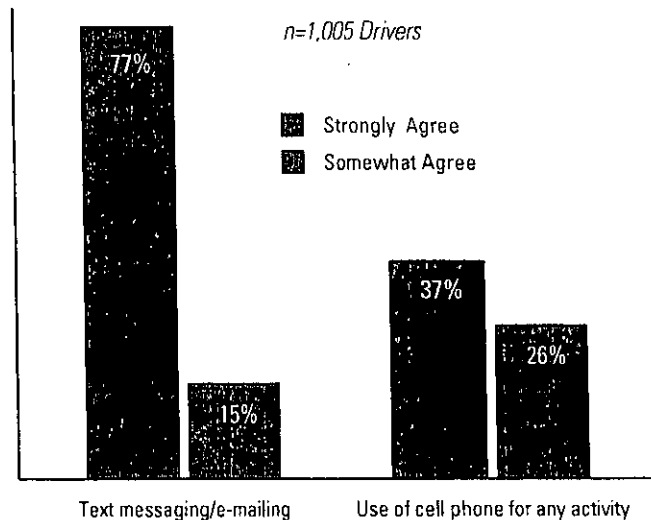
"If [technology] could ban text messages only, I would be okay with that. Text messages are much less necessary than phone calls. However, how could one assume it would ban them in non-emergency situations only? How can the technology in a car KNOW whether it is an emergency or not? That doesn't make any sense."

"There are certain situations that people need to use their cell phone, so restricting all cell phone activity won't work. People may have witnessed an accident, need directions to get to a location, having an emergency situation."

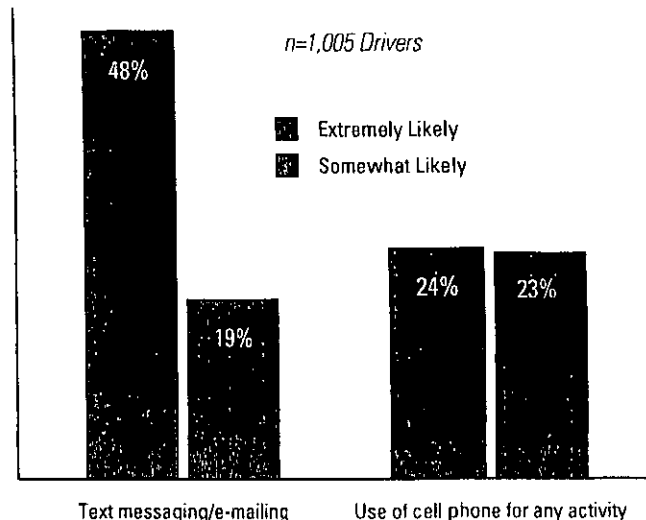
## Drivers favored laws, regulations, and technology that prohibit text messaging while driving.

As in 2009, drivers were more supportive of legislation prohibiting text messaging/e-mailing while driving than they were of legislation prohibiting other cell phone use.

### Do you agree or disagree with a measure that would prohibit people from text messaging/e-mailing and/or using a cell phone for any activity while driving?



### How likely are you to support technology that would prohibit using a cell phone for any activity or prevent receiving/responding to text messages while driving?

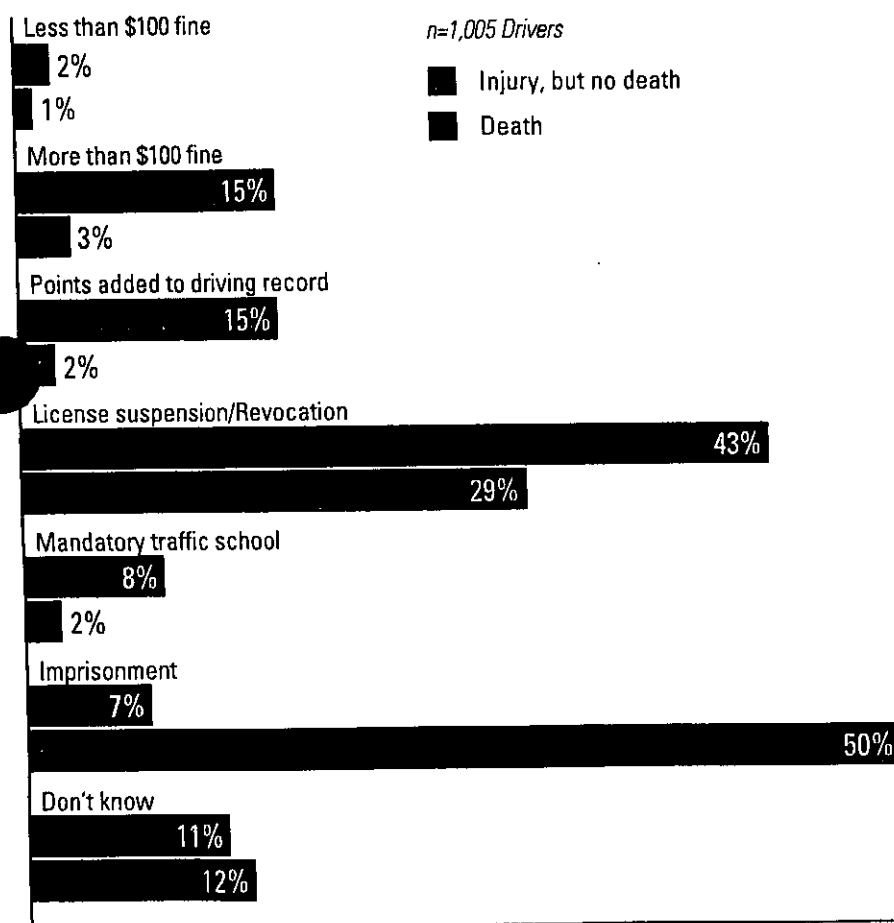


## Drivers favored harsher penalties for accidents involving a cell phone that resulted in death.

More than 40 percent of drivers reported that license suspension/revocation is an appropriate penalty for a cell phone-related accident resulting in injury, but no death. This is a significant 11 percentage point increase from 2009.

Half of drivers felt that imprisonment was the appropriate penalty for a cell phone-related accident that resulted in death.

### What is the appropriate penalty for the driver who caused an accident while using a cell phone?



#### Topics Introduced in 2010:

The majority of drivers agreed with laws intended to specifically prohibit young drivers from using hand-held cell phones to make/receive calls (90%) or to send/receive text and e-mail messages (94%) while driving.

More than half of drivers felt that laws prohibiting drivers from using a cell phone while driving to send/receive calls (59%) and to send/receive text and e-mail messages (56%) are enforced to little or no extent.

#### Online Consumer Comments

"I think those that text or e-mail while driving should be fined. I used to frequently text and drive but the state I live in recently passed the no texting while driving law. I must say I have tremendously cut back on texting while driving because I do not want to be fined."

"It is very true that cell phones are a big distraction especially texting. We should be more careful and not let something like a "what's up" text distract us. If a person needs to use the phone then they should find a parking place and just use their phone. I'm sure that if people begin to get fined, they would be more careful and the number of cell phone-related accidents would reduce."

"I definitely think that some kind of punishment is necessary, otherwise people would continue to do it more frequently, the threat of a fine or points on your license definitely caused me to shape up. I like the way they are making the newer cars with the phones that work through the car radio so you don't even have to touch your phone if it rings, the voice comes through the radio."

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## Methodology

In August 2009 and 2010, using an outside panel vendor, State Farm Insurance Company's Strategic Resources Department conducted an online survey of U.S. consumers age 18+. Survey responses were received from 1,005 consumers in 2010 and 1,005 consumers in 2009 who identified themselves as having some insurance and financial responsibility for their household.

In 2009 and 2010, only responses from consumers who had a valid drivers license, owned a cell phone, and reported driving between 1 and 80 hours per week were used when reporting the findings of behavior-based questions. Responses from all respondents were used for the attitudinal questions.

State Farm Consumer Consultants is an online community sponsored by State Farm Insurance Company's Strategic Resources Department and managed by Communispace. The 300 Consumer Consultants participants are influential, involved, activist consumers, who offer advice and perspective on a range of insurance and financial services topics. Opinions voiced may not be representative of all consumers, however the comments can provide insight into how consumers feel about the topic at hand.

#7

**TESTIMONY BEFORE THE  
SENATE TRANSPORTATION COMMITTEE  
March 17<sup>th</sup>, 2011**

House Bill No1195.

Testimony-Presented by:  
Terry Weaver - North Dakota Safety Council

Mr. Chairman, members of the Committee, my name is Terry Weaver and I am the Traffic Safety Coordinator for the North Dakota Safety Council. We would like to go on record as supporting HB1195.

Text messaging has grown dramatically in the last decade, increasing at almost 10,000-fold. As the activity increases, text messaging behind the wheel is a growing distraction to drivers, attributed to at least 200,000 crashes each year.

Reading, sending, typing or scrolling through an electronic message on any device is dangerous while driving. These tasks require drivers to take their eyes off the road, their hands off the wheel and their minds off the primary task at hand, which is driving safely and responsibly. Studies show texting increases crash risk by 8 to 23 times. There is near public consensus that texting while driving is a serious risk to safety, yet people still admit to doing it – about 14% of people admitted to texting while driving in the past 30 days, according to an AAA Foundation for Traffic Safety survey.

Texting is a relatively new problem, but growing evidence shows it is a major threat to the safety of roadway users. Thirty states and Washington, D.C. have already banned texting behind the wheel. In states without texting bans, some municipalities are passing ordinances to stop the behavior. (i.e. Bismarck and Grand Forks)

The U.S. Department of Transportation (DOT), along with traffic safety experts, safety advocates and industry groups, drafted a sample law for municipalities and states to use in creating their own texting prohibition. The sample law includes language barring drivers from manually typing multiple letters, numbers, symbols or other texts in a wireless communication device, or sending or reading data in the device. This includes e-mailing and instant messaging.

A strong texting ban will be upheld through primary enforcement, allowing police to pull over and ticket a motorist solely for texting. Primary is stronger than secondary enforcement and Primary laws are proven to save more lives and have greater compliance.

Texting bans are enforceable, as proven in two DOT pilot programs in Syracuse, NY and Hartford, CT. High-visibility enforcement coupled with heightened public service announcements resulted in fewer incidents of texting behind the wheel – a drop of 42% in Syracuse and 68% in Hartford.

While the North Dakota Safety Council encourages a total prohibition on cell phone use behind the wheel, texting bans are a good start in the fight against distracted driving by cell phone. Strongly enforced primary laws and amplified public awareness are key factors in texting bans' success.

In summary Mr. Chairman, the North Dakota Safety Council would encourage you to recommend a "pass" for HB1195.

Testimony in Support of HB1195

March 17, 2011

Senate Transportation Committee

Testimony of Keith Witt

Mr. Chairman Lee and members of the Senate Transportation Committee, I am offering these comments in support of HB1195. For the record, my name is Keith Witt and I am Chief of the Bismarck Police Department.

I am supporting HB1195 because I sincerely believe it will significantly improve traffic safety in our great state. While there are many distractions to drivers, I believe that the use of a wireless communication device to read, compose, or send an electronic message while driving is the most dangerous distraction and there is an ever increasing use of these devices.

There have been numerous studies that show the dangers of using a wireless communication device to compose, read, or send electronic messages. Some of these include:

- A study by the Virginia Tech Transportation Institute released in July 2009 shows that truck drivers who text are more than 20 times more likely to be involved in a crash or near crash than a non-distracted driver.
- Text-messaging drivers are six times more likely to get into an accident than drivers who do not text according to an University of Utah 2009 study.
- According to NHTSA, 80% of all collisions are due to driver inattentiveness, like texting while driving.
- A driver's crash risk doubles when he/she looks away from the road for two or more seconds. A study by Virginia Tech Transportation Institute (VTTI) showed that, on average, drivers took their eyes off the road 4.6 seconds at a time while texting. This equates to a driver traveling the length of a football field at 55 mph without ever looking at the roadway.

- Studies show that teens composing a text message while driving suffer a 35 percent increase in reaction time to triggered stimuli, which resulted in speed reduction and drifting into adjacent lanes. (National Safety Council, 2010)
- National surveys show that public support for this important traffic safety measure is generally high, ranging from 80 percent to 96 percent. Text messaging while driving should be made illegal because it presents a clear and persistent danger to all drivers on the road.


There are three main types of distractions while driving:

- Visual — taking your eyes off the road
- Manual — taking your hands off the wheel
- Cognitive — taking your mind off what you're doing

Distracted driving involves all three of these distractions, making it the most dangerous distraction while driving.

There is no doubt that this law would be difficult for law enforcement officers to enforce as officers are often not in a position to view what a driver is doing in a vehicle. However, I believe the main thing to consider is that a significant number of North Dakotans obey the law. If this bill is passed into law, I believe that many North Dakotans will either stop, or seriously limit, the amount of texting they do while driving. Bismarck has had an ordinance prohibiting texting since October 2010. While officers have written very few citations to drivers for violating this ordinance, I have received many comments from members of the public concerning their awareness of this ordinance. These comments have included the fact that they have either quit texting while driving in Bismarck, or have seriously limited their texting while driving.

I think we all clearly recognize the dangers of texting while driving and the great risk it causes to the general safety of those on our highways and streets. The research also clearly shows the significant danger created by texting while driving. Without question, there are also other distractions to drivers other than texting while driving. However, I believe that passing this bill to prohibit the significant and extremely dangerous distraction of texting while driving will increase traffic safety in North Dakota.



I encourage your thoughtful consideration and support of HB1195 which will increase the level of traffic safety in our communities and ultimately reduce the number of people killed and injured, as well as decreasing the property loss that is occurring as a result of traffic accidents in our communities. Thank you.

