

2017 HOUSE TRANSPORTATION

HB 1430

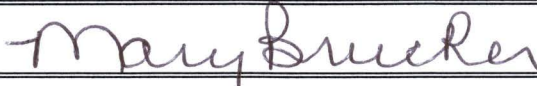
2017 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1430
2/9/2017
28127

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to distracted driving and to fees for a moving violation, relating to use of a wireless communication device while driving; and to provide a penalty.

Minutes:

Attachments 1-19

Chairman Ruby: Opened the hearing on HB 1430.

Representative Corey Mock, North Dakota Minority Leader, spoke to introduce HB 1430 and provided written testimony. See attachments # 1-5. This bill was drafted to prohibit distracted driving. In the final section of the bill it repeals our texting while driving law. The intent is not to legalize texting and driving. If we need to keep that law on the books and can provide a second section of law that prohibits distracted driving without having redundancy or complication of enforcement, then I'm all ears. We can all agree that distracted driving is not only dangerous it is deadly. We need to have the right and effective laws in the books. We need to close the loopholes the law does not address. The way our law is written, in North Dakota, it is legal to compose a text message but it is illegal to send it. It is legal to browse your photo gallery but it is illegal to send a snapchat. It is legal to use an offline app on your phone. You could legally play games on your phone while driving your car. We ban the transmission of data but we do not ban the distraction. Distracted driving is highly dangerous. We're focusing on the wrong part of the issue; we're focusing on the technology; we're not focusing on the distraction. In 2011 we passed this ban. I was concerned that we were hyper-focused on the one piece of technology and we couldn't anticipate how that technology would evolve. In North Dakota, using your hands free technology is illegal because we prohibited the transmission of an electronic message from your phone while operating a vehicle; we did not ban the distraction. That's why we really need to work on this and that's why HB 1430 is before you. I'm hoping you will be willing to work with myself and the experts here. I know the bill as written will generate some opposition; there are things we need to work on. We need to address the distracted driving laws to keep our roads safe, promote safety, and give law enforcement officers the tools they need to enforce a smart and responsible law. The last page of my testimony is an amendment, .01002 (attachment #4).

Chairman Ruby: Does that allow them to use CD radios?

Representative Corey Mock: They are allowed to use communication devices in their vehicles so long as it requires no more than one button.

Chairman Ruby: I wonder if we should extend that to all drivers.

Representative Corey Mock: That may be something to look at. There are a lot of different types of communications and devices in vehicles. As long as we're focusing on the distraction. The way some of the states enforce it is even the act of being on the phone may not be enforced as a distraction. If you have full control of your vehicle and you have the phone to your head or the phone in front of you, the act of having something in your hand may not be considered a distraction. If a law enforcement officer sees that you're swerving between the lines, not maintaining control of your vehicle, your speed is fluctuating, and your attention is diverted to something else (eating, playing guitar, putting on make-up, etc.), they would be covered under this law.

Vice Chairman Rick C. Becker: One page 2, line 24, it says, "or a built in accessory", wouldn't the CD player be a built in accessory?

Representative Mock: I am not aware of a vehicle where it's built in by a manufacturer or a third party equipment installed after the fact would be a built in accessory. I don't know if there is a clear distinction.

Chairman Ruby: Wouldn't the counsel that the young lady was looking in qualify as a built in accessory?

Representative Mock: It would. We're focusing on the fact that her attention was away and that's why this bill is not in its best form. Her attention was diverted away and she was not able to maintain control of her vehicle. In other states that have passed distracted driving laws, interacting with your vehicle itself by its nature may not be distracting but if it is it is covered under the law. We want to work on the distraction and not the specific entity.

Vice Chairman Rick C. Becker: It sounds like this wouldn't have prevented that death because she still would have been using her CDs. How does this bill prevent or make it illegal for the guitar player to be playing his guitar? Presumably, he doesn't need to look at his hand position for the cords.

Representative Mock: I understood that he was not maintaining control of his vehicle and this law is written so he was in violation of the distracted driving law. I've provided that language from those four states and the District of Columbia to make sure we are focusing on the distraction and not on the specific type of distraction.

Vice Chairman Rick C. Becker: If he wasn't looking down and if he wasn't swerving it would still be legal for him to play his guitar while he's driving?

Representative Mock: The way the law is written if "The operator of a motor vehicle that is in motion or part of traffic may not engage in an activity that requires the use of the operator's sight unless the activity involves operating or using the whole motor vehicle or a built-in accessory." If you are able to play the guitar while driving without looking at the guitar and

never removing your eyes from the road, then you probably you were able to do it and you wouldn't have been caught.

Vice Chairman Rick C. Becker: It would be illegal for me to look over at my fiancée and tell her how pretty her hair is, it would be illegal for me to reach over and give my grandson a granola bar in his car seat, and it would be illegal for me to pick something up that fell onto the floor that I was concerned might roll under the accelerator?

Representative Mock: The intent of this bill is that if you do any of those things, it is not a glance to your beautiful fiancée, it's the times when you can't take your eyes off of her and can't keep the car between the lines. That is what we're looking for here. We want to make sure we are focused on what you do in the vehicle does not cause you to lose or jeopardize control of the vehicle. We will have to work on amendments to get this right.

Vice Chairman Rick C. Becker: The way the language exists now, it is illegal for me to look over at my fiancée, to look over at my grandson, or to pick something up off the floor. Is that true?

Representative Mock: The way the current bill is written is if you divert your attention away and are not paying attention to the road, regardless of what you are doing, you are at risk of being caught for distracted driving. I will be available to work with amendments to make sure we draft them to make the law fit the intent of what we tried to pass in 2011.

Justin Kristan, Executive Director of North Dakota Act to Transportation Alliance: I support Representative Mock. It would be best if we could have both laws in the books that would work smoothly. We want to prevent these types of issues. As biking, running, and walking becomes more popular in North Dakota we are going to see more incidences and more fatalities. I'm urging everyone to work together on this and find a way to make it safer for our athletes and those who are commuting by bike or foot and get home safely to their loved ones.

There was no further support for HB 1430.

Rep. Lawrence R. Klemin, District 47, spoke in opposition to HB 1430. Written testimony was provided. See attachment #6. Also submitted proposed amendments 17.0838.01003. See attachment #7. Ended testimony at 39:15.

Pat Ward, The Association of North Dakota Insurers, spoke to oppose. Distributed testimony. See attachment #8. We agree with Representative Klemin. We oppose the part of the bill that deletes the anti-texting law that is already on the books. If you can find a way to write a more constitutional and understandable distracted driving law, we would support that. We believe the way it is currently written is too confusing and would cause some problems.

Brayden Terry Zenker, student at Legacy High School, spoke to oppose HB 1430. Distributed testimony. See attachment #9.

Chuck Clairmont, Executive Director, North Dakota Safety Council, spoke to oppose HB 1430 and provided written testimony. See attachment #10. Ended testimony at 47:14.

Chairman Ruby: Would you be opposed to the ability to talk to others in the vehicle? It's kind of the same thing.

Chuck Clairmont: Ultimately, North Dakota Safety Council's stance is that distracted driving should be eliminated in any form. We understand there are different levels of distraction. Even when talking to someone in the car there is still some distraction. Mental distraction is very high even when sending a voice activated text and puts you at a higher risk for accidents or injuries.

Representative Schobinger: There is technology that can keep a vehicle between the lines. Has your group looked at that technology? Would you view that as a distraction? You mentioned that your mind can't do two things at one time. Would you view that as removing one of those two things so if you're using a technology, like that maybe texting or talking on the phone, that could be something someone could do?

Chuck Clairmont: There are some things that help drivers, and we clearly support that. I've driven some of those automated cars and at some point maybe that would be safer than someone operating a vehicle because of all the other distractions that may occur. When voice texting, it's human nature to look and see if you're sending the right message. We're really trying to get to the cognitive distraction piece. We're supporting that continued advancement of technology that removes those distractions as much as possible.

Vice Chairman Rick C. Becker: Are you able to supply the study? I would like to see the validity of the study.

Chuck Clairmont: Yes, there are 30 studies the National Safety Council pulled together on cognitive distraction.

Vice Chairman Rick C. Becker: I'm not looking for a summary of all the studies, I'm looking for the study that you're citing that says I'm distracted 27 seconds after a voice text message is sent.

Chuck Clairmont: I can supply that to you.

Vice Chairman Rick C. Becker: I look into seeing if the studies are valid or not. Mind on driving cannot be legislated. If I accept that I am mentally and cognitively distracted for 27 seconds after I send a voice text, I guarantee you that I am more distracted when I drive by Taco Johns and smell their food. I think I have more things on my mind that are more distracting than sending a voice text. I don't know how we can even embark on that path.

Chuck Clairmont: I agree there are a lot of distractions in our live and I realize you can't legislate on that. There are certain things we know; there are cognitive distractions and that distractions are the cause of 78% of vehicle crashes. The idea is that if we can do something to reduce those or eliminate those then I think it makes sense as a society to do that.

Representative Jones: In your studies and in your discussion, do they ever consider cognitive distraction to be a good thing?

Chuck Clairmont: I would say no.

Representative Jones: My wife and I have an arrangement that if I'm travelling and I get tired she provides a cognitive distraction and I call her on the phone to have a conversation. That wakes me up and makes me a better driver. I get offended when all these studies say that cognitive distraction is a bad thing. I think sometimes cognitive distraction and having other things on our mind keeps us alert, awake, and safe on the road. Have you run across that in any of your studies?

Chuck Clairmont: If you have fatigued driving, you shouldn't be driving at all.

Representative Owens: Based on your conversation about hands free not being good enough, are you not only against distracted driving but you would not be in agreement to a hands free phone law as well?

Chuck Clairmont: Absolutely, we would want to have phones outlawed completely, whether it's texting or whether it's talking.

Representative Owens: Would you leave it like it is, just texting is outlawed? Out of the two which would you prefer? Or do you want hands free becoming the law?

Chuck Clairmont: The answer would be taking the two and combining them. Right now the hands free talking is legal, hands free texting is not, but the new law states hands free texting is legal. I don't want that and the North Dakota Safety Council wouldn't want that. Taking and making a stronger bill would be best.

Chairman Ruby: Some of your reasoning behind Representative Jones' question, I tend to disagree with. When you're driving long distances your attention span can be tough to maintain. Having some kind of mental stimulation can be helpful if I'm bored. Has there been any research done about people doing things that help to keep them alert?

Chuck Clairmont: I can't speak to that side of things. The research I've gone through with the National Safety Council, my interactions have been with the distractions and not what you can do to make yourself less distracted or more alert.

Bruce McCollom, Burleigh County, spoke in opposition to HB 1430, and provided written testimony. See attachment #11. Ended testimony at 1:07:34.

Bruce Burkett, North Dakota Peace Officers Association, spoke in opposition to HB 1430, and provided written testimony. See attachment #12.

Representative Owens: Could you describe to me how police officers determine when the operator's sight is located because the bill calls for the operator's sight to be strictly adherent to driving the car? You said it doesn't specify what that means.

Bruce Burkett: I was talking about things I've seen during hunting season especially if I'm watching hunters and their behavior because they are not focused on the road when they see deer. When an officer comes upon a car in the ditch they may write it up as a careless driving citation due to distracted driving.

Representative Owens: I appreciate after the fact but I'm talking about road hypnotism. You can be looking straight ahead and driving but you're not there.

Bruce Burkett: That happens to all of us I'm sure. The problem I have with the language if you can define something that is specific then fine but don't leave it up to the officer to make a judgement based on his opinion.

Representative Owens: That's my point. The officer could use his judgement to make the fine.

Jaxon Beitelspacher, a student from Legacy High School, spoke in opposition to HB 1430. Provided written testimony, see attachment #13.

Brian Swanberg, a student from Legacy High School, spoke to oppose HB 1430 and provided written testimony. See attachment #14.

Chairman Ruby: You mentioned you could text without looking down. How do you read it?

Brian Swanberg: That's a good point. You glance at it quickly. It's very easy for people not to see you.

Taylor Lassiter, a Bismarck High School student, spoke to oppose HB 1430 and provided written testimony. See attachment #15.

Jennifer Cook, attorney in North Dakota and Policy Director for the American Civil Liberties Union of North Dakota, spoke to oppose HB 1430 and provided written testimony. See attachment #16.

Chairman Ruby: You believe people have a civil liberty to have some reasons to take their eyes off the road?

Jennifer Cook: Our position is that the law is so broad North Dakotans have no idea what may be impermissible and nor to law enforcement.

Dan Donlin, Bismarck Chief of Police, spoke in opposition to HB 1430. This bill would allow law enforcement officers to pull virtually any car they want over because once they see someone looking away there is reasonable suspicion to have contact with that person.

Samuel Wolf, a Bismarck High School student, spoke to oppose HB 1430 and provided written testimony. See attachment #17. Ended testimony at 1:29:40.

Dylan Hale, Bismarck High School Student, spoke to oppose HB 1430 and provided written testimony. See attachment #18.

Representative Weisz: If there was an accident and the phone records were subpoenaed how do they know if it was hands free or not if we would pass this to exempt the hands free?

Representative Klemin: You have to look at the entire scope of things. First, you want to find out what the law enforcement officer saw you doing. The cell phone records would corroborate what the officer saw. If the vehicle was not equipped with hands free type operation that would also be indicative of not being hands free. If the vehicle was equipped with hands free, with Bluetooth connection, you might be able to tell that from cell phone records but you would have to combine that with other evidence that was taken at the same time.

Representative Weisz: You can do it directly on your phone and speak into your phone to send a text. Even with manual texting you have the phone on your lap. If we pass this could you still get nailed for texting even though the law, if we make the change, would say it's okay to do it hands free. Is there a way to differentiate that?

Representative Klemin: I don't believe that having the phone up to your ear or mouth is hands free.

Representative Weisz: It's legal to talk on the phone.

Representative Klemin: That was a compromised position that was reached in 2011 when this law was passed about no texting while driving. The amendment I proposed relates to the hands free operation, that would be an exception also. We're trying to get away from taking your eyes off the road to manipulate the device.

There was no further opposition to HB 1430.

Kristie Carlson, North Dakota Farmer's Union Insurance, spoke in a neutral capacity on HB 1430. We have specific language that opposes the use of cell phone media devices while driving, not only texting. We would be in favor of keeping the texting band as well as potentially expanding it or dealing with some of those other distracted driving issues. There are different levels of distraction more dangerous depending on what the activity is. You'll have to find a line when working through this. We welcome the opportunity and would appreciate a middle of the road effort.

Representative Paur: Looking inside a police vehicle, would this affect the police as well?

Dan Donlin, Chief of Police in Bismarck: We train our officers to be very careful while driving. They are multitasking. There is currently an exemption for law enforcement when they are working. We would certainly need to have that exception outlined in the law if this were to go through.

The hearing was closed on HB 1430.

Additional testimony submitted by Jacqueline Gillan, Advocates for Highway and Auto Safety, in opposition but was not present at the hearing. See attachment #19.

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2/16/2017
28462

- Subcommittee
 Conference Committee

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Explanation or reason for introduction of bill/resolution:

Relating to distracted driving and to fees for a moving violation, relating to use of a wireless communication device while driving; and to provide a penalty.

Minutes:

Attachments #1-2

Chairman Ruby: Bought HB 1430 back before the committee.

Representative Mock provided an amendment for the bill, #17.0838.01007. See attachments #1 and 2. He explained the amendments. We visited with Representative Klemin regarding the texting while driving in his proposed amendments. We incorporated his amendments that added section three which is the texting while driving statute. This amendment will add back in the texting while driving law and it strikes "smart phones" and adds "a wireless communications device used in a voice-activated, voice-operated, or any other hands-free manner." Under current law, you can use your cell phone and make calls but you cannot send a message. There is now the capability for you to send a voice activated text message using your vehicle but the way the law is currently written, that would be illegal.

Chairman Ruby: Can they distinguish whether or not it was done by voice?

Representative Mock: There's no way for a cell phone company to know if you sent a text message using your hands versus your voice.

Representative Paur: I contacted the BCI and Verizon on that particular issue and there is no way to detect if it came from the cell phone via manually or by voice. They said you could subpoena the server phone records from Verizon and that would indicate if the server was working at that time but that's the only thing it could tell you.

Chairman Ruby: I think the best indication would be how poorly they translate the words you say.

Representative Mock: I'm still trying to find more definitive answers to that.

Vice Chairman Rick C. Becker: I'm looking at the complete rewrite of section 3 which would now be section 4. Don't we have distracted driving laws in place?

Representative Weisz: No, it would be reckless driving or care required.

Vice Chairman Rick C. Becker: Is there a circumstance where someone who is involved in an accident because they were texting or because they were distracted wouldn't be charged under one of those two other statutes? Doesn't this do something that we already do?

Representative Grueneich: I just went through this because my daughter hit a parked car and she was texting so they cited her with care required.

Chairman Ruby: Now if this passed she could have also been charged with distracted driving as well.

Representative Mock: I have copies of the 2011 bills; Representative Klemin's and Representative Ruby's, HB 1195 and HB 1190. There were representatives from the Highway Patrol and they spoke to how the care required provision is usually enforced and cited. The reason why Representative Ruby's bill moved forward, which would have been a secondary offence for distracted driving, was because there was no real provision. It gives them the tool for secondary offences for a more specific violation. This moves us on to the new section 4 of the bill. We have rewritten the distracted driving law to be a secondary offense. If you are doing anything in your vehicle other than the necessary operations of your vehicle and in doing so you cause another infraction or accident, you may be cited for distracted driving.

Chairman Ruby: That was my intention of my bill before and that if you're doing something distracting but you don't have any problems driving then what's the harm? With the texting law, I could read this and it would be legal but reading my phone wouldn't be legal so that's why I wanted it broader. I also wanted it more as a secondary offense. I think your amendment is very good.

Vice Chairman Rick C. Becker: You are still using the same phrase, "distracted driving", but in your amendments that is stricken and now you're talking about "failure to maintain control." In my mind that seems to fit even more into the care required or reckless. I'm wondering if we're just being redundant here.

Representative Mock: This would create a secondary offense; it's not just that you violated the law but you failed to maintain the vehicle. This would address some of those issues. It would be a tool law enforcement could use more regularly and more appropriately.

Vice Chairman Rick C. Becker: If the person is swerving all over then without this they would just get the citation for swerving but this way they would get the citation for swerving and a citation for failure to maintain control. The offense is really just swerving all over. Why would you swerve all over; it's a redundancy because swerving all over is failure to maintain control of the vehicle. You're giving two penalties for the same crime.

Representative Mock: I would disagree with that. You can swerve all over and not be distracted. In DUI cases a person is pulled over often times for failure to yield or crossing the center line then is also charged with a DUI. You could be pulled over for a traffic offense and not be cited for distracted driving but if being distracted caused you to do something then it would be up to the law enforcement officer to add that additional offense.

Chairman Ruby: I would think that when they see someone swerve and they pull them over then it's probable cause. You could then be charged with a DUI but you may not then be charged with swerving.

Vice Chairman Rick C. Becker: During your testimony and up until this time, you keep using the term "distracted driving" but we are no longer saying that, we are going to be saying, "failure to maintain control." I'm suggesting you are taking specific occurrences which are an example of failure to maintain control, like swerving. I'm having trouble separating out when you're talking about failure to maintain control and having that be a separate thing, like being drunk, because you're swerving.

Representative Mock: I have been using the term distracted driving, I have been using it interchangeably, I apologize. The provision is no longer distracted driving but it is regarding the control of your motor vehicle. Is distracted driving and failure to maintain control of a vehicle a moving violation? Care required could be used. I am not sure what the penalty is for "care required"?

Representative Weisz: I think we can look at this as an enhanced penalty. You could add another \$20 to a violation if there is also another violation that occurred.

Chairman Ruby: If they could prove it was texting they could add another \$100.

Representative Weisz: I don't believe that this can stand alone, there has to be an offense for this to attach to. It says that it is a secondary offense, and it won't stand alone. It would have to be in conjunction with another offense.

Chairman Ruby: Do you feel like this is duplicating other violations? What is the need for additional?

Representative Mock: I don't believe that this is a duplication, but it is a good clarification of the statute. It encourages law enforcement to read more specifically into the law and give an appropriate citation.

Representative Owens: When you put section 3 in regarding the texting part, it talks about the term and the various things it doesn't include. In this day in age, many people use the GPS navigation system through their phones. This language suggests that since it's a smartphone you couldn't use it but you could use the navigation system in your vehicle.

Representative Mock: I also have a version that doesn't overstrike smart phones. In visiting with others, smart phones were preferred to be struck out of this language in the amendment. I will provide you with that version of the amendment that doesn't strike smart phones if you prefer.

Representative Owens: I think that it adds confusion.

Chairman Ruby: If it's not clearly defined then I would say you could use navigation on your phone. I use mine a lot. I wouldn't be supportive of an amendment that prohibited that.

Vice Chairman Rick C. Becker: I wonder if we would just overstrike "smart" then that would address both angles.

Representative Schobinger: I can't envision a scenario when I could prove that I wasn't distracted. Do you see that it could be a problem with this law?

Representative Mock: The way that I understand it, if you are given a citation, it is not your job to prove that you are not distracted, it is the state's job to prove that you were.

Chairman Ruby: I am wondering about amending back in just the word "phones"?

Representative Westlind: **MADE A MOTION TO ADOPT THE AMENDMENT 17.0838.01007 and change to word "phone"**

Representative Becker: SECONDED

**ROLL CALL VOTE: 13 YES 1 NO 0 ABSENT
MOTION CARRIED**

Vice Chairman Rick C. Becker: I still believe that the new section 4 is redundant so I'm going to **further amend to strike section 4.**

Chairman Ruby: That takes out the distracted driving and failure to maintain control. Do we have a second?

Representative Grueneich: SECONDED

Chairman Ruby: Then you would also have to strike the language on line 13 because it is no longer referring to that section for the moving violation.

Vice Chairman Rick C. Becker: **I would clarify my motion to strike section 4 and any other pertinent changes necessary for the elimination of section 4 including the preface to the bill.**

Chairman Ruby: I like that we were adding that. Potentially, there could be some redundancy but I think potentially there could be some options that people could be held accountable for being distracted. It is a secondary offense that I supported when I introduced my bill as well.

Representative Owens: The reason I'm supporting the amendment is because it is secondary and it's only \$20. Also, I think we already have enough on the books to cover it. We've heard all about care required but there's also reckless driving and it's all up to the

officer in what they decide to write a citation for. It's a much higher penalty than \$20. I think this is already well covered and that's why I'm supporting the motion.

Representative Weisz: I'll oppose the motion. If you slide to the stop you could get reckless driving but if you're sliding to the stop because you're putting your make-up on or something, it doesn't take away the care required, it's an enhanced penalty that says you shouldn't have been eating that cheeseburger and now we can cite you for that too. In reality, the \$20 isn't going to give the officer a lot of incentive to add the enhanced penalty. This should help with the distracted driving if you think distracted driving is an issue.

Vice Chairman Rick C. Becker: The problem with distracted driving is that it causes you to have unsafe behavior. The unsafe behavior is because you went through a sliding stop or you swerved. When the citation is for the actual concerning unsafe behavior it doesn't matter to me why you were driving unsafe, it's the act of driving unsafe that we're trying to prevent.

Chairman Ruby: When I did propose the distracted driving law, we didn't have the texting law. I am going to change my position on this motion.

Representative Weisz: The whole point of this law is to get at the behavior; it's not to penalize the result.

Chairman Ruby: When there are dual penalties that apply, that is where there are redundancies. In subsection b, line 11 is it possible in that instance they would not have enough evidence to prove they used care required but it was a reportable accident so they wouldn't get one penalty but this would give them the ability to give another citation?

Representative Weisz: We do have many times when people are charged with multiple crimes. It's not redundancy; it's enhanced.

Vice Chairman Rick C. Becker: The parallel that I would make with this would be if someone is murdered because of the color of the shirt they were wearing, that's murder. There's an enhanced penalty if they are murdered because of the color of their skin. I don't really agree with that. If you kill someone, you kill someone. Whatever the reason is there should be a significant penalty. If you're doing something that causes you to have unsafe behavior the origin of why it's unsafe isn't worse in one way than it is in another.

Representative Weisz: If you are talking hate crimes, that has to do with intent. This has nothing to do with intent. It is enhanced because of your action that caused the offense or the citation. This is really saying because of how you committed the offense there can be an enhanced penalty.

Representative Owens: If we really care about texting, then we should simply say "hands free." If you're holding the phone, then you're guilty. That would eliminate all this guess work.

Representative Mock: Care required is a \$30 citation and is two points on your license. Reckless driving is a B misdemeanor. That is why those sections of law haven't been used

when you're distracted. If you fail to maintain your brakes and because of that you ran red lights and were pulled over for failure to yields you would be issued two citations.

Chairman Ruby: We have a motion to remove section 4 of the bill.

ROLL CALL VOTE: 5 YES 9 NO 0 ABSENT
MOTION FAILED

Chairman Ruby: Section 4 remains on the bill. What are the wishes of the committee?

Representative Nelson moved a DO PASS as amended on HB 1430.

Representative Anderson seconded the motion.

Representative Paur: The intern sent an email to us including Representative Mock, on what the BCI said as far as determining if a text was sent orally or manually.

Representative Owens: The situation exists in the cell phone interpreting voice recognition and taking what you say turning it into text. It doesn't do that at the server level. Your phone translates that into text and sends the text to the server for distribution. By the time the cell phone company gets it then it looks like any other text; they don't care how it was composed, they're just delivering it. Our action happens in the phone.

ROLL CALL VOTE: 11 YES 3 NO 0 ABSENT

MOTION CARRIED

Representative Anderson will carry the bill.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1430

Page 1, line 2, replace "distracted driving" with "failure to maintain control of a motor vehicle"

Page 1, line 3, replace "section" with "sections"

Page 1, line 3, after "39-06.1-09" insert "and 39-08-23"

Page 1, line 4, replace "; to repeal section 39-08-23 of the North Dakota Century Code, relating to" with " and the"

Page 1, line 16, overstrike the first "or" and insert immediately thereafter a comma

Page 1, line 16, remove the overstrike over "~~39-08-23~~"

Page 1, line 16, replace "3" with ", or section 4"

Page 2, line 12, remove the overstrike over "~~39-08-23~~"

Page 2, line 12, remove "section 3 of this Act"

Page 2, line 12, after the sixth comma insert "section 4 of this Act"

Page 2, after line 18, insert:

"SECTION 3. AMENDMENT. Section 39-08-23 of the North Dakota Century Code is amended and reenacted as follows:

39-08-23. Use of a wireless communications device prohibited.

1. 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.
2. Under this section:
 - a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:
 - (1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;
 - (2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;
 - (3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, smartphones,

citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;

- (4) Voice or other data transmitted as a result of making a telephone or cellular phone call; or
 - (5) Data transmitted automatically by a wireless communication device without direct initiation by an individual; or
 - (6) A wireless communications device used in a voice-activated, voice-operated, or any other hands-free manner.
- b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.
3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties."

Page 2, line 21, replace "**Distracted driving**" with "**Failure to maintain control of a motor vehicle**"

Page 2, replace lines 22 through 30 with:

1. An operator of a motor vehicle may not fail to maintain control of that motor vehicle. An individual is in violation of this section if that individual:
 - a. Commits an offense under this title and, at the time of the offense, the individual was engaged in the operation of a motor vehicle while distracted; or
 - b. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 39-08-09 which resulted in property damage and, at the time the reportable accident occurred, the individual was engaged in the operation of a motor vehicle while distracted.
2. An individual may be issued a citation or summons for any other traffic offense that was committed by the individual in relation to the individual's commission of the traffic offense of failure to maintain control of a motor vehicle.
3. As used in this section, "operation of a motor vehicle while distracted" means the operation of a motor vehicle by an individual who, while operating the vehicle, is engaged in an activity that:
 - a. Is not necessary to the operation of the vehicle; and
 - b. Actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle."

Page 2, remove line 31

Renumber accordingly



February 16, 2017

2/16/17
JMR
LBJ

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1430

Page 1, line 2, replace "distracted driving" with "failure to maintain control of a motor vehicle"

Page 1, line 3, replace "section" with "sections"

Page 1, line 3, after "39-06.1-09" insert "and 39-08-23"

Page 1, line 4, replace "; to repeal section 39-08-23 of the North Dakota Century Code, relating to" with "and the"

Page 1, line 16, overstrike "or" and insert immediately thereafter an underscored comma

Page 1, line 16, remove the overstrike over "~~39-08-23~~"

Page 1, line 16, replace "3" with ", or section 4"

Page 2, line 12, remove the overstrike over "~~39-08-23~~"

Page 2, line 12, remove "section 3 of this Act"

Page 2, line 12, after the sixth comma insert "section 4 of this Act"

Page 2, replace lines 19 through 31 with:

"SECTION 3. AMENDMENT. Section 39-08-23 of the North Dakota Century Code is amended and reenacted as follows:

39-08-23. Use of a wireless communications device prohibited.

1. 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.
2. Under this section:
 - a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:
 - (1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;
 - (2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;
 - (3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices,

smartphones, citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;

2012

- (4) Voice or other data transmitted as a result of making a telephone or cellular phone call; or
 - (5) Data transmitted automatically by a wireless communication device without direct initiation by an individual; or
 - (6) A wireless communications device used in a voice-activated, voice-operated, or any other hands-free manner.
- b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.
3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties.

SECTION 4. A new section to chapter 39-08 of the North Dakota Century Code is created and enacted as follows:

Failure to maintain control.

1. An operator of a motor vehicle may not fail to maintain control of that motor vehicle. An individual is in violation of this section if that individual:
 - a. Commits an offense under this title and, at the time of the offense, the individual was engaged in the operation of a motor vehicle while distracted; or
 - b. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 39-08-09 which resulted in property damage and, at the time the reportable accident occurred, the individual was engaged in the operation of a motor vehicle while distracted.
2. An individual may be issued a citation or summons for any other traffic offense that was committed by the individual in relation to the individual's commission of the traffic offense of failure to maintain control of a motor vehicle.
3. As used in this section, "operation of a motor vehicle while distracted" means the operation of a motor vehicle by an individual who, while operating the vehicle, is engaged in an activity that:
 - a. Is not necessary to the operation of the vehicle; and
 - b. Actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle."

Renumber accordingly

Date: 2-16-17
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1430**

House Transportation Committee

Subcommittee

Amendment LC# or Description: 17.0838.01007

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Westlind Seconded By Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Gretchen Dobervich	✓	
Vice Chair. Rick C. Becker	✓		Rep. Marvin Nelson	✓	
Rep. Bert Anderson	✓				
Rep. Jim Grueneich	✓				
Rep. Terry Jones	✓				
Rep. Emily O'Brien	✓				
Rep. Mark Owens		✓			
Rep. Gary Paur	✓				
Rep. Randy Schobinger	✓				
Rep. Gary Sukut	✓				
Rep. Robin Weisz	✓				
Rep. Greg Westlind	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment _____

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

*Change to word "phone"
 + Attachment #1 + 2*

Date: 2-16-17
Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1430**

House Transportation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Becker Seconded By Schobinger

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby		✓	Rep. Gretchen Dobervich		✓
Vice Chair. Rick C. Becker	✓		Rep. Marvin Nelson		✓
Rep. Bert Anderson		✓			
Rep. Jim Grueneich	✓				
Rep. Terry Jones		✓			
Rep. Emily O'Brien	✓				
Rep. Mark Owens	✓				
Rep. Gary Paur		✓			
Rep. Randy Schobinger	✓				
Rep. Gary Sukut		✓			
Rep. Robin Weisz		✓			
Rep. Greg Westlind		✓			

Failed

Total (Yes) 5 No 9

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Strike Section 4 and any other changes necessary to strike Section 4.

Date: 2-16-17
 Roll Call Vote #: 3

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB1430**

House Transportation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Nelson Seconded By Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Gretchen Dobervich	✓	
Vice Chair. Rick C. Becker		✓	Rep. Marvin Nelson	✓	
Rep. Bert Anderson	✓				
Rep. Jim Grueneich		✓			
Rep. Terry Jones	✓				
Rep. Emily O'Brien	✓				
Rep. Mark Owens		✓			
Rep. Gary Paur	✓				
Rep. Randy Schobinger	✓				
Rep. Gary Sukut	✓				
Rep. Robin Weisz	✓				
Rep. Greg Westlind	✓				

Total (Yes) 11 No 3

Absent 0

Floor Assignment Anderson

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

REPORT OF STANDING COMMITTEE

HB 1430: Transportation Committee (Rep. D. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1430 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "distracted driving" with "failure to maintain control of a motor vehicle"

Page 1, line 3, replace "section" with "sections"

Page 1, line 3, after "39-06.1-09" insert "and 39-08-23"

Page 1, line 4, replace "; to repeal section 39-08-23 of the North Dakota Century Code, relating to" with "and the"

Page 1, line 16, overstrike "or" and insert immediately thereafter an underscored comma

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Page 2, line 12, remove "section 3 of this Act"

Page 2, line 12, after the sixth comma insert "section 4 of this Act"

Page 2, replace lines 19 through 31 with:

"SECTION 3. AMENDMENT. Section 39-08-23 of the North Dakota Century Code is amended and reenacted as follows:

39-08-23. Use of a wireless communications device prohibited.

1. 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.
2. Under this section:
 - a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:
 - (1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;
 - (2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;
 - (3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, ~~smartphones~~ ~~phones~~, citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;

- (4) Voice or other data transmitted as a result of making a telephone or cellular phone call; ~~or~~
 - (5) Data transmitted automatically by a wireless communication device without direct initiation by an individual; or
 - (6) A wireless communications device used in a voice-activated, voice-operated, or any other hands-free manner.
- b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.
3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties.

SECTION 4. A new section to chapter 39-08 of the North Dakota Century Code is created and enacted as follows:

Failure to maintain control.

1. An operator of a motor vehicle may not fail to maintain control of that motor vehicle. An individual is in violation of this section if that individual:
 - a. Commits an offense under this title and, at the time of the offense, the individual was engaged in the operation of a motor vehicle while distracted; or
 - b. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 39-08-09 which resulted in property damage and, at the time the reportable accident occurred, the individual was engaged in the operation of a motor vehicle while distracted.
2. An individual may be issued a citation or summons for any other traffic offense that was committed by the individual in relation to the individual's commission of the traffic offense of failure to maintain control of a motor vehicle.
3. As used in this section, "operation of a motor vehicle while distracted" means the operation of a motor vehicle by an individual who, while operating the vehicle, is engaged in an activity that:
 - a. Is not necessary to the operation of the vehicle; and
 - b. Actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle."

Renumber accordingly

2017 SENATE TRANSPORTATION

HB 1430

2017 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1430
3/16/2017
29298

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Munder

Explanation or reason for introduction of bill/resolution:

Relating to fees for a moving violation and the use of a wireless communication device while driving; and to provide a penalty.

Minutes:

Attachments #1-6

Chairman Laffen: Opened the hearing on HB 1430. Attendance taken and all present. We will have the bill sponsor plus some others testifying.

Representative Lawrence R. Klemin: I am here to testify on section 3 of the bill. **See attachment #1.** I would appreciate your support in HB 1430.

Chairman Laffen: Representative Klemin, the piece you're talking about, is item #6 which takes out voice activated or hands free, you are here to support that piece of section 3.

Rep. Klemin: There is one other little piece there too. On line 6. We had smart phones in there. We are not exempting smart phones.

Senator Campbell: In this section you are exempting hands free or voice activated so it would be legal to use that. If this bill passes I can drive and I can voice text or hands free text, right?

Rep. Klemin: Yes, you could do that but there is more to it than that. I have a Chevy pick-up and when I get a text message it lets me know I have one and I just push a button on my dash and it reads it to me.

Senator Campbell: So that would be legal and voice text would be legal under this law?

Rep. Klemin: Yes.

Chairman Laffen: Any other questions? None. Thank you.

Chairman Laffen: While we are waiting for the handouts we welcome students from Walhalla, North Border, and Pembina.

Representative Corey Mock: (9:30) **See attachments #2-5.** Texting while driving is dangerous, but so is distracted driving, eating, kids, scenery, etc. Currently it is illegal to use any type of advice for texting, we changed that part of the law to say if it is voice activated it would be legal. Some of the other handouts are stories of recent happenings, where the driver was distracted. If a distraction causes a moving violation you will be cited for it.

Chairman Laffen: Penalty for a moving violation?

Rep. Mock: It would be a \$20. Fine.

Chairman Laffen: I am driving and run a red light, am stopped and get a ticket and the officer finds that I was reading a newspaper it is another \$20. Dollars?

Rep. Mock: Correct.

Senator Campbell: To summarize, we need you to clarify the moving violation part.

Rep. Mock: Voice activated controls for texting will be legal. Distracted driving is a separate section where if you break the law or cause an accident you will be cited for distracted driving.

Chairman Laffen: There is new language in section 4 and if I trace that back to the front a violation is \$100.00. What are we doing there?

Rep. Mock: I have been corrected, our understanding is it was in the moving violation and I understood it was \$20. dollars but if it is a \$100. dollars, then I stand corrected.

Chairman Laffen: I am wondering if there isn't two pieces to this. Line 9 of page 1 says for a moving violation it is a fee of \$20. dollars, so I think it is a \$20.00 fee if you go through a red light but it goes to \$100. dollars if you fail to maintain control, and it was found a distraction.

Rep. Mock: I am not married to any of the citation levels, I would leave it up to this committee as the experts in this area. The important part of this bill is in maintaining control of the vehicle, we are prohibiting distracted driving and giving law enforcement the opportunity to give those citations and hopefully there is plenty of education that goes along with this. You will find support from me either way.

Senator Casper: Are their points associated with this? I appreciate all the information you have given us. The burden of proof is on the state, so my thinking is, I wouldn't want to pay the \$100.00 so I would maybe advise in a legal counsel capacity to someone who is accused by the police, it would be pretty easy to go to court and say prove it. It is worth mentioning it I think.

Rep. Mock: You are right. The burden of proof is on the state. For the record this is not a lesson in how to get out of a fine, but if you are cited for using your phone, and are pulled over, the officer will ask were you texting? The first thing you could say is I was making a phone call, dialing the number, and put the phone to your ear. Unless you are willing to hand

over your phone then they would have no proof. If you want to challenge the citation, burden of proof would be up to the state.

Chairman Laffen: The current original law on texting while driving, can they stop you just for seeing that? Can they check to see if you were texting and then give you a citation?

Rep. Mock: Yes, they can pull you over and will ask to see your phone.

Chairman Laffen: Questions? None. Further testimony in favor of HB 1430?

Pat Ward, (30:30) Representing State farm insurance: See attachment #6. We support the driving while texting bill and also the distracted driving part of the law. I think it does have to be a primary offense and a \$100.00 fine is a good idea. I support a Do Pass.

Chairman Laffen: Two and a half years ago when I campaigned this was the #1 issue that people asked me about and they couldn't believe what they were seeing on the road.

Pat: It's common sense and it is an improvement where they clarify how distraction is also bad. This is a good bill.

Senator Rust: A phone in the hand or a blue tooth, both are distracting. But texting where you have to look for the letters you would think would be more distracting than voice texting.

Pat: Yes. There was a study that was done that showed that using a cell phone is as distracting, whether you are holding it or if you are just talking on it. Yes, voice texting is better but it is distracting also, as you look at the phone to make sure your text is going through. You travel fast when you take your eyes off the road.

Chairman Laffen: Questions? None. Further testimony in favor of HB 1430? None. Opposition? None. Neutral?

(39:26) Captain Tom Iverson: I think this bill is a good compromise. I sat in it on the House side and a lot of tweaks have been made to it. It is a \$100.00 citation; it would be a separate citation in addition to the original traffic stop. We don't always issue a double citation, the law does allow for that, but we use our discretion too. It is difficult to enforce the texting as people put their phone down as soon as they see a patrol car. If this bill is passed a strong education effort would need to be conducted and I am even guilty of it myself in the patrol car, it is distracting, so I would need to correct it myself. Even someone driving and eating and find themselves drifting off to the side, it could be a \$100.00 violation, so we would need to engage in a strong education initiative to address that.

Chairman Laffen: I want to make sure we understand the logistics of the how the fines work. The original distracted driver was just texting and you can pull them over for that if you saw them. That was \$20.00?

Captain Iverson: Currently, texting while driving is a \$100.00 fine.

Chairman Laffen: What this bill adds is other distractions. Is the new version also a primary offense?

Captain Iverson: Yes. There would be 2 separate sections of law. Texting while driving and distracted driving under this current bill with each carrying a \$100.00 citation. If you are driving down the road and reading a newspaper I cannot stop you...only if you break the law, like swerving or running a red light, then I can pull you over and you would get a double citation as I had seen you reading the newspaper and you committed a traffic violation.

Discussion was held on distractions and some questions about why they could cite a person while texting and driving. There are so many distractions.

Captain Iverson: Anything you are doing in your vehicle, eating, listening to the radio, changing stations on that radio, visiting with a passenger, having kids along to keep an eye on or settle disputes, just about any distraction you can think of that will make you have a traffic violation is a reason to pull you over and give you a citation.

Senator Campbell: Basically to sum this bill up, anything can be used as a distraction except a voice activated texting or electronically hands free texting. Is that correct. It is exempt out in the bill. Is it this simple.

Captain Iverson: I will refer to Rep. Mock.

Rep. Mock: The exemption applies to the texting while driving which is a primary offense. So if you are sending a message from your phone using voice activated or hands free texting, you cannot get pulled over for that. If you violated another law and you were composing a text message with your voice activated device, or making a phone call, and you swerved you may not be cited for texting while driving, but you would be cited for failure to maintain control of the vehicle or distracted driving. Anything that is severe enough to cause you to violate the law can be included under this section of the law. But the texting while driving law is still simply texting while driving.

Senator Campbell: So if you swerved, and they saw that, they can technically issue a citation for distracted driving because you were hands free texting?

Rep. Mock: I would defer to the Captain on this. There would have to be some knowledge that you were doing something that caused the swerve and the officer could prove it or have enough information to write a citation, then I imagine that's what they could do.

Senator Rust: Does the voice activated enhance distractive driving?

Captain Iverson: The provision for the voice texting is a separate part of the law. I don't foresee this as a problem.

Chairman Laffen: So to be clear, the section that is adding the wireless communications with the hands free, there is no fine. If you are trying to do a hands free and it causes a distraction and you make some other offense, you could still be ticketed for that, even though it was a hands free that caused it, if you can prove that.

Captain Iverson: Yes, it would be hard for an officer to prove, but if he could it would be a \$100.00 citation under this portion of the bill.

Chairman Laffen: When we add this piece to the bill do you see a problem with them saying it was hands free even if they didn't? How will you know?

Captain Iverson: I don't see a problem with this. You can tell sometimes if they are looking down and typing and don't put the phone up to their ear. You can work through a few things but I don't see it being an issue.

Senator Rust: Does this bill enhance distraction? We can be cited for 2 things if driving distracted?

Captain Iverson: Absolutely it does. Yes, you will get 2 citations in some instances. I like how it is put in this bill as it is an enhancement.

Chairman Laffen: Any other questions? None. Neutral testimony?

Bruce: I am neutral on the bill. I have no issue. I am a retired engineer. First thing is cause. I don't see anything in there about the distracted driving having to be a causation, violation or an accident. The second thing is, this applies if you are in an accident also.

Chairman Laffen: I am not sure what that means.

Bruce: If you ran a red light the officer would have to issue a citation for that and he could also issue for a distraction. I also heard they could use discretion. If you are in an accident your insurance might be interested if there was no causation.

Chairman Laffen: Thank you. Any other neutral testimony? None. We will close the hearing on HB 1430. Any discussion committee?

Senator Campbell: I will move a Do Pass on HB 1430.

Senator Rust: seconded.

Roll Call taken: Yeas-5, Nays-0, Absent-1 Motion carried.

Senator Rust will carry the bill.

Date: 3-16-17
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. "Enter Bill/Resolution No." HB1430

Senate Transportation Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Campbell Seconded By Rust

Senators	Yes	No	Senators	Yes	No
Chairman Lonnie J. Laffen	✓		Senator Carolyn Nelson	✓	
Senator Tom Campbell	✓				
Senator David Rust	✓				
Senator David Clemens	✓				
Vice Chairman Jonathan Casper					

Total (Yes) 5 No 0
Absent 1
Floor Assignment Rust

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

REPORT OF STANDING COMMITTEE

HB 1430, as engrossed: Transportation Committee (Sen. Laffen, Chairman)
recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1430 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

HB 1430

HB1430
2-9-17
#1

Distracted Driving Law Prohibits Texting – And More

By Rep. Corey Mock, ND House Minority Leader

Kelsie Myers grew up in Crosby, ND. She loved to snowmobile, jet ski, sing, dance, and spend time with her friends. She was a sweet kid with a promising future. Tragedy struck her family and friends when, at age 19, Kelsie's car was hit by a freight train west of Minot and she was killed.

Kelsie was simply driving home from work -- a route she drove every day. The railroad crossing did not have a traffic gate and, according to railroad personnel, Kelsie was distracted and did not see the train in time.

North Dakota's texting-while-driving ban was enacted in 2011, three years after Kelsie's death. But, unfortunately, despite our best efforts in 2011, the distraction that resulted in Kelsie's death would not have been illegal under this law.

The distraction that resulted in Kelsie's death was caused by her looking for CDs in her center console. Not texting.

Nearly every state joins North Dakota in banning texting while driving. As a result, distracted-related injuries and deaths have improved, but far too many Americans still lose their lives in preventable vehicle accidents. The statistics speak for themselves.

In 2013, 32,719 people were killed in car crashes; 10 percent of all fatalities were distraction related. 2,313,000 people were injured in a crash; 18 percent of all injuries were distraction related.

There is no dispute that distracted driving is more than dangerous. It's deadly.

But the statistics also show that texting only accounts for a small portion – less than 15% – of our distraction-related injuries and fatalities. The majority of distraction-related crashes – crashes that claim the lives of people like Kelsie Myers – are caused by distractions other than texting-while-driving.

Unfortunately, North Dakota's existing law does not discourage distracted driving. Instead, we only ban the act of texting or transmitting data, while overlooking many other potentially deadly distractions.

What does this mean? If you're driving, it is illegal to send a text or email, or even browse Facebook or the internet. But all off-line uses of your phone, including reading, typing, and using off-line apps, is not prohibited. This means it's legal to type a text message while driving, but illegal to send it.

House Bill 1430 modernizes North Dakota's law to reflect this oversight and discourage the act of distracted driving, rather than simply sending a text. Traffic injuries and fatalities do not discriminate based on the type of distraction, and neither should our traffic laws.



HB1430
2-9-17
#2
Pages 1-22

Distracted Driving 2013

The Department of Transportation works to reduce the occurrence of distracted driving and raise awareness of the dangers of distracted driving. This risky behavior poses a danger to vehicle occupants as well as nonoccupants such as pedestrians and bicyclists. Driver distraction is a specific type of driver inattention. Distraction occurs when drivers divert their attention from the driving task to focus on some other activity. Oftentimes, discussions regarding distracted driving center around cell phone use and texting, but distracted driving also includes other activities such as eating, talking to other passengers, or adjusting the radio or climate controls, to name but a few. A distraction-affected crash is any crash in which a driver was identified as distracted at the time of the crash.

Ten percent of fatal crashes, 18 percent of injury crashes, and 16 percent of all police-reported motor vehicle traffic crashes in 2013 were reported as distraction-affected crashes.

- In 2013, there were 3,154 people killed and an estimated additional 424,000 injured in motor vehicle crashes involving distracted drivers.
- Ten percent of all drivers 15 to 19 years old involved in fatal crashes were reported as distracted at the time of the crashes. This age group has the largest proportion of drivers who were distracted at the time of the crashes.
- In 2013, there were 480 nonoccupants killed in distraction-affected crashes.

Methodology

The data sources include NHTSA's Fatality Analysis Reporting System (FARS) and National Automotive Sampling System (NASS) General Estimates System (GES). FARS contains data on a census of fatal traffic crashes from all 50 States, the District of Columbia, and Puerto Rico. NASS GES contains data from a nationally representative probability sample of police-reported crashes of all severities, including those that result in death, injury, or property damage. The national estimates produced from GES data are subject to sampling errors.

defined in the *Overview of the National Highway Traffic Safety Administration's Driver Distraction Program* (Report

No. DOT HS 811 299), distraction is a specific type of inattention that occurs when drivers divert their attention from the driving task to focus on some other activity instead. That document describes that distraction is a subset of inattention (which also includes fatigue, and physical and emotional conditions of the driver). However, while NHTSA may define the terms in this manner, inattention and distraction are often used interchangeably or simultaneously in other material, including police accident reports. It is important that NHTSA and NHTSA's data users be aware of these differences in definitions.

There are inherent limitations in the data for distraction-affected crashes and the resulting injuries and fatalities. These limitations are being addressed through efforts within and outside of NHTSA as detailed in the Overview. The appendix of this document contains a table that describes the coding for distraction-affected crashes for FARS and GES as well as a discussion regarding limitations in the distracted driving data.

Data

Fatalities in Distraction-Affected Crashes

In 2013, there were a total of 30,057 fatal crashes in the United States involving 44,574 drivers. As a result of those fatal crashes, 32,719 people were killed.

In 2013, there were 2,910 fatal crashes that occurred on U.S. roadways that involved distraction (10% of all fatal crashes). These crashes involved 2,959 distracted drivers, as some crashes involved more than one distracted driver. Distraction was reported for 7 percent (2,959 of 44,574) of the drivers involved in fatal crashes. In these distraction-affected crashes, 3,154 fatalities (10% of overall fatalities) occurred. Table 1 provides information on crashes, drivers, and fatalities involved in fatal distraction-affected crashes in 2013.

Much attention across the country has been devoted to the use of cell phones and other electronic devices while driving. In 2013, there were 411 fatal crashes reported to have involved the use of cell phones as distractions (14% of all fatal

Table 1
Fatal Crashes, Drivers in Fatal Crashes, and Fatalities, 2013

	Crashes	Drivers	Fatalities
Total	30,057	44,574	32,719
Distraction-Affected (D-A)	2,910 (10% of total crashes)	2,959 (7% of total drivers)	3,154 (10% of total fatalities)
Cell Phone in Use	411 (14% of D-A crashes)	427 (14% of distracted drivers)	445 (14% of fatalities in D-A crashes)

Source: National Center for Statistics and Analysis (NCSA), FARS 2013 (ARF)

distraction-affected crashes). For these distraction-affected crashes, the police accident report stated that the driver was talking on, listening to, or manipulating a cell phone (or other cell phone activity) at the time of the crash. Cell phones were reported as a distraction for 14 percent of the distracted drivers in fatal crashes. A total of 445 people died in fatal crashes that involved the use of cell phones or other cell phone-related activities as distractions.

Table 2 presents 2013 fatal crash data for distraction-affected crashes by driver age. Ten percent of all drivers 15 to 19 years old involved in fatal crashes were distracted at the time of the crash. This age group is the group with the largest proportion of drivers who were distracted.

The comparison of the proportion of drivers involved in fatal crashes and those involved in distraction-affected fatal crashes points to overrepresentation of drivers under 40. For all fatal crashes, only 6 percent of the drivers in the fatal crashes were 15 to 19 years old. However, for distracted drivers in fatal crashes, 10 percent of the distracted drivers were 15 to 19 years old. And 11 percent of all the distracted drivers using cell phones were 15 to 19 years old. Similarly, drivers in their 20s are 23 percent of drivers in all fatal crashes, but are 27 percent of the distracted drivers and 38 percent of the distracted drivers that were using cell phones in fatal crashes.

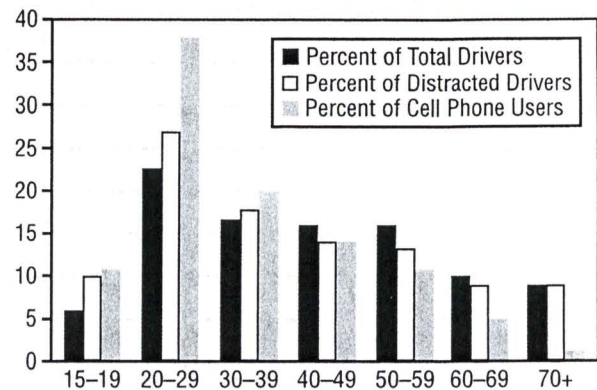
Table 2
Drivers Involved in Fatal Crashes by Age, Distraction, and Cell Phone Use, 2013

Age Group	Total Drivers		Distracted Drivers			Drivers Using Cell Phone		
	#	% of Total	#	% of Total Drivers	% of Distracted Drivers	#	% of Distracted Drivers	% of Cell Phone Drivers
15-19	2,839	6	294	10	10	45	15	11
20-29	10,427	23	803	8	27	161	20	38
30-39	7,598	17	517	7	17	84	16	20
40-49	7,321	16	423	6	14	61	14	14
50-59	7,079	16	384	5	13	46	12	11
60-69	4,483	10	258	6	9	22	9	5
70+	3,951	9	252	6	9	6	2	1
Total	44,574	100	2,959	7	100	427	14	100

Source: NCSA, FARS 2013 (ARF); Note: The total includes 56 drivers 14 and younger, 7 of whom were noted as distracted. Additionally, the total includes 820 of unknown age, 21 of whom were noted as distracted.

Figure 1 illustrates the distribution of drivers by age for total drivers involved in fatal crashes, distracted drivers involved in fatal crashes, and distracted drivers on cell phones during fatal crashes.

Figure 1
Percent Distribution of Drivers Involved in Fatal Crashes By Age, Distraction, and Cell Phone Use, 2013



Source: NCSA, FARS 2013 (ARF)

In 2013, 85 percent of the fatalities in distraction-affected crashes involved motor vehicle occupants or motorcyclists.

This compares to 83 percent of all motor vehicle crash fatalities involving occupants. Thus, the victims of distraction-affected crashes vary little from the victims of crashes overall. Table 3 describes the role of the people killed in distraction-affected crashes in 2013. Distracted drivers were involved in the deaths of 480 nonoccupants during 2013. It is unknown how many of these nonoccupants were potentially distracted as well.

Table 3
People Killed in Distraction-Affected Crashes, by Person Type, 2013

Person Type	Killed in Distraction-Affected Crashes	Percentage of Distraction-Affected Fatalities
Occupants		
Driver	1,898	60%
Passenger	776	25%
Total Occupants	2,674	85%
Nonoccupants		
Pedestrian	384	12%
Pedalcyclist	74	2%
Other	22	1%
Total Nonoccupants	480	15%

Source: NCSA, FARS 2013 (ARF)

In 2013, 69 percent of the distracted drivers in fatal crashes were male as compared to 73 percent of drivers in all fatal crashes. Additionally, 58 percent of distracted drivers involved in fatal crashes were driving in the daytime (between 6 a.m. and 5:59 p.m.) as compared to 53 percent of drivers in all fatal crashes.

Estimates of People Injured in Distraction-Affected Crashes

In 2013, an estimated 2,313,000 people were injured in motor vehicle traffic crashes (Table 4). The number of people injured in distraction-affected crashes in 2013 was estimated at 424,000 (18% of all the injured people). An estimated 34,000 people were injured in 2013 in crashes involving cell phone use or other cell phone-related activities, 8 percent of all people injured in distraction-affected crashes.

Table 4
Estimated Number of People Injured in Crashes and People Injured in Distraction-Affected Crashes

Year	Total	Distraction	
		Estimate (% of Total Injured)	Cell Phone Use (% of People Injured in Distraction-Affected Crashes)
2010	2,239,000	416,000 (19%)	24,000 (6%)
2011	2,217,000	387,000 (17%)	21,000 (5%)
2012	2,362,000	421,000 (18%)	28,000 (7%)
2013	2,313,000	424,000 (18%)	34,000 (8%)

Source: NCSA, GES 2010–2013

Over the past four years, the estimated number of people injured in distraction-affected crashes has shown decreases and increases. The percentage of injured people in distraction-affected crashes as a portion of all injured people has remained relatively constant. As these are estimates, the changes may not be statistically significant.

In 2013, there were an estimated 284,000 distraction-affected injury crashes (Table 5) or 18 percent of all injury crashes. In these crashes, 294,000 drivers were distracted at the time of the crashes.

Table 5
Estimates of Distraction-Affected Injury Crashes, Drivers In Injury Crashes, and Injured People, 2013

Distraction-Affected Injury Crashes	Distracted Drivers in Injury Crashes	People Injured in Distraction-Affected Crashes
284,000 (18% of all injury crashes)	294,000 (10% of all drivers in injury crashes)	424,000 (18% of all injured people)

Source: NCSA, GES 2013

Crashes of All Severity

Table 6 provides information for all police-reported crashes from 2010 through 2013 including fatal crashes, injury crashes, and property-damage-only (PDO) crashes for the year. During this time period, the percentages of crashes of all severities that involve distractions fluctuated very little.

Table 6
Motor Vehicle Traffic Crashes and Distraction-Affected Crashes by Year

Crash by Crash Severity	Overall Crashes	Distraction-Affected Crashes (% of Total Crashes)	D-A Crashes Involving Cell Phone Use (% of D-A Crashes)	
2010	Fatal Crash	30,296	2,993 (10%)	366 (12%)
	Injury Crash	1,542,000	279,000 (18%)	16,000 (6%)
	PDO* Crash	3,847,000	618,000 (16%)	30,000 (5%)
	Total	5,419,000	900,000 (17%)	47,000 (5%)
2011	Fatal Crash	29,867	3,047 (10%)	354 (12%)
	Injury Crash	1,530,000	260,000 (17%)	15,000 (6%)
	PDO Crash	3,778,000	563,000 (15%)	35,000 (6%)
	Total	5,338,000	826,000 (15%)	50,000 (6%)
2012	Fatal Crash	31,006	3,098 (10%)	380 (12%)
	Injury Crash	1,634,000	286,000 (18%)	21,000 (7%)
	PDO Crash	3,950,000	619,000 (16%)	39,000 (6%)
	Total	5,615,000	908,000 (16%)	60,000 (7%)
2013	Fatal Crashes	30,057	2,910 (10%)	411 (14%)
	Injury Crash	1,591,000	284,000 (18%)	24,000 (8%)
	PDO Crash	4,066,000	616,000 (15%)	47,000 (8%)
	Total	5,687,000	904,000 (16%)	71,000 (8%)

*PDO – Property Damage Only

Source: NCSA, FARS 2010–2012 Final, FARS 2013 ARF, GES 2010–2013.

Appendix—Coding of Distraction During Crashes

In keeping with its distraction plan (*Overview of the National Highway Traffic Safety Administration's Driver Distraction Program*, April 2010, Report No. DOT HS 811 299), NHTSA continues to refine collection of information about the role of distracted driving in police-reported crashes. This includes improvements to the coding of distraction in FARS. Prior to 2010, FARS, which contains data about fatal motor vehicle crashes, and the NASS-GES, which contains data about a sample of all severities of police-reported crashes, coded distraction information in different formats. FARS was more general and inclusive of generally inattentive behavior, whereas GES identified specific distracted driving behaviors. In 2010, the two systems' coding of distraction was unified. Beginning in 2010 for both systems, when looking at distraction-affected crashes, the driver in both FARS and GES is identified as "Yes-Distracted," "No-Not distracted," or "Unknown if distracted." If the driver is identified as distracted, further coding is performed to distinguish the specific activity that was distracting the driver. This was not a change for data coding for GES, but was in FARS. The data collected on the PAR did not change; rather, it is the way the data is classified in FARS to focus the fatal crash data on the set of distractions most likely to affect the crash. Prior to 2010 in FARS, distraction was not first identified in a Yes/No/Unknown manner. Rather, specific behaviors of the driver as coded on the PAR were combined and categorized as "distracted."

Because of this change in data coding in FARS, distraction-affected crash data from FARS beginning in 2010 cannot be compared to distracted-driving-related data from FARS from previous years. With only four years of fatal crash information for distraction under the new coding, the reader should take caution in making conclusions of trends in these data. GES data can be compared over the years, as the data coding did not change in this system.

Of additional note is the terminology regarding distraction. For FARS and GES data, beginning with 2010 data, any crash in which a driver was identified as distracted at the time of the crash is referred to as a distraction-affected crash. Discussion of cell phones is also more specific starting with the 2010 data. Starting in 2010, FARS no longer offers "cell phone present in vehicle" as a coding option; thus this code cannot be considered a distraction within the data set. From discussion with law enforcement officers, this code in years past was used when it was believed that the driver was using a cell phone at the time of the crash and thus contributed to the crash, but proof was not available. The use of a cell phone is more specific with the current coding and if the specific involvement cannot be determined, law enforcement has other options available to discuss the role of the cell phone and thus the coding would reflect such. Because of these changes, the current language referring to cell phones is that

the crash involved the *use of a cell phone* as opposed to the generic cell-phone-involvement used previously.

In a continuing effort towards uniformity in data collection among states, the Model Minimum Uniform Crash Criteria (MMUCC) was updated in June 2012. MMUCC is a guideline for collection of crash characteristics in police accident reports. In this updated edition, *MMUCC Guideline, 4th Edition*, the reporting element for distraction was improved after consultation with law enforcement, safety advocates, first responders, and industry representatives. The States are increasingly becoming compliant with these MMUCC guidelines.

Attribute Selection

As discussed in the Methodology section of this Research Note, FARS and GES were accessed to retrieve distraction-affected crashes. Table A-1 contains every variable attribute available for coding for driver distraction along with examples to illustrate the meaning of the attribute. This is the coding scheme available for FARS and GES. Table A-1 further indicates whether that attribute was included in the analysis for distraction-affected crashes.

In 2012, the variable attributes changed to account for different ways that State police accident reports describe general categories of distraction, inattention, and careless driving. These additional attributes provide a more accurate classification of the behavior indicated on the police accident report. If the cell in the table is greyed out, the attribute did not exist for the indicated data years.

If there are no indications of usage for distraction-affected crashes, the attribute was not considered as a type of distraction behavior and therefore not included in the analysis.

Data Limitations

NHTSA recognizes that there are limitations to the collection and reporting of FARS and GES data with regard to driver distraction. The data for FARS and GES are based on PARs and information gathered after the crashes have occurred.

One significant challenge for collection of distracted driving data is the PAR itself. Police accident reports vary across jurisdictions, thus creating potential inconsistencies in reporting. Many variables on the police accident report are nearly universal, but distraction is not one of those variables. Some police accident reports identify distraction as a distinct reporting field, while others do not have such a field and identification of distraction is based upon the narrative portion of the report. The variation in reporting forms contributes to variation in the reported number of distraction-affected crashes. Any national or State count of distraction-affected crashes should be interpreted with this limitation in mind

Table A-1

Attributes Included in "Driver Distracted by" Element and Indication of Inclusion in Distraction-Affected Definitions, PARs and FARS

Attribute	Examples	Distraction-Affected Crashes	
		2010–2011	2012–2013
Not distracted	Completely attentive to driving; no indication of distraction or noted as Not Distracted		
Looked but did not see	Driver paying attention to driving but does not see relevant vehicle, object, etc.		
By other occupant	Distracted by occupant in driver's vehicle; includes conversing with or looking at other occupant	X	X
By a moving object in vehicle	Distracted by moving object in driver's vehicle; includes dropped object, moving pet, insect, cargo.	X	X
While talking or listening to cellular phone	Talking or listening on cellular phone; includes talking or listening on a "hands-free" or Bluetooth enabled phone	X	X
While manipulating cellular phone	Dialing or text messaging on cell phone or any wireless email device; any manual button/control actuation on phone qualifies	X	X
Other cellular phone-related	Used when the police report indicated the driver is distracted from the driving task due to cellular phone involvement, but none of the specified codes are applicable (e.g., reaching for cellular phone, etc.). This code is also applied when specific details regarding cellular phone distraction/usage are not provided.	X	X
While adjusting audio and/or climate controls	While adjusting air conditioner, heater, radio, cassette, using the radio, using the cassette or CD mounted into vehicle	X	X
While using other component/controls integral to vehicle	Manipulating a control in the vehicle including adjusting headlamps, interior lights, controlling windows, door locks, mirrors, seats, steering wheels, on-board navigational devices, etc.	X	X
While using or reaching for device/object brought into vehicle	Radar detector, CDs, razors, music portable CD player, headphones, a navigational device, a laptop or tablet PC, etc.; if unknown if device is brought into vehicle or integral, use Object Brought Into Vehicle	X	X
Distracted by outside person, object, or event	Animals on roadside or previous crash, non-traffic related signs. Do not use when driver has recognized object/event and driver has taken evasive action	X	X
Eating or drinking	Eating or drinking or actively related to these actions	X	X
Smoking related	Smoking or involved in activity related to smoking	X	X
No driver present/unknown if driver present	When no driver is in this vehicle or when it is unknown if there is a driver present in this vehicle at the time of the crash		
Distraction/Inattention	Used exclusively when "distraction/inattention" or "inattention/distraction" are noted in case materials as one combined attribute		X
Distraction/Careless	Used exclusively when "distraction/careless" or "careless/distraction" are note in case materials as one combined attribute		X
Careless/Inattentive	Used exclusively when "careless/inattentive" or "inattentive/careless" are noted in case materials as one combined attribute		X
Distraction/inattention, details unknown	Distraction and/or inattention are noted on the PAR but the specifics are unknown	X	
Distraction (distracted), details unknown	Used when "distraction" or "distracted" are noted in case materials but specific distraction(s) cannot be identified		X
Inattention (inattentive), details unknown	Used when "inattention" or "inattentive" are noted in the case materials but it cannot be identified if this refers to a distraction		X
Not reported	No field available on PAR; field on PAR left blank; no other information available		
Inattentive or lost in thought	Driver is thinking about items other than the driving task (e.g., daydreaming)	X	
Lost in thought/Daydreaming	Used when the driver is not completely attentive to driving because he/she is thinking about items other than the driving task.		X
Other distraction	Details regarding the driver's distraction are known but none of the specified codes are applicable	X	
Unknown if distracted	PAR specifically states unknown		

due to potential under-reporting in some States and over-reporting in others.

The following are potential reasons for underreporting of distraction-affected crashes.

- There are negative implications associated with distracted driving—especially in conjunction with a crash. Survey research shows that self-reporting of negative behavior is lower than actual occurrence of that negative behavior. There is no reason to believe that self-reporting of distracted driving to a law enforcement officer would differ. The inference is that the reported driver distraction during crashes is lower than the actual occurrence.
- If a driver fatality occurs in the crash, law enforcement must rely on the crash investigation in order to report on whether driver distraction was involved. Law enforcement may not have information to indicate distraction. These investigations may rely on witness account and oftentimes these accounts may not be available either.
- Technologies are changing at a rapid speed and it is difficult to update the PAR to accommodate these changes. Without broad-sweeping changes to the PAR to incorporate new technologies and features of technologies, it is difficult to capture the data that involve interaction with these devices.

The following is a challenge in quantifying external distractions.

- In the reporting of distraction-affected crashes, oftentimes external distractions are identified as a distinct type of distraction. Some of the scenarios captured under external distractions might actually be related to the task of driving (e.g., looking at a street sign). However, the crash reports may not differentiate these driving-related tasks from other external distractions (looking at previous crash or billboard). Currently, the category of external distractions is included in the counts of distraction-affected crashes.

Limitations in the data can be seen in a quantifiable manner in a research paper titled, *Pre-crash Data Collection in NHTSA's Databases* by Mark Mynatt and Greg Radja, published in 2011 for the ESV Conference. In this research paper, Mynatt and Radja reviewed crashes that were common in the National Motor Vehicle Crash Causation Survey (NMVCCS), an on-site investigations crash survey; the GES (police report data); and the Crashworthiness Data System (CDS), data from follow-on vehicle and crash scene inspections and driver interviews along with the police report. A total of 379 crashes involving 653 vehicles were determined to be present in all three programs. Mynatt and Radja looked at specific data for distraction in the common cases to quantify the difference in reporting of distracted driving behaviors due to additional sources of information as can be seen in the following excerpt from the paper:

Table A-2 shows the percentage of the common vehicles with a coded Distraction in each of the programs.

Table A-2
**Common Vehicles With a Distraction Present
(Percentages rounded)**

Distraction	NASS-GES	NASS-CDS	NMVCCS
Yes	11%	14%	28%
No	60%	46%	48%
Unknown	30%	40%	24%

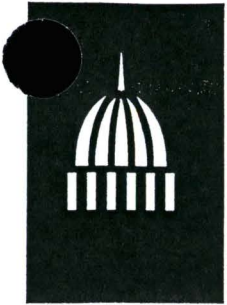
As Table A-2 indicates, in these same vehicles a distraction was coded in the on-scene program twice as often as in the follow-on program; and 2½ times more often than in the PAR-based program. The on-scene based program also had a lower percentage of Unknown Distraction coding.

While these findings cannot be expanded to quantify the potential underreporting in FARS and GES, they are valuable in understanding the potential underreporting that the FARS and GES data may experience for driver distraction.



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

This research note and other general information on highway traffic safety may be accessed by Internet users at: www-nrd.nhtsa.dot.gov/CATS/index.aspx



NCSL MEMO

NATIONAL CONFERENCE *of* STATE LEGISLATURES

To: Representative Corey Mock

CC: Karmen Hanson

From: Amanda Essex

Date: February 7, 2017

Subject: General Distracted Driving Laws

Representative Mock,

Thank you for contacting NCSL regarding state laws prohibiting distracted driving, regardless of the cause of the distraction. I was able to locate the following statutes on this topic.

- **Georgia** has a statute specifying: "A driver shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions which shall distract such driver from the safe operation of such vehicle, provided that, except as prohibited by Code Sections 40-6-241.1 and 40-6-241.2, the proper use of a radio, citizens band radio, mobile telephone, or amateur or ham radio shall not be a violation of this Code section." Ga. Code Ann. § 40-6-241 (West)
- **Maine** has a statute addressing failure to maintain control of a vehicle.
 1. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
 - A. "Operation of a motor vehicle while distracted" means the operation of a motor vehicle by a person who, while operating the vehicle, is engaged in an activity:
 - (1) That is not necessary to the operation of the vehicle; and
 - (2) That actually impairs, or would reasonably be expected to impair, the ability of the person to safely operate the vehicle.
 2. **Failure to maintain control of a motor vehicle.** A person commits the traffic infraction of failure to maintain control of a motor vehicle if the person:

A. Commits either a traffic infraction under this Title or commits the crime of driving to endanger under section 2413 and, at the time the traffic infraction or crime occurred, the person was engaged in the operation of a motor vehicle while distracted; or

B. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 2251, subsection 1 that resulted in property damage and, at the time the reportable accident occurred, the person was engaged in the operation of a motor vehicle while distracted.

Me. Rev. Stat. tit. 29-A, § 2118

- **Utah** has a statute prohibiting careless driving: “(1) A person operating a motor vehicle is guilty of careless driving if the person: ...(b) commits a moving traffic violation ... while being distracted by one or more activities taking place within the vehicle that are not related to the operation of a motor vehicle, including: (i) searching for an item in the vehicle; or (ii) attending to personal hygiene or grooming. (2) A violation of this section is a class C misdemeanor.” Utah Code Ann. § 41-6a-1715
- **Wisconsin’s** law specifies that “(1) No person while driving a motor vehicle may be engaged or occupied with an activity, other than driving the vehicle, that interferes or reasonably appears to interfere with the person's ability to drive the vehicle safely.” Wis. Stat. Ann. § 346.89 (West)
- **Washington, DC** has a general prohibition on distracted driving. “Distracted driving shall be prohibited. A person found guilty of distracted driving shall be subject to the fines and penalties set forth in § 50-1731.06(a).” D.C. Code Ann. § 50-1731.03 (West)

If you have any further questions, or if you would like additional information, please feel free to contact me at amanda.essex@ncsl.org.

Sincerely,

Amanda Essex
Policy Specialist
Transportation Program
National Conference of State Legislatures
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303-856-1369

ARTICLE 11 - MISCELLANEOUS PROVISIONS

P-9

§ 40-6-241 - Driver to exercise due care; proper use of radios and mobile telephones allowed

O.C.G.A. 40-6-241 (2010)

40-6-241. Driver to exercise due care; proper use of radios and mobile telephones allowed

A driver shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions which shall distract such driver from the safe operation of such vehicle, provided that, except as prohibited by Code Sections 40-6-241.1 and 40-6-241.2, the proper use of a radio, citizens band radio, mobile telephone, or amateur or ham radio shall not be a violation of this Code section.

detained for a suspected violation of another provision of this chapter, chapter 320, or chapter 322.

Georgia

Ga. Code Ann. § 40-6-241.2 (West)

(a) As used in this Code section, the term “wireless telecommunications device” means a cellular telephone, a text messaging device, a personal digital assistant, a stand alone computer, or any other substantially similar wireless device that is used to initiate or receive a wireless communication with another person. It does not include citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, subscription based emergency communications, in-vehicle security, navigation devices, and remote diagnostics systems, or amateur or ham radio devices.

(b)(1) No person who is 18 years of age or older or who has a Class C license shall operate a motor vehicle on any public road or highway of this state while using a wireless telecommunications device to write, send, or read any text based communication, including but not limited to a text message, instant message, e-mail, or Internet data.

(2) No person shall operate a commercial motor vehicle on any public road or highway of this state while: (A) Holding a wireless telecommunications device to conduct a voice communication; (B) Using more than a single button on a wireless telecommunications device to initiate or terminate a voice communication; or (C) Reaching for a wireless telecommunications device in such a manner that requires the driver to maneuver so that he or she is no longer in a seated driving position properly restrained by a safety belt.

(c) The provisions of this Code section shall not apply to: (1) A person reporting a traffic accident, medical emergency, fire, serious road hazard, or a situation in which the person reasonably believes a person's health or safety is in immediate jeopardy; (2) A person reporting the perpetration or potential perpetration of a crime; (3) A public utility employee or contractor acting within the scope of his or her employment when responding to a public utility emergency; (4) A law enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety first responder during the performance of his or her official duties; or (5) A person engaging in wireless communication while in a motor vehicle which is lawfully parked.

(d) Any conviction for a violation of the provisions of this Code section shall be a misdemeanor punishable by a fine of \$150.00. The provisions of Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against a person for conviction thereof. The court imposing such fine shall forward a record of the disposition to the Department of Driver Services. Any violation of this Code section shall constitute a separate offense.

Hawaii

Haw. Rev. Stat. Ann. § 291C-137 (West)

(a) No person shall operate a motor vehicle while using a mobile electronic device.

(b) The use of a mobile electronic device for the sole purpose of making a “911” emergency communication shall be an affirmative defense to this law.

p.11

§2118. Failure to maintain control of a motor vehicle

(REALLOCATED FROM TITLE 29-A, SECTION 2117)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Operation of a motor vehicle while distracted" means the operation of a motor vehicle by a person who, while operating the vehicle, is engaged in an activity:

- (1) That is not necessary to the operation of the vehicle; and
- (2) That actually impairs, or would reasonably be expected to impair, the ability of the person to safely operate the vehicle. [RR 2009, c. 1, §18 (RAL) .]

[RR 2009, c. 1, §18 (RAL) .]

2. Failure to maintain control of a motor vehicle. A person commits the traffic infraction of failure to maintain control of a motor vehicle if the person:

A. Commits either a traffic infraction under this Title or commits the crime of driving to endanger under section 2413 and, at the time the traffic infraction or crime occurred, the person was engaged in the operation of a motor vehicle while distracted; or [RR 2009, c. 1, §1 (RAL) .]

B. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 2251, subsection 1 that resulted in property damage and, at the time the reportable accident occurred, the person was engaged in the operation of a motor vehicle while distracted. [RR 2009, c. 1, §18 (RAL) .]

A person may be issued a citation or summons for any other traffic infraction or crime that was committed by the person in relation to the person's commission of the traffic infraction of failure to maintain control of a motor vehicle.

[RR 2009, c. 1, §18 (RAL) .]

SECTION HISTORY

RR 2009, c. 1, §18 (RAL) .

Maine**Me. Rev. Stat. tit. 29-A, § 2119**

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Cellular telephone" means a device used to access wireless telephone service.
- B. "Portable electronic device" means any portable electronic device that is not part of the operating equipment of a motor vehicle, including but not limited to an electronic game, device for sending or receiving e-mail, text messaging device, cellular telephone and computer.
- C. "Text messaging" means reading or manually composing electronic communications, including text messages, instant messages and e-mails, using a portable electronic device. "Text messaging" does not include using a global positioning or navigation system.
- D. "Operate" means driving a motor vehicle on a public way with the motor running, including while temporarily stationary because of traffic, a traffic light or a stop sign or otherwise stationary. "Operate" does not include operating a motor vehicle with or without the motor running when the operator has pulled the motor vehicle over to the side of, or off, a public way and has halted in a location where the motor vehicle can safely remain stationary.

2. Prohibition. A person may not operate a motor vehicle while engaging in text messaging.

3. Penalties. The following penalties apply to a violation of this section.

- A. A person who violates this section commits a traffic infraction for which a fine of not less than \$250 may be adjudged.
- B. A person who violates this section after previously having been adjudicated as violating this section within a 3-year period commits a traffic infraction for which a fine of not less than \$500 may be adjudged, and the Secretary of State shall suspend the license of that person without right to hearing. The minimum periods of license suspension are: (1) Thirty days, if the person has 2 adjudications for a violation of this section within a 3-year period; (2) Sixty days, if the person has 3 adjudications for a violation of this section within a 3-year period; and (3) Ninety days, if the person has 4 or more adjudications for a violation of this section within a 3-year period.

For the purposes of this paragraph, an adjudication has occurred within a 3-year period if the date of the new conduct is within 3 years of the date of a docket entry of adjudication of a violation of this section.

Effective 5/13/2014

41-6a-1715 Careless driving defined and prohibited.

- (1) A person operating a motor vehicle is guilty of careless driving if the person:
 - (a) commits two or more moving traffic violations under this chapter in a series of acts within a single continuous period of driving covering three miles or less in total distance; or
 - (b) commits a moving traffic violation under this chapter other than a moving traffic violation under Part 6, Speed Restrictions, while being distracted by one or more activities taking place within the vehicle that are not related to the operation of a motor vehicle, including:
 - (i) searching for an item in the vehicle; or
 - (ii) attending to personal hygiene or grooming.
- (2) A violation of this section is a class C misdemeanor.
- (3) In addition to the penalty provided under this section or any other section, a judge may order the revocation of the convicted person's driver license if the violation causes or results in the death of another person in accordance with Subsection 53-3-218(6).

Amended by Chapter 416, 2014 General Session

Utah

Utah Code Ann. § 41-6a-1716 (West)

(1) As used in this section:

(a) "Handheld wireless communication device" means a handheld device used for the transfer of information without the use of electrical conductors or wires.

(b) "Handheld wireless communication device" includes a: (i) wireless telephone; (ii) text messaging device; (iii) laptop; or (iv) any substantially similar communication device that is readily removable from the vehicle and is used to write, send, or read text or data through manual input.

(2) Except as provided in Subsection (3), a person may not use a handheld wireless communication device while operating a moving motor vehicle on a highway in this state to manually: (a) write, send, or read a written communication, including: (i) a text message; (ii) an instant message; or (iii) electronic mail; (b) dial a phone number; (c) access the Internet; (d) view or record video; or (e) enter data into a handheld wireless communication device.

(3) Subsection (2) does not prohibit a person from using a handheld wireless communication device while operating a moving motor vehicle: (a) when using a handheld communication device for voice communication; (b) to view a global positioning or navigation device or a global positioning or navigation application; (c) during a medical emergency; (d) when reporting a safety hazard or requesting assistance relating to a safety hazard; (e) when reporting criminal activity or requesting assistance relating to a criminal activity; (f) when used by a law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment; or (g) to operate: (i) hands-free or voice operated technology; or (ii) a system that is physically or electronically integrated into the motor vehicle.

(4) A person convicted of a violation of this section is guilty of a:

(a) class C misdemeanor with a maximum fine of \$100; or

(b) class B misdemeanor if the person:

(i) has also inflicted serious bodily injury upon another as a proximate result of using a handheld wireless communication device in violation of this section while operating a moving motor vehicle on a highway in this state; or

(ii) has a prior conviction under this section, that is within three years of:

(A) the current conviction under this section; or

(B) the commission of the offense upon which the current conviction is based.

Wisconsin

Wis. Stat. Ann. § 346.89 (West)

(1) No person while driving a motor vehicle may be engaged or occupied with an activity, other than driving the vehicle, that interferes or reasonably appears to interfere with the person's ability to drive the vehicle safely.

(3)(a) No person may drive, as defined in s. 343.305(1)(b), any motor vehicle while composing or sending an electronic text message or an electronic mail message.

(b) This subsection does not apply to any of the following: 1. The operator of an authorized emergency vehicle. 2. The use of any device whose primary function is transmitting and receiving emergency alert messages and messages related to the operation of the vehicle or an accessory that is integrated into the electrical system of a vehicle, including a global positioning system device. 3. An amateur radio operator who holds a valid amateur radio operator's license issued by the federal communications commission when he or she is using dedicated amateur radio 2-way radio communication equipment and observing proper amateur radio operating procedures. 4. The use of a voice-operated or hands-free device if the driver of the motor vehicle does not use his or her hands to operate the device, except to activate or deactivate a feature or function of the device.

(4)(a) Subject to sub. (3), no person who holds a probationary license issued under s. 343.085, or an instruction permit issued under s. 343.07, may drive, as defined in s. 343.305(1)(b), any motor vehicle while using a cellular or other wireless telephone, except to report an emergency.

(b) 1. In this paragraph:

- a. "Commercial motor vehicle" has the meaning given in 49 CFR 390.5.
- b. "Drive" means the exercise of physical control over the speed and direction of a motor vehicle while it is in motion or is temporarily stationary because of traffic, a traffic control device, or other momentary delay.
- c. "Mobile telephone" has the meaning given in 49 CFR 390.5.

2. Subject to sub. (3), except to report an emergency to law enforcement officials or other emergency service providers, no person may drive any commercial motor vehicle while using a hand-held mobile telephone in any the following manners:

- a. Using at least one hand to hold a mobile telephone or any connected accessory to conduct a voice communication.
- b. Dialing or answering a mobile telephone by pressing more than a single button.
- c. Reaching for a mobile telephone in a manner that requires the driver to maneuver so that he or she is no longer in a seated driving position.

(4m) No person may drive, as defined in s. 343.305(1)(b), any motor vehicle while using a cellular or other wireless telephone, including using the telephone for a purpose other than communication, where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic, except to report an emergency. This subsection does not apply to the use of a voice-operated or hands-free device if the driver of the motor vehicle does not use his or her hands to operate the device, except to activate or deactivate a feature or function of the device.

(5) Subject to subs. (3) and (6), no person while driving a motor vehicle, other than an authorized emergency vehicle, a commercial motor vehicle described in s. 340.01(8), or a tow truck, may operate or be in a position to directly observe any electronic device

located within the vehicle that is activated and that is providing entertainment primarily by visual means. This subsection does not prohibit a person from using a cellular telephone for purposes of verbal communication.

(6) Subsection (5) does not apply to any of the following: (a) Any global positioning system device. (b) The display by any device of information related to the operation, navigation, condition, radio, or safety of the vehicle or that is intended to be used to enhance the driver's view forward, behind, or to the sides of a motor vehicle. (c) The display by any device of information related to traffic, road, or weather conditions. (d) Any device in a vehicle that permits the vehicle driver to monitor vehicle occupants seated rearward of the driver. (e) Any device installed or mounted, either permanently or temporarily, in the vehicle that, with respect to the vehicle operator, functions as provided in par. (a), (b), (c), or (d) while simultaneously providing entertainment visible only from passenger seats of the vehicle.

346.89 Inattentive driving.

(1) No person while driving a motor vehicle may be engaged or occupied with an activity, other than driving the vehicle, that interferes or reasonably appears to interfere with the person's ability to drive the vehicle safely.

(a) No person may drive, as defined in s. 343.305 (1) (b), any motor vehicle while composing or sending an electronic text message or an electronic mail message.

(b) This subsection does not apply to any of the following:

1. The operator of an authorized emergency vehicle.
2. The use of any device whose primary function is transmitting and receiving emergency alert messages and messages related to the operation of the vehicle or an accessory that is integrated into the electrical system of a vehicle, including a global positioning system device.
3. An amateur radio operator who holds a valid amateur radio operator's license issued by the federal communications commission when he or she is using dedicated amateur radio 2-way radio communication equipment and observing proper amateur radio operating procedures.
4. The use of a voice-operated or hands-free device if the driver of the motor vehicle does not use his or her hands to operate the device, except to activate or deactivate a feature or function of the device.

(4)

(a) Subject to sub. (3), no person who holds a probationary license issued under s. 343.085, or an instruction permit issued under s. 343.07, may drive, as defined in s. 343.305 (1) (b), any motor vehicle while using a cellular or other wireless telephone, except to report an emergency.

(b)

1. In this paragraph:

- a. "Commercial motor vehicle" has the meaning given in 49 CFR 390.5.
- b. "Drive" means the exercise of physical control over the speed and direction of a motor vehicle while it is in motion or is temporarily stationary because of traffic, a traffic control device, or other momentary delay.
- c. "Mobile telephone" has the meaning given in 49 CFR 390.5.

2. Subject to sub. (3), except to report an emergency to law enforcement officials or other emergency service providers no person may drive any commercial motor vehicle while using a hand-held mobile telephone in any the following manners:

- a. Using at least one hand to hold a mobile telephone or any connected accessory to conduct a voice communication.
- b. Dialing or answering a mobile telephone by pressing more than a single button.
- c. Reaching for a mobile telephone in a manner that requires the driver to maneuver so that he or she is no longer in a seated driving position.

(4m) No person may drive, as defined in s. 343.305 (1) (b), any motor vehicle while using a cellular or other wireless telephone, including using the telephone for a purpose other than communication, where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic, except to report an emergency. This subsection does not apply to the use of a voice-operated or hands-free device if the driver of the motor vehicle does not use his or her hands to operate the device, except to activate or deactivate a feature or function of the device.

(5) Subject to subs. (3) and (6), no person while driving a motor vehicle, other than an authorized emergency vehicle, a commercial motor vehicle described in s. 340.01 (8), or a tow truck, may operate or be in a position to directly observe any electronic device located within the vehicle that is activated and that is providing entertainment primarily by visual means. This subsection does not prohibit a person from using a cellular telephone for purposes of verbal communication.

(6) Subsection (5) does not apply to any of the following:

(a) Any global positioning system device.

(b) The display by any device of information related to the operation, navigation, condition, radio, or safety of the vehicle or that is intended to be used to enhance the driver's view forward, behind, or to the sides of a motor vehicle.

(c) The display by any device of information related to traffic, road, or weather conditions.

(d) Any device in a vehicle that permits the vehicle driver to monitor vehicle occupants seated rearward of the driver.

(e) Any device installed or mounted, either permanently or temporarily, in the vehicle that, with respect to the vehicle

from passenger seats of the vehicle.

History: 2009 a. 220; 2011 a. 164; 2013 a. 350; 2015 a. 123, 308.

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70.19

ENROLLED ORIGINAL

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Spring
Supp.

West Group
Publisher

To enhance driving safety by establishing distracted driving standards and allowing mobile telephones to be used while operating a moving motor vehicle only when equipped with built-in speakers or a hands-free accessory; to require the Metropolitan Police Department to include on motor vehicle accident reports information about the use of mobile telephones or other distractions by drivers involved in an accident; to require the District Department of Transportation to publish statistics regarding the relationship between motor vehicle accidents and the use of mobile telephones; to establish penalties for a violation of this act; and to increase public dialogue and education about distracted driving.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Distracted Driving Safety Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Distracted driving" means inattentive driving while operating a motor vehicle that results in the unsafe operation of the vehicle where such inattention is caused by reading, writing, performing personal grooming, interacting with pets or unsecured cargo, using personal communications technologies, or engaging in any other activity which causes distractions.
- (2) "Hands-free accessory" means an attachment, add-on, built-in feature, or addition to a mobile telephone, whether or not permanently installed in a motor vehicle, that when used allows the vehicle operator to maintain both hands on the steering wheel.
- (3) "Mobile telephone" means a cellular, analog, wireless, or digital telephone capable of sending or receiving telephone messages without an access line for service.
- (4) "Other electronic device" includes, but is not limited to, hand-held computers, pagers, and video games.
- (5) "Use" means talking, placing, or receiving a call, or attempting to place or receive a call, on a mobile telephone.

Sec. 3. Prohibition on distracted driving.

Distracted driving shall be prohibited. A person found guilty of distracted driving shall be subject to the fines and penalties set forth in section 6(a).

Sec. 4. Restricted use of mobile telephone and other electronic devices.

(a) No person shall use a mobile telephone or other electronic device while operating a moving motor vehicle in the District of Columbia unless the telephone or device is equipped with a hands-free accessory.

(b) The provisions of this section shall not apply to the following:

(1) Emergency use of a mobile telephone, including calls to 911 or 311, a hospital, an ambulance service provider, a fire department, a law enforcement agency, or a first-aid squad;

(2) Use of a mobile telephone by law enforcement and emergency personnel or by a driver of an authorized emergency vehicle, acting within the scope of official duties; or

(3) Initiating or terminating a telephone call, or turning the telephone on or off.

Sec. 5. Additional restrictions on use of mobile telephone or other electronic devices by school bus drivers and holders of learner's permits.

(a) A person shall not use a mobile telephone or other electronic device, including those with hands-free accessories, while operating a moving school bus that is carrying passengers; provided, that this section shall not apply to a school bus driver who places an emergency call to school officials or to the exceptions set forth in section 4(b).

(b) A person who holds a learner's permit shall be prohibited from using any mobile telephone or other electronic device, including those with hands-free accessories, while operating a moving motor vehicle on a public highway except in an emergency, as set forth in section 4(b).

Sec. 6. Enforcement; fines and penalties.

(a) The penalty for violating section 3, 4, or 5 shall be a fine of \$100; provided, that the fine shall be suspended for a first time violator who, subsequent to the violation but prior to the imposition of a fine, provides proof of acquisition of a hands-free accessory of the type required by this act.

(b) A violation of the provisions of section 3, 4 or 5 shall be processed and adjudicated under the provisions applicable to moving violations set forth in Title II of the District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2302.01 *et seq.*).

Sec. 7. Police officer's report.

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ENROLLED ORIGINAL

(a) Whenever the Metropolitan Police Department ("MPD") makes a written report on an accident involving a motor vehicle, the report shall include the following information:

- (1) Whether a mobile telephone or other electronic device was present in the motor vehicle;
- (2) Whether the use of a mobile telephone or other electronic device by a motor vehicle operator may have contributed to the cause of the accident; and
- (3) Whether any other distraction may have contributed to the cause of the accident.

(b) The MPD shall provide a copy of each accident report to the District Department of Transportation.

Sec. 8. Education.

The Director of the Department of Motor Vehicles shall include educational information on the use of mobile telephones and other electronic devices while driving in the District's Driver and Motorcycle Operator's Study Guide. The Director shall also include questions pertaining to distracted driving and mobile telephone usage while driving on the driver's license exam.

Sec. 9. Reporting requirements.

(a) The Director of the District Department of Transportation shall annually publish and submit to the Council a report containing statistics regarding the possible relationship between motor vehicle accidents in the District of Columbia and the use of mobile telephones or other electronic devices by motor vehicle operators.

(b) The Mayor shall, within 2 years and 6 months after the effective date of this act, submit a report to the Council containing recommendations concerning the use of mobile telephones or other electronic devices in motor vehicles. The report shall include a recommendation as to whether the provisions of this act should be amended.

Sec. 10. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act.

Sec. 11. Applicability date.

This act shall apply as of July 1, 2004.

Sec. 12. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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Sec. 13. Effective date.

This act shall take effect following approval by the Mayor (or in the event of a veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia

HB1430
2-9-17
#3
Pages 1-4

Distracted drivers face new fines

● JIMA LEGHORN
ORIENT STAFF

September 25, 2009

Starting this month, Maine law enforcement will be cracking down on drivers who fail to keep driving safely their first priority while on the road.

Maine's new Distracted Driver Law, enacted on September 12, stipulates that a drivers' "failure to maintain control of a motor vehicle" as a result of an activity "not necessary to the operation of the vehicle" will now result in a fine of \$119 for distracted driving on top of the consequences of the traffic infraction.

● According to Lieutenant Christopher Grotton, Director of the Maine State Police Traffic Safety Unit, 10,000 to 15,000 crashes per year occur in Maine as a result of distracted driving.

The Distracted Driver law was passed in an effort to curb the dangerous behavior that leads to accidents, but it does not specifically ban the use of any one device.

"The problem is that there is literally no end to the list of activities that could be distracting," said Grotton.

● Grotton added that state troopers have witnessed drivers talking on cell phones, eating, reading the



EYES ON THE ROAD: State troopers will be watching for distractions such as cell phone use and eating.

Margot D. Wimer

newspaper, fiddling with GPS devices, and watching television, all while driving.

If a trooper witnesses a driver committing a traffic violation such as running a red light, weaving in and out of lanes, or rear-ending another vehicle while distracted, the driver can be fined twice over: once for the traffic violation itself, and again for driving with distractions.

Under the law, drivers cannot be fined simply for using their cell phones or engaging in other activities, as long as their ability to drive is not impaired in any way.

"[Lawmakers] took a conservative approach and have a universal expectation that everyone drive their vehicle safely," said Grotton.

"If we see you talking on your cell phone, that's not enough to cite you for a violation," said Lieutenant Mark Waltz of the Brunswick Police Department.

Director of Safety and Security Randy Nichols said he thinks this approach is preferable to banning devices altogether.

"The good thing about this law is that it isn't singling out any device...it's singling out the behavior of the driver," said Nichols.

Given the fact that cell phones have proven themselves useful on the road, particularly to law enforcement, Nichols said he believes a ban of cell phones might actually be detrimental to public safety, and would limit the ability of motorists to report drunk drivers, among other things.

"Cell phones are one of the greatest tools that law enforcement has ever had," said Nichols. "I would never be in favor of any law that banned the use of cell phones behind the wheel. It's just a matter of using it safely and responsibly."

Though the law does not specifically prohibit the use of cell phones, they are a common distraction that can lead to irresponsible driving.

While driving home recently, Grotton said that he followed a vehicle that was speeding and weaving outside of its lane. When Grotton stopped the vehicle, the woman driving admitted to have been talking on her cell phone.

"The speeding is bad," said Grotton, "but what would probably have caused her to lose control was that...she clearly wasn't focused on driving."

According to Waltz, when his department conducted an OUI road block in August, the number of people driving with distractions was significant.

"I was amazed how many people were actually texting as they drove," he said.

Though some distractions, like texting on cell phones, tend to be age specific, drivers of all ages do get distracted.

"Every age group has its distracting behavior behind the wheel," said Nichols.

According to Waltz, as of Wednesday, Brunswick had yet cited any drivers for infractions of the new law.

In addition, Waltz said that it is not likely that troopers will see an overwhelming number of people breaking the law.

"I don't think we'll probably be writing a lot of these," he said. "Realistically, it's hard to catch people."

According to Grotton, however, the public attention focused on the new law is the first step in the right direction.

"The goal isn't to write tickets," said Grotton. "The goal is to keep folks safe."

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1430

Page 2, after line 21, insert:

"1."

Page 2, line 25, replace "1." with "a."

Page 2, line 27, replace "2." with "b."

Page 2, line 28, replace "3." with "c."

Page 2, line 28, remove "or"

Page 2, line 29, replace "4." with "d."

Page 2, line 30, after "accident" insert "; or

e. Audio equipment installed in the vehicle to provide navigation or emergency information to the operator.

2. This section does not apply to:

a. The operator of an authorized emergency vehicle while the operator of the vehicle is in the performance of official duties;

b. The use of two-way mobile radio transmitters or receivers used by licensees of the federal communications commission in the amateur radio service; or

c. The operator of a commercial vehicle who is compliant with the safety regulations of the federal motor carrier safety administration relating to electronic and communications devices"

Renumber accordingly

HB 1430
2-9-17
#5
P. 1

HB 1430

Gerry Nies
1815 University Ave
Grand Forks, ND
701 740-5947

I'm Gerry Nies NØNGW, I'm one of those people who have weird license plates. Mine is NØNGW that is the call sign that I got when I was licensed by the Federal Communication Commission. I got that license after I passed the required tests.

I am a fool, I buy equipment to put in my home and vehicle and then when there is a need I volunteer my time to support my community, I am a ham radio operator.

When there is severe weather I, and many others, may be at National Weather Service (NWS) office or out in the field risking my vehicle getting hit by hail and/or high winds and I pay my own expenses to chase the storm. (Just a note we really don't want to catch them.) We report back to a ham who is at NWS office, we are being ground truth and telling NWS exactly where the storms are. The people at NWS tell me they always know a report from a ham is reliable since we have taken their training sessions and know what to look for. Hams support the NWS offices in Bismarck and Grand Forks.

In the Grand Forks flood of '97 we hams were providing support to Emergency Operations Center. Using our expertise we put up and supported towers and antennas for many of the needed communications such as Sheriff, fire, Coast Guard, Red Cross, Salvation Army and others. We were also in vehicles that hospital got quickly and did not have radios in them that transported personnel and supplies to the hospital. We had a ham in the vehicle and at the hospital. We also had hams out in their vehicles going out and getting people to shelters. We also provided communication for a number things that were happening. We provided 100s of hours support. I know that the hams in Fargo have done the same.

We say we are often the first communications out of a disaster because if all the infrastructure is down we can still communicate. Many of us have the ability to operate without commercial power. And we can do that from our cars which is the reason that we were interested in this legislation. When we are using our mobile equipment and it is not an emergency we are really training and making sure our equipment is working.

Cell phones are great if you have the towers and a charged battery. And the system is not overloaded.

We are also called amateur radio operators but we are amateur only in the fact that we are not and cannot be paid for our services.

Thank you for your time and your service to North Dakota.



p. 2



Central Dakota Amateur Radio Club

PO Box 1762 Bismarck, ND 58507-7162

January 28th, 2017

Be it resolved that the Central Dakota Amateur Radio Club respectfully requests that HB 1430, as introduced, be amended to add as an allowed operator use: "Amateur radio equipment, when operated in accordance with Federal Communication Commission Rules and Regulations Part 97 - Amateur Radio Service."

Adopted at membership meeting 1/24/2017

Signed,

Zach Heinert KØZSH
President, CDARC zsheinert@bis.midco.net

Robert Tracy NØTC
Vice President, CDARC rtracy@bis.midco.net

Jeffrey Strange KØCMS
Member At Large, CDARC deffjeff75@yahoo.com



HOUSE BILL NO. 1430
TESTIMONY OF REP. LAWRENCE R. KLEMIN
HOUSE TRANSPORTATION COMMITTEE
FEBRUARY 9, 2017

H 131430
2-9-17
#6
P.1

Mr. Chairman and Members of the Committee. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am here to testify in opposition to Sections 1, 2 and 4 of House Bill 1430. I am opposed to the repeal of Section 39-08-23, which is the no texting while driving law that we enacted in 2011. A copy of Section 39-08-23 is attached. I also have an amendment to the bill, which I will discuss later. I am neutral on Section 3 of the bill, which I will also discuss later.

Just ten years ago, there were *only* 158 billion text messages being sent by cell phones each year in this country. The statistics now show that there about **1.9 trillion** text messages are sent by cell phones in the United States each year. 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. Drivers are now also using their smartphones to surf the Internet, Facebook, read their e-mail, and access other sites while driving. There may be a time and place for everything, but texting or surfing the Internet while driving is not one of them.

In 2011, when I appeared before this committee to testify in favor of the no texting while driving bill, House Bill 1195, 30 states and the District of Columbia had laws prohibiting texting. North Dakota became the 31st state to ban texting while driving when the bill passed the Legislature. See press release from U.S. Department of Transportation dated April 26, 2011. **Today, there are 46 states**, the District of Columbia, the U.S. Virgin Islands, Puerto Rico, and Guam **that have laws that prohibit texting while driving**. See Government Highway Safety Association (GHSA), Cell Phone and Texting Laws, January 2017.

Texting and surfing the Internet are dangerous to the people doing it while they drive and are also a danger to their passengers and others who use the roads, including other car drivers, truck drivers, motorcycle riders, bicycle riders, and pedestrians. I think that the overwhelming majority of the people of North Dakota agree that texting while driving is dangerous. I submit that this committee has the duty to make our roads safer for all of us by keeping the specific no texting while driving law in full force and effect in North Dakota.

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, Facts and Statistics7 2014. According to NHTSA:

[B]ecause **text messaging** requires visual, manual, and cognitive attention from the driver, it is **by far the most alarming distraction**.

In 2014, **3,179 people were killed**, and **431,000 were injured** in motor vehicle crashes involving distracted drivers.

Drivers in their 20s are 23 percent of drivers in all fatal crashes, but are 27 percent of the distracted drivers and **38 percent of the distracted drivers who were using cell phones in fatal crashes**.

At any given daylight moment across America, approximately **660,000 drivers are using cell phones or manipulating electronic devices while driving**, a number that has held steady since 2010.

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. 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. At 75 mph on the interstate highways, the distance to travel without looking at the road is even greater. This clearly creates a significant risk to the safe operation of a motor vehicle.

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.

According to AT&T, nearly **4 in 10 drivers engage in social networking while driving**, including use of Facebook, Twitter, Instagram, and Snapchat. Nearly half (49%) of commuters admit to texting while driving. 75% of teen drivers say that texting while driving is common among their friends. See "It Can Wait" flyer by AT&T. "Eyes on the road, not on your phone."

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 prohibits texting while driving for federal employees driving federal vehicles. Many employers that have employees driving company vehicles prohibit texting while driving in their vehicles.

I have not mentioned any examples of **horrific accidents** caused by texting while driving or the use of electronic handheld devices to surf the Internet. There are many, even in all parts of North Dakota. You need only go on the Internet (using your computer at your desk) to find many reports and articles in newspapers about **fatal accidents.**

In the past 6 years, it has been conclusively established that the no texting while driving law is effective and enforceable in North Dakota. You will hear more on this from law enforcement representatives here today. I believe that most North Dakotans agree that texting while driving should continue to be specifically banned in North Dakota as provided in Section 39-08-23.

We know the current law is working, so why throw it out in favor of a generalized distracted driving law (in Section 3 of the bill) that may not be enforceable? In my opinion, Section 3 is unconstitutionally vague and unenforceable in court. Vague laws violate due process because they do not give adequate notice to citizens about what conduct is prohibited and because they authorize or encourage arbitrary and discriminatory enforcement. Section 3 on distracted driving says that "*The operator of a motor vehicle ... may not engage in an activity that requires the use of the operator's sight unless that activity involves the whole motor vehicle or a built-in accessory.*" Then follows a short list of exceptions. What does this general distracted driving law inform a citizen that he or she cannot do without being subject to arrest and a \$100 fine? Don't get caught dropping a doughnut or paying too much attention to your child in the backseat if law enforcement is looking.

You can keep Section 3 in the bill, but I suggest that if you keep it, you need to amend it substantially to make it more descriptive about the conduct that is prohibited. **But don't delete the no texting law that we know is enforceable.**

I have handed out a short amendment to House Bill 1430. The amendment keeps the no texting while driving law in the bill, but updates it to exempt voice-activated or hands free devices. This is the same update recently made in Minnesota, which has a no texting while driving law that is very similar to our law, as well as to many of the 46 states that have this law. In Minnesota, the fine is \$225 for a texting violation, versus the \$100 we have in North Dakota.

Texting while driving is the functional equivalent of a large number of drunken drivers on the road. They're not watching the road and weave about randomly. We need to continue to maintain our efforts to stop texting. Don't take away this important tool from law enforcement. I would appreciate your support for the amendment to House Bill 1430.

39-08-23. Use of a wireless communications device prohibited.

1. 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.

2. Under this section:

a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:

(1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;

(2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;

(3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, smartphones, citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;

(4) Voice or other data transmitted as a result of making a telephone or cellular phone call; or

(5) Data transmitted automatically by a wireless communication device without direct initiation by an individual.

b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.

3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties.

Source:

S.L. 2011, ch. 279, § 3

#6 p. 6

(/)



← NEWS (/PRESS-RELEASES)

U.S. Transportation Secretary LaHood: North Dakota Becomes 31st State to Ban Texting While Driving

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April 26, 2011 | Washington, DC

NHTSA 06-11

Tuesday, April 26, 2011

Contact: Karen Aldana

Tel: 202-366-9550

WASHINGTON -- U.S. Transportation Secretary Ray LaHood today praised North Dakota Governor Jack Dalrymple for signing a tough new law banning texting while driving. The law makes North Dakota the 31st state to ban texting behind the wheel.

"North Dakota has taken an important step to eliminate distracted driving," said Secretary LaHood. "Thanks to the bill signed today by Governor Dalrymple, North Dakota roads will be safer for everyone."

The new law, which becomes effective August 1, will impose a fine of \$100 on people caught texting while driving.

With the addition of North Dakota, 31 states, the District of Columbia, and Guam have now banned text messaging by all drivers. Eight states, the District of Columbia, and the Virgin Islands have prohibited all hand-held cell phone use while driving.

In 2009, Secretary LaHood launched a national anti-distracted driving campaign modeled on other successful NHTSA efforts to reduce fatalities, such as its Over the Limit. Under Arrest. and Click It Or Ticket campaigns to curb drunk driving and increase seat-belt use.

The U.S. DOT has launched a dedicated website, [Distraction.gov](http://www.distraction.gov) (<http://www.distraction.gov>), to provide the public with a comprehensive source of information on distracted driving. DOT has also hosted two national summits devoted to the issue, crafted sample legislation which states can use to adopt distracted driving laws, and initiated pilot law enforcement programs in Hartford, Conn., and Syracuse, NY.

In November, the Department of Transportation announced "Faces of Distracted Driving," a video series featuring people from across the country who have been injured or lost loved ones in distracted driving crashes. To watch videos from the "Faces of Distracted Driving" series or learn more about the U.S. Department of Transportation's campaign against distracted driving, visit www.distraction.gov (<http://www.distraction.gov>).

NHTSA Information ▾

Information For ▾

Distracted Driving Laws by State Updated January 2017

State	Hand-held Ban	All Cell Phone Ban		Text Messaging Ban			Crash Data
		School Bus Drivers	Novice Drivers	All Drivers	School Bus Drivers	Novice Drivers	
Alabama			16, or 17 w/ Intermediate License <6 months (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Alaska				Yes (Primary)	Covered under all driver ban		Yes
Arizona		Yes (Primary)					Yes
Arkansas ¹	18 - 20 years old (Primary)	Yes (Primary)	<18 (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
California	Yes (Primary)	Yes (Primary)	<18 (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
Colorado			<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Connecticut	Yes (Primary)	Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		
Delaware	Yes (Primary)	Yes (Primary)	Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
D.C.	Yes (Primary)	Yes (Primary)	Learners Permit (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Florida				Yes (Secondary)	Covered under all driver ban		Yes
Georgia		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Guam	Yes (Primary)			Yes (Primary)	Covered under all driver ban		
Hawaii	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Idaho				Yes (Primary)	Covered under all driver ban		Yes
Illinois	Yes (Primary)	Yes (Primary)	<19 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Indiana			<21 (Primary) (eff. 7/2015)	Yes (Primary)	Covered under all driver ban		Yes
Iowa			Restricted or Intermediate License (Primary)	Yes (Secondary)	Covered under all driver ban		Yes
Kansas			Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Kentucky		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Louisiana	Learner or Intermediate License (regardless of age)	Yes (Primary)	1st year of License (Primary for <18)	Yes (Primary)	Covered under all driver ban		Yes

Source: Governors Highway Safety Association, <http://www.ghsa.org/state-laws/issues/Distracted-Driving>

Maine			Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Maryland	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Massachusetts		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Michigan		Yes (Primary)	Level 1 or 2 License (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Minnesota		Yes (Primary)	<18 w/ Learner or Provisional License (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Mississippi		Yes (Primary)		Yes (Primary)	Covered under all driver ban	Yes
Missouri					<21 (Primary)	Yes
Montana						Yes
Nebraska			<18 w/ Learner or Intermediate License (Secondary)	Yes (Secondary)	Covered under all driver ban	Yes
Nevada	Yes (Primary)			Yes (Primary)	Covered under all driver ban	Yes
New Hampshire	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban	
New Jersey	Yes (Primary)	Yes (Primary)	Permit or Provisional License (Primary)	Yes (Primary)	Covered under all driver ban	Yes
New Mexico	In State vehicles		Learner or Provisional License (Primary)	Yes (Primary)	Covered under all driver ban	Yes
New York	Yes (Primary)			Yes (Primary)	Covered under all driver ban	Yes
North Carolina		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban	Yes
North Dakota			<18 (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Ohio			<18 (Primary)	Yes (Secondary)	Covered under all driver ban	Yes
Oklahoma	Learner or Intermediate License (Primary)			Yes (Primary)	Covered under all driver ban	Yes
Oregon	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Pennsylvania				Yes (Primary)	Covered under all driver ban	Yes

Puerto Rico	Yes (Primary)			Yes (Primary)	Covered under all driver ban		
Rhode Island		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
South Carolina				Yes (Primary)	Covered under all driver ban		Yes
South Dakota			Learner or Intermediate License (Secondary)	Yes (Secondary)	Covered under all driver ban		Yes
Tennessee		Yes (Primary)	Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Texas ²		Yes, w/ passenger <17 (Primary)	<18 (Primary)		Yes, w/ passenger <17 (Primary)	<18 (Primary)	Yes
Utah		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Vermont	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Virgin Islands	Yes (Primary)			Yes (Primary)	Covered under all driver ban		Yes
Virginia		Yes (Primary)	<18 (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
Washington	Yes (Primary)		Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
West Virginia	Yes (Primary)		<18 w/ Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Wisconsin			Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Wyoming				Yes (Primary)	Covered under all driver ban		Yes
Total States	14 + D.C., PR, Guam, Virgin Islands All Primary	20 + D.C. All Primary	38 + D.C. Primary (32 + D.C.) Secondary (6)	46 + D.C., PR, Guam, Virgin Islands Primary (41 + D.C., PR, Guam, Virgin Islands) Secondary (5)	1 Primary	2 Primary	48 + D.C., Virgin Islands

¹ Arkansas also bans the use of hand-held cell phones while driving in a school zone or in a highway construction zone. This law is secondarily enforced.

² Texas has banned the use of hand-held phones and texting in school zones.

Facts and Statistics

What is distracted driving?

Distracted driving is any activity that could divert a person's attention away from the primary task of driving. All distractions endanger driver, passenger, and bystander safety. These types of distractions include:

- **Texting**
- Using a cell phone or smartphone
- Eating and drinking
- Talking to passengers
- Grooming
- Reading, including maps
- Using a navigation system
- Watching a video
- Adjusting a radio, CD player, or MP3 player

But, because text messaging requires visual, manual, and cognitive attention from the driver, it is by far the most alarming distraction.

The best way to end distracted driving is to educate all Americans about the danger it poses. On this page, you'll find facts and statistics that are powerfully persuasive. If you don't already think distracted driving is a safety problem, please take a moment to learn more. And, as with everything on [Distraction.gov](#), please share these facts with others. Together, we can help save lives.

Got questions? Visit our [FAQ \(faq.html\)](#)! Want even more information? Look at sample research reports ([/stats-research-laws/research.html](#)).

Key Facts and Statistics

In 2014, 3,179 people were killed, and 431,000 were injured in motor vehicle crashes involving distracted drivers.

As of December 2014, 169.3 billion text messages were sent in the US (includes PR, the Territories, and Guam) every month.

(CTIA) (<http://www.ctia.org/your-wireless-life/how-wireless-works/annual-wireless-industry-survey>)

CTIA 2016 1.89T PER YEAR **Stats, Research & Laws**

Ten percent of all drivers 15 to 19 years old involved in fatal crashes were reported as distracted at the time of the crashes. This age group has the largest proportion of drivers who were distracted at the time of the crashes. (NHTSA) (<http://www-nrd.nhtsa.dot.gov/Pubs/812132.pdf>)


Drivers in their 20s are 23 percent of drivers in all fatal crashes, but are 27 percent of the distracted drivers and 38 percent of the distracted drivers who were using cell phones in fatal crashes. (NHTSA) (<http://www-nrd.nhtsa.dot.gov/Pubs/812132.pdf>)


The percentage of drivers text-messaging or visibly manipulating handheld devices increased from 1.7 percent in 2013 to 2.2 percent in 2014. Since 2007, young drivers (age 16 to 24) have been observed manipulating electronic devices at higher rates than older drivers. (NHTSA) (<http://www-nrd.nhtsa.dot.gov/Pubs/812197.pdf>)


At any given daylight moment across America, approximately 660,000 drivers are using cell phones or manipulating electronic devices while driving, a number that has held steady since 2010. (NOPUS) (<http://www-nrd.nhtsa.dot.gov/Pubs/811719.pdf>)

A 2015 Erie Insurance distracted driving survey reported that drivers do all sorts of dangerous things behind the wheel including brushing teeth and changing clothes. The survey also found that one-third of drivers admitted to texting while driving, and three-

Take Action

Pledge  (</take-action/take-the-pledge.html>)

Campaign  (</take-action/texting-campaign.html>)

Downloads  (</take-action/downloads.html>)

Stats, Research & Laws

Facts & Statistics (</stats-research-laws/facts-and-statistics.html>)

Research (</stats-research-laws/research.html>)

State Laws (</stats-research-laws/state-laws.html>)

FAQ (</stats-research-laws/faq.html>)

DOT Activities

Experience the Stories (</experience-the-stories/index.html>)

About Us

quarters saying they've seen others do it.

(ERIE INSURANCE)

(<https://www.erieinsurance.com/about-us/newsroom/press-releases/2015/distracted-driving>)

Five seconds is the average time your eyes are off the road while texting. When traveling at 55mph, that's enough time to cover the length of a football field blindfolded. (2009, VTTI)

(<http://mcsac.fmcsa.dot.gov/documents/DriverDistract>)

Smartphone ownership is growing. In 2011, 52 percent of drivers reported owning a smartphone, and by 2014 that number had grown to 80 percent. The greatest increases in smartphone ownership are among adults age 40 and older. (STATE FARM)

(<http://www.multivu.com/players/English/7292854-state-farm-distracted-driving-survey-cellphone-use/>)

More than half (53%) of all adult cellphone owners have been on the giving or receiving end of a distracted walking encounter. (PEW RESEARCH)

(<http://www.pewresearch.org/fact-tank/2014/01/02/more-than-half-of-cell-owners-affected-by-distracted-walking/>)

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No text search post view email is worth a life.



Eyes on the road,
not on your phone

Nearly 4 in 10 social network while driving.¹

27% Facebook

14% Instagram

14% Twitter

11% Snapchat

49%

Nearly half
of commuters admitted
to texting while driving.²

75%

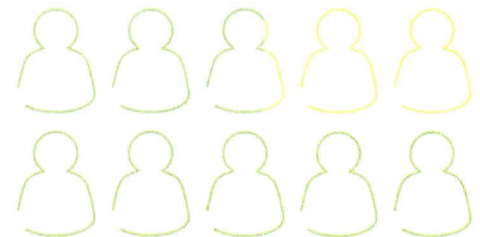
of teen drivers say texting
while driving is "common
among their friends".³

82%

of drivers
who have taken action
to stop texting while
driving feel good about
themselves.⁴

78%

of teen drivers
say they are likely not to
text and drive if friends tell
them it's wrong or stupid.⁵



¹ Research commissioned by AT&T and conducted by Braun Research. Polled 2,067 people in the U.S. aged 16-65 who use their smartphone and drive at least once a day.

² Commuter survey conducted by ResearchNow on behalf of AT&T

³ AT&T Teen Driver Survey.

⁴ AT&T Compulsion Research.

⁵ ConnectSafely.org survey sponsored by AT&T.

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1430

- Page 1, line 3, replace "section" with "sections"
- Page 1, line 3, after "39-06.1-09" insert "and 39-08-23"
- Page 1, line 4, replace "; to repeal section 39-08-23 of the North Dakota Century Code, relating to" with "and the"
- Page 1, line 16, overstrike "or" and insert immediately thereafter an underscored comma
- Page 1, line 16, remove the overstrike over "~~39-08-23~~"
- Page 1, line 16, replace "3" with ", or section 4"
- Page 2, line 12, remove the overstrike over "~~39-08-23~~"
- Page 2, line 12, remove "section 3 of this Act"
- Page 2, line 12, after the sixth comma insert "section 4 of this Act."
- Page 2, after line 18, insert:

"SECTION 3. AMENDMENT. Section 39-08-23 of the North Dakota Century Code is amended and reenacted as follows:

39-08-23. Use of a wireless communications device prohibited.

1. 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.
2. Under this section:
 - a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:
 - (1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;
 - (2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;
 - (3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, smartphones, citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;

- (4) Voice or other data transmitted as a result of making a telephone or cellular phone call; ~~or~~
 - (5) Data transmitted automatically by a wireless communication device without direct initiation by an individual; or
 - (6) A wireless communication device used in a voice-activated, voice-operated, or any other hands-free manner.
- b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.
3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties."

Page 2, remove line 31

Renumber accordingly

HB 1430
2-9-17
#8

Transportation Committee
February 9, 2017

p. 1

TESTIMONY OF PATRICK J. WARD
IN OPPOSITION TO HB 1430

Chairman Ruby and Members of the House Transportation Committee.

My name is Pat Ward. I represent State Farm Insurance Company. State Farm is one of North Dakota's largest market share companies in home and auto and does business nationwide. State Farm opposes HB 1430.

Cell phone distracted driving is a significant problem that has resulted in considerable property damage, injuries, and fatalities. The National Highway Traffic Safety Administration (NHTSA) estimates that nine percent of all drivers at any given time are using cell phones, and the National Safety Council estimates about one in four motor vehicle crashes involve cell phone use at the time of the crash.¹ Because text messaging has grown dramatically – an almost 10,000-fold increase in 10 years – and because there is already near-public consensus that it's a serious driving safety risk, texting receives a great deal of attention. More than one-third of people admitted to reading a text or email while driving in the past 30 days, and more than one-quarter admitted to sending a text or email. In 2010, an estimated minimum of 160,000 crashes involved texting or emailing, versus 1.1 million crashes involving talking on cell phones. In 2014, according to the NHTSA, 3,179 individuals were killed and 431,00 people were injured in accidents involving a distracted driver.²

¹ Understanding the distracted brain, National Safety Council,
<http://www.nsc.org/DistractedDrivingDocuments/Cognitive-Distracted-White-Paper.pdf>

² <https://www.nhtsa.gov/risky-driving/distracted-driving>

With the enactment of NDCC 39-08-23, North Dakota joined 45 other states, the District of Columbia, Puerto Rico, Guam, and the US Virgin Islands that currently have “no texting” laws. NDCC 39-08-23 provides a necessary safeguard to protect our roads from texting drivers. The current statutory language of NDCC 39-08-23 provides a bright line rule to help prohibit and sanction the use of wireless devices by operators of motor vehicles. Whereas, the proposed language in HB 1430 is extremely ambiguous and potentially unconstitutionally vague. This ambiguity may make it difficult to effectively prosecute and obtain convictions under the proposed legislation. The proposed Distracted Driving section of HB 1430 fails to provide a clear and enforceable framework; it uses undefined terms that create uncertainty; and it uses broad language that opens the door for further interpretation. HB 1430 would be a poor replacement for the existing “no texting” law under NDCC 39-08-23. Repealing NDCC 39-08-23 would weaken the State’s ability to protect its citizens, pedestrians and others travelling on North Dakota roads.

I strongly urge a Do Not Pass recommendation on HB 1430.



Just Drive

Distracted driving is a primary cause for roadway crashes and fatalities across the nation. The National Safety Council is committed to eliminating roadway crashes attributed to distracted driving. Some informative results from our Distracted Driving Awareness Month polling are listed below:

- When asked what they would do in the absence of any laws governing driving behavior...
 - **One-third** of drivers overall would text, **one-quarter** would answer emails
 - Roughly **15%** of drivers would video chat or watch TV/movie while driving
- Of drivers that said they would use social media (**38.5%** of drivers surveyed), almost **three quarters** would check Facebook and over **one-third** would watch YouTube videos while driving.
- **Not a teen problem:** one third of adult drivers would use **Twitter** or **Instagram** while driving.
- If permitted almost **one-half** of drivers would use features on their smartwatch while driving on a **highway** (w/speeds of 55MPH+) or surface street.
- If permitted, over **one-quarter** of drivers would watch TV or a movie on highways and surface streets while driving.
- This, despite the fact that...
 - **15%** of drivers have had a friend/relative injured or killed because of a technology related distraction.
 - **46%** of drivers have almost been in a crash because another driver was distracted by technology.
 - **25%** of drivers have had an instance where their distraction by technology has put themselves or others at risk.



Full results of the NSC Distracted Driving Public Opinion Poll can be found [here](#).

National Safety Council Government Affairs
Julian Hoffman, Julian.hoffman@nsc.org
Jane Terry, jane.terry@nsc.org

HB 1430
2-9-17
#9

Testimony of Brayden Zenker
Bismarck Public Schools student
North Dakota House Transportation Committee
H.B. No. 1430
February 9, 2017

H.B. No. 1430 (House Transportation Committee)

Good morning, House Transportation Committee members. My name is Brayden Zenker and I am a student at Legacy High School. I am also am a writer for our school newspaper.

I oppose HB 1430 because I have seen first hand what texting and driving can do to a person. In 2012, one of my close relatives were texting and driving. He lost control of and rolled his vehicle. He suffered major trauma to both his head and spine. He had to be airlifted to the hospital. When at the hospital he went through many surgeries some of those where a partially fusion of his spine and craniotomy to relieve the pressure in his brain. Doctors said if he were to wake up he would have major mental deficits and mostly likely would never be able to walk again. He did wake up but, like doctors had said, he suffered from major mental deficits. He had to relearn almost every basic skill that we would take for granted. He had to relearn some aspects of his speech, how to control his hands, and even how to use the bathroom by himself. He also had to go through years of physical therapy to be able to walk again. His recovery lasted four years and he still has mental deficits, even though he is finally able to walk. He is never going to be the same person. This was all because he was texting and driving.

I oppose HB 1430 because a law against texting and driving does save lives. I think that repealing the current law that forbids texting, and other types of distracted driving, will significantly increase deaths due to motor vehicle accidents in North Dakota. Please, do not repeal the current no texting law.

Thank you for your time and consideration.
Sincerely,

Brayden Terry Zenker



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Written Testimony Provided To:

House of Representatives - Transportation Committee

By Chuck Clairmont, Executive Director - North Dakota Safety Council

February 9, 2017

Regarding: House Bill No. 1430

Hello. My name is Chuck Clairmont and I am the Executive Director with the North Dakota Safety Council. The mission of the North Dakota Safety Council is to save lives by preventing injuries and deaths at work, on the roads, and in our homes and communities. To this end, we present to over 50,000 people each year on actively influencing safe practices and we work with over 1,000 North Dakota businesses to promote safety in all aspects of life, including behind the wheel, and that is why I am here today.

We should be working to improve roadway safety not weaken these laws. HB 1430 would remove the clear direction provided in North Dakota law that drivers should not text behind the wheel in any manner, and I urge you to oppose this bill.

In North Dakota 131 people lost their lives on our roadways in 2015. Just look around when you're driving, and you know that people on phones or other devices are partly to blame.

Each year, cell phones are a factor in thousands of deaths and hundreds of thousands of injuries throughout our nation. The consequences of texting behind the wheel, even if it is hands-free, are deadly – not only for drivers committing the act, but for everyone else on our roadways.

We know that the use of electronic devices behind the wheel in any fashion is dangerous, but texting is especially risky as it requires drivers to take their eyes off the road, hands off the wheel, and mind off the task of driving. In the time it takes to compose and send a text, a car travelling at 55 miles per hour, goes the length of a football field!

A recent survey from the AAA Foundation, Measuring Cognitive Distraction in the Automobile III, discovered that distraction "latency" lasts as long as 27 seconds. This means that even after drivers put down their phone or stop inputting in their navigation system, drivers aren't fully engaged with the driving task. The clear message as overwhelming scientific evidence concludes is that hands-free is not risk free.

Despite what we know, an NSC survey recently found that if clear laws governing driving behavior didn't exist,

- one-third of drivers would text
- one-quarter would answer emails
- 15% of drivers would video chat or watch TV or a movie while driving.

This is moving in the wrong direction.

We should keep our distraction law in place as is. Lives depend on it.

1640 Burnt Boat Drive ▪ Bismarck ND 58504

PHONE: (701) 223-6372 ▪ TOLL FREE: (800) 932-8890 ▪ FAX: (701)223-0087 ▪ WEBSITE: www.ndsc.org

<https://www.distraction.gov/stats-research-laws/facts-and-statistics.html>

National Safety Council. "Understanding the distracted brain." April 2012. distracteddriving.nsc.org.





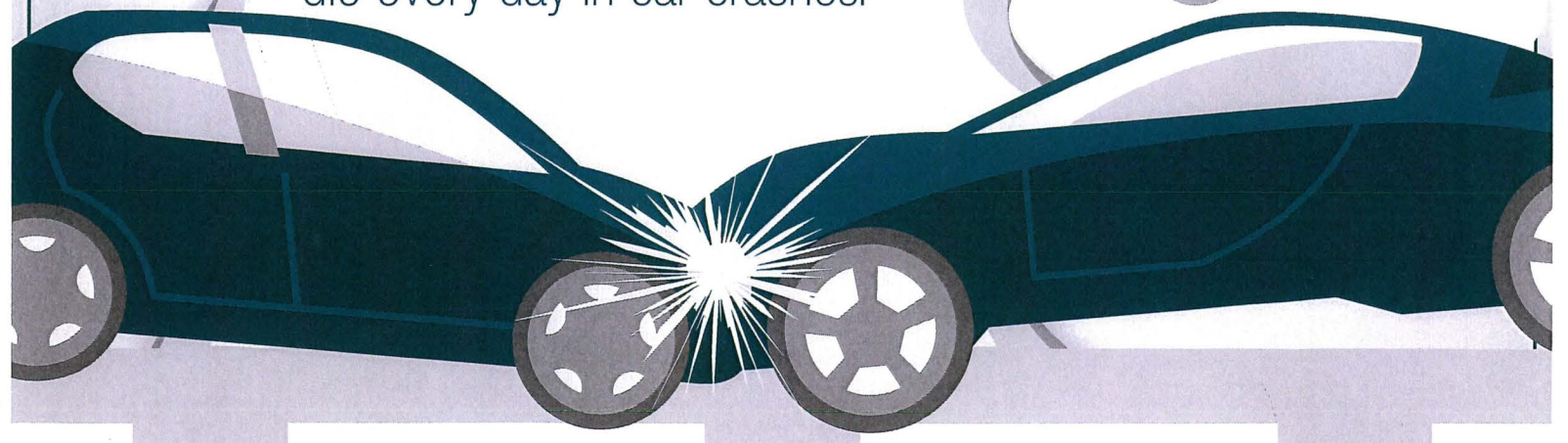
FREE IS NOT RISK-FREE
HANDS-FREE IS NOT RISK-FREE

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#1

cause of unintentional
deaths in U.S.
are car crashes.

About **100 PEOPLE**
die every day in car crashes.



A DEADLY DISTRACTION

FREE IS NOT RISK-FREE
HANDS-FREE IS NOT RISK-FREE

distracteddriving.nsc.org

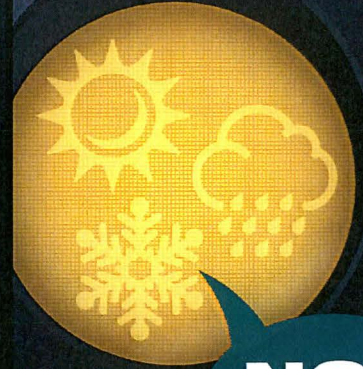


p. 3

NOT
primarily
mechanical



Up to
90%
of all car crashes
are caused by
DRIVER ERROR!



NOT
primarily
environmental

At any moment,
9% OF DRIVERS
are talking on
cell phones.

About **26% OF ALL CAR CRASHES**
involve cell phone use – **including hands-free!**



WHAT'S
HANDS-FREE?

earpiece

dashboard
system

speakerphone



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HANDS-FREE IS NOT RISK-FREE

IS

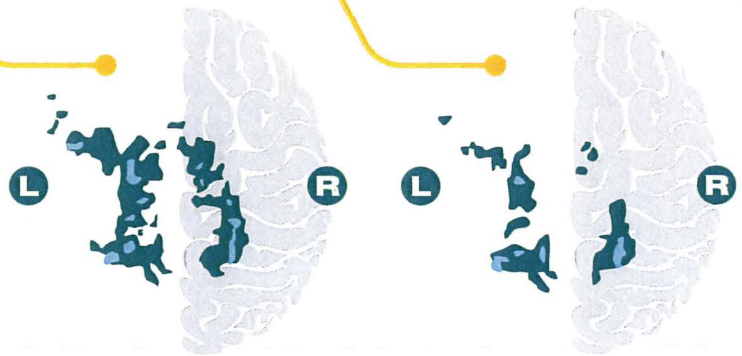
MULTI-TASKING: THE BIG FAT MYTH

The brain quickly toggles between tasks – but can't do two things at the same time.

The activity in the area of the brain that processes moving images **decreases by up to 1/3** when listening to talking on a phone.

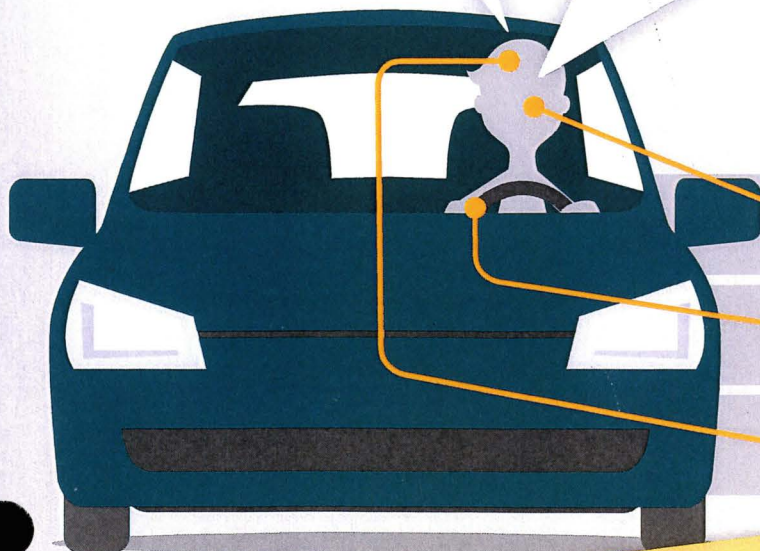
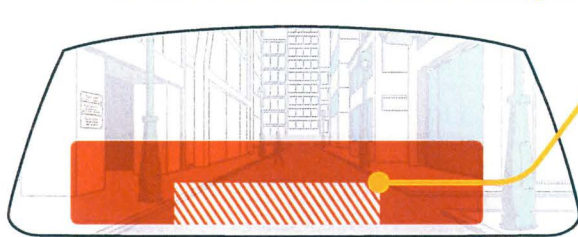
Driving alone

Driving w/sentence listening



Drivers looking out the windshield can **miss seeing up to 50%** of what's around them when talking on any kind of a cell phone.

Field of view narrows while talking on a phone



THE ESSENTIAL TRIO: requirements for driving

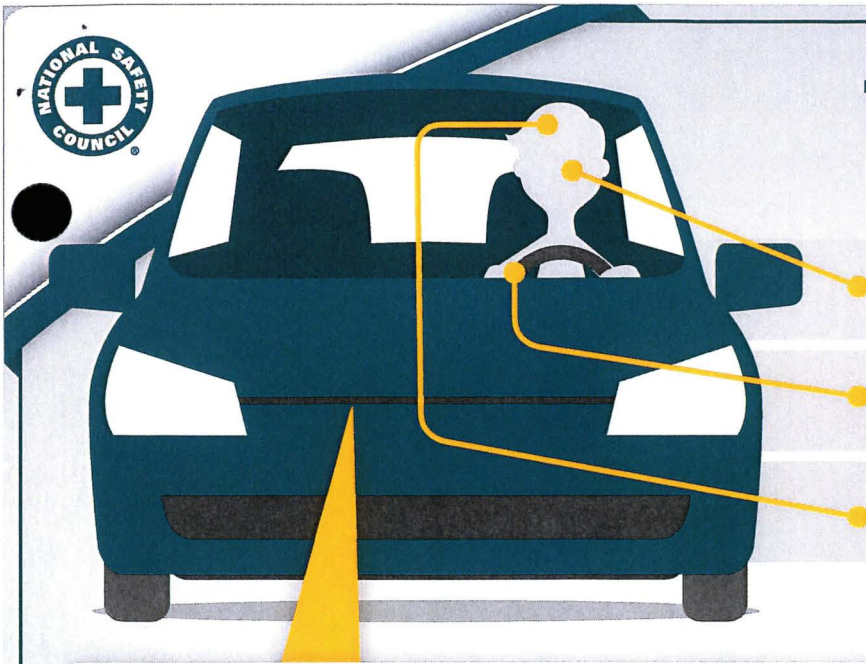
Eyes on the road

Hands on the wheel

MIND ON DRIVING

RISK-FREE

HANDS-FREE IS NOT RISK-FREE



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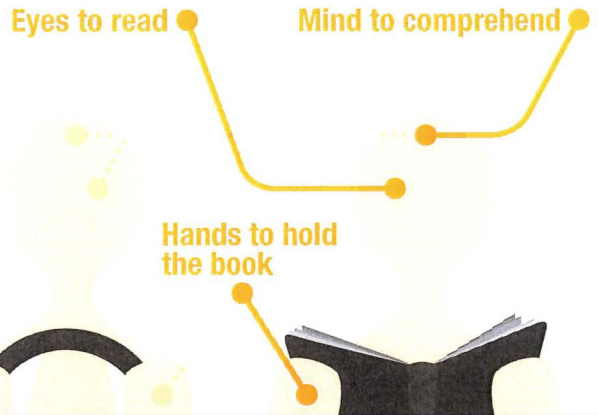
THE ESSENTIAL TRIO: requirements for driving

Eyes on the road

Hands on the wheel

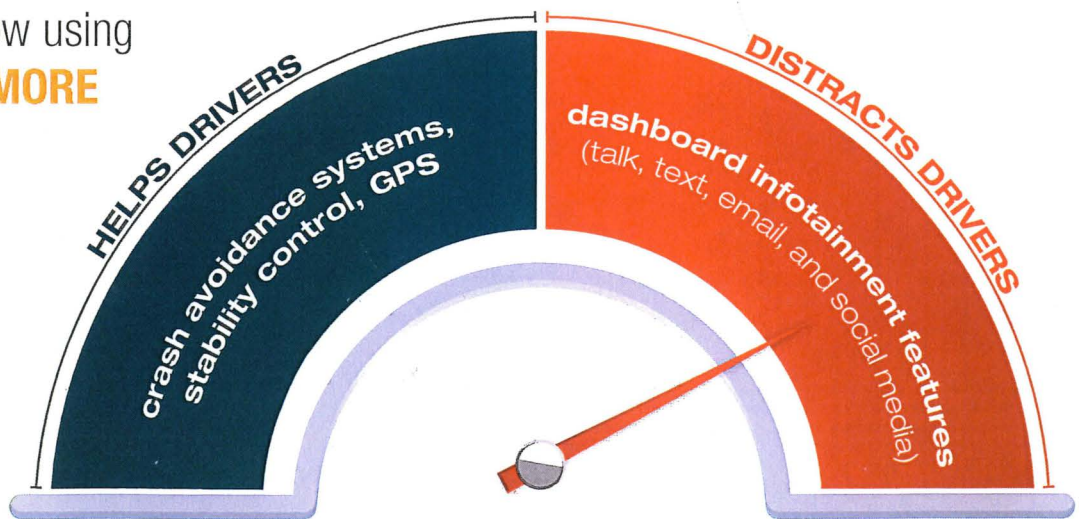
MIND ON DRIVING

Other activities **take thought** and **are hard to do while on a call**, like reading a book. You can't do either well if you're doing them at the same time, and the consequences with driving are much greater than needing to reread a page.



TECHNOLOGY: GOOD OR BAD?

New studies show using voice-to-text is **MORE** distracting than typing texts by hand.





RISK-FREE

HANDS-FREE IS NOT RISK-FREE

p. 6

BACK-SEAT DRIVER: the paradox of the passenger

A passenger is another set of eyes.

A passenger is able to recognize when traffic is challenging and stop talking.

Isn't it just as distracting to talk to passengers?

A passenger is able to spot and point out driving hazards.

For adult drivers, **no!**



EE IS NOT RISK-FREE HANDS-FREE



TAKE THE PLEDGE TODAY!

Now that you have the facts about cell phone use while driving (hands-free or handheld!), take the pledge to keep our roadways safe by driving cell free at nsc.org/pledge

SOURCES: The AAA Foundation for Traffic Safety, Carnegie Mellon University, *Injury Facts*® 2013 edition, National Highway Traffic Safety Administration, National Safety Council, University of Utah

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House Bill 1430
Testimony in Opposition to Bill as Introduced
Not in Opposition if Amended as Proposed by Representative Mock
House Transportation Committee
February 9, 2017

Chairman Ruby, members of the committee, I am Bruce McCollom a resident of Burleigh County. I appear as an individual FCC licensed amateur radio operator. I am testifying specifically in regard to allowing amateur radio use by drivers of vehicles and not in regard to the other pros and cons of the existing or proposed related laws.

Current law, NDCC 39-08-23, which prohibits the use of a wireless communication device by drivers contains an exclusion, subsection "2. ... a. The term does not include: ... (3) Using a device ... such as citizen band radios ... or similar devices...". Since operation of amateur and CB radios and the devices themselves are similar, I have no issue with the existing law. I have been operating my mobile amateur radio transceivers while driving in ND without a problem for 34 years.

I would oppose HB 1430 as introduced (17.0838.1000) since it appears to prohibit the use of amateur radios, as that may occasionally involve the use of the drivers sight for very short periods of time.

Another licensed amateur radio operator; Gerry Nies, n0ngw, of Grand Forks, contacted Representative Mock requesting an amendment following the ARRL Policy Statement (copy attached) suggested statutory language. I would like to thank Representative Mock for having this incorporated in the proposed amendment (17.0838.01002) prepared for him by the Legislative Council staff on January 27, 2017. I would not oppose HB 1430 if amended with an exclusion allowing the use of amateur radios as therein proposed.

The attached ARRL Policy Statement provides additional valuable information on amateur radio for your consideration.

Thank you.

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POLICY STATEMENT
of
ARRL, THE NATIONAL ASSOCIATION FOR AMATEUR RADIO
Adopted by the ARRL Executive Committee, January 30, 2009

Mobile Amateur Radio Operation

ARRL, the national association for Amateur Radio, formally known as the American Radio Relay League, Incorporated (ARRL) is the principal advocate for the interests of FCC-licensed Amateur Radio operators in the United States. Obtaining an FCC Amateur Radio license requires the passing of a written examination on regulations, operating practices, electronics theory, and safety. There are approximately 680,000 licensed Amateur Radio operators in the United States. Amateur Radio operators provide emergency and public service communications on a volunteer, uncompensated basis. Amateur Radio is an avocation, which is intended by the Federal Communications Commission to encourage and promote technical self-training, international goodwill, non-commercial communication service (particularly with respect to emergency communications), advancement of radio technology, and expansion of the existing reservoir of trained operators, technicians, and electronics experts. Amateur Radio operators are responsible for many advances in electronics and telecommunications technology over the past 100 years.

In the course of preparing for and conducting emergency, disaster and other public service communications, Amateur Radio operators routinely equip their motor vehicles with two-way radios, operated most often with hand-held microphones. The radios are typically installed in the vehicles and utilize fixed mounted speakers. Unlike cellular telephones, the speakers are not held to the face; the radios remain in the receive mode most of the time; transmissions typically are brief and infrequent. The microphone is held only when a transmission is being made or is imminent, and otherwise is stowed in a position where the operator can reach it without removing his or her eyes from the road. Amateur operators often conduct mobile communications as participants in networks of stations, controlled often by a fixed station, not unlike commercial dispatch mobile radio systems. Radio amateurs have regularly used mobile two-way radio systems for the past 70 years. The ARRL is aware of no evidence that such operation contributes to driver inattention. Quite the contrary: radio amateurs are public service-minded individuals who utilize their radio-equipped motor vehicles to assist others, and they are focused on driving in the execution of that function.

The States encourage mobile amateur radio operation as a public benefit. Every State issues license plates to motor vehicles of licensed radio amateurs showing their FCC-assigned call letters, in order to identify a particular vehicle as a mobile-radio equipped vehicle. The United States Congress, in 1994, in a Joint Resolution (S.J. Res. 90/H.J. Res. 199 (1994)), in "recognizing the achievements of radio amateurs, and to establish support for such amateurs as national policy" found and declared, among other things, that: "reasonable accommodation should be made for the effective operation of

amateur radio from residences, private vehicles and public areas, and that regulation at all levels of government should facilitate and encourage amateur radio operation as a public benefit.”

The ARRL acknowledges numerous and increasing instances of state legislative proposals (and occasionally municipal ordinance proposals) to curb the use of cellular telephones while operating motor vehicles, ranging from prohibitions on hand-held telephones to prohibitions on all forms of electronic devices. These statutory proposals would supplement the more generalized motor vehicle code requirements that exist in various forms in virtually all States, which require operators of motor vehicles to pay full time and attention to the operation of the vehicle while driving. ARRL understands that driver inattention is a leading cause of automobile accidents, and it is not unreasonable to be concerned about substantial distractions to drivers of motor vehicles.

Typically, the intention of this type of legislation is to prohibit the operation of cellular telephones specifically, and devices incorporating full duplex wireless telephones, while operating a motor vehicle. Some such statutes prohibit the use of such devices while driving unless they incorporate “hands-free” peripheral attachments. There is substantial variation in the definition of the devices regulated by the legislation. Often, the proposed statutory language broadly prohibits operation of “mobile communication devices” or “mobile electronic devices” while driving. Whether or not intentionally, some of these proposed statutes or ordinances would in fact, or could be interpreted to prohibit the operation of Amateur Radio equipment by drivers of motor vehicles. Often, there are exemptions to the general prohibition of mobile electronic or communication devices while driving. Some legislation specifically exempts devices that are operated on a hands-free basis. Other exemptions reference specific types of devices or radio services (such as public safety land mobile radio, Citizen’s Radio Service or business and industrial land mobile radio) which are not intended to be restricted. Some legislation specifically exempts licensed Amateur Radio mobile operation; some does not.

Amateur Radio mobile operation is ubiquitous, and Amateur Radio emergency and public service communications, and other organized Amateur Radio communications activities and networks necessitate operation of equipment while some licensees are driving motor vehicles. Two-way radio use is dissimilar from full-duplex cellular telephone communications because the operator spends little time actually transmitting; the time spent listening is more similar to, and arguably less distracting than, listening to a broadcast radio, CD or MP3 player. There are no distinctions to be made between or among Amateur Radio, public safety land mobile radio, private land mobile radio, or citizen’s radio in terms of driver distraction. All are distinguishable from mobile cellular telephone communications in this respect. Nevertheless, ARRL encourages licensees to conduct Amateur communications from motor vehicles in a manner that does not detract from the safe and attentive operation of a motor vehicle at all times.

Given the necessity of unrestricted mobile Amateur Radio communications in order for the benefits of Amateur Radio to the public to continue to be realized, ARRL urges state and municipal legislators considering restrictions on mobile cellular telephone

operation to (I) narrowly define the class of devices included in the regulation so that the class includes only full duplex wireless telephones and related hand-held or portable equipment as defined below; or alternatively (II) specifically identify licensed Amateur Radio operation as an excluded service.

Suggested statutory language for state motor vehicle codes follows:

(Definition)

“Cellular Telephone (or Mobile Communications/Electronic Device)” as used herein means hand held or portable electronic equipment capable of providing full duplex, wireless voice or data communications via the public switched telephone network between two or more people. Also included are devices for text messaging or paging, personal digital assistants, laptop computers, equipment capable of playing video games or video disks, or equipment on which digital photographs are taken or displayed.

(Prohibited Acts)

Section _____ **Use of cellular telephones or mobile communications/electronic devices prohibited.** No person shall use a cellular telephone (or mobile communications or electronic device) in any manner, including the reading or sending of text or electronic messages on the telephone, while operating a motor vehicle unless the telephone is specifically designed to allow hands-free operation and the telephone is so used. This section shall not apply to a person who is using the cellular telephone (or mobile communications/electronic device): (a) While the vehicle is lawfully parked; or (b) To contact or receive calls from an emergency response vehicle or agency.

(Exclusion)

A mobile (electronic/communication) device does *not* include audio equipment or any equipment installed in the vehicle to provide navigation or emergency information to the driver, or video entertainment exclusively to passengers in the back seat. Nor does it include two-way mobile radio transmitters or receivers used by licensees of the Federal Communications Commission in the Amateur Radio Service.

ARRL – the national association for Amateur Radio
225 Main Street
Newington, CT 06111
Regulatory Information Telephone: 860-594-0236
Fax: 860-594-0259
Contact: reginfo@arrl.org

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Here is Bruce Burkett's North Dakota Peace Officers Association Testimony:

My name is Bruce Burkett representing the North Dakota Peace Officers Association. NDPOA has reviewed both HB 1404 and 1430 regarding amendments proposed for changes to North Dakota Century Code 39-08-23 regarding the term "distracted driving". Changes in HB 1404 increase the penalty on a first offense of violation of 39-08-23 to \$150. We support that change which will provide a significant deterrence of our existing statute to future behavior.

39-08-23 our current law has been in existence since 2011. The elements of the current statute provide articulable elements that are enforceable labeled as "Use of a wireless communications device prohibited". Bismarck Police records show that in 2015 and 2016, 284 citations have been issued including 67 citations to juveniles.

Section 3 of HB 1430 ends up repealing all of section 39-08-23 with three lines that do not articulate what activity constitutes Distracted Driving. For the public to recognize a specific activity to be illegal it must be specifically defined and recognizable. Any statute that is vague or ambiguous can be determined to be unconstitutional.

The operator of a motor vehicle that is in motion or part of traffic may not engage in an activity that requires the use of the operator's sight unless that activity involves operating or using the whole motor vehicle or a built-in accessory.

Would a hunter during hunting season driving down a highway spotting a herd of deer coming towards the roadway who continues to concentrate on the movement in the field away from the line of travel of the vehicle be citable for distracted driving?

Current law defines the use of cell phones quite well. Any new improvements in distractive driving must be in the form of definable elements of the violation.

39-08-23. Use of a wireless communications device prohibited.

1. 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.

2. Under this section:

a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:

(1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;

(2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;

(3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, smartphones, citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;

(4) Voice or other data transmitted as a result of making a telephone or cellular phone call; or

(5) Data transmitted automatically by a wireless communication device without direct initiation by an individual.

b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.

1. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties.

Bruce Burkett

NDPOA lobbyist 283

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#13

Testimony of Jaxon Beitelspacher
Bismarck Public Schools student
North Dakota House Transportation Committee
H.B. No. 1430
February 9, 2017

H.B. No. 1430 – No Texting law

Good morning House Transportation Committee Members. My name is Jaxon Beitelspacher and I am a junior at Legacy High School. I am also a journalist. I got into journalism at Legacy after my dad died when I was 15. That kind of grief never leaves a person. When I heard about HB 1430 and learned that it was meant to lessen the consequences of those texting while driving, I was appalled.

What I know about this proposed bill is that it will make becoming distracted a lot more forgivable. In my mind, endangering your life, the other driver's life, and any passengers life over something that could easily wait five minutes is an unforgivable act, committed out of impulse, selfishness, and inconsideration.

People who are guilty need to be punished, they need to know that what they did was wrong, and could have nasty consequences. Grief and loss are horrible feelings. All that will come out of making this law more lenient is more death and more accidents. Anyone who is for the passing of HB 1430 needs to know that no good will come out of it. We should discourage distracted driving as much as we possibly can, and make sure those guilty don't do it again. As a practicing driver I'd really rather would not worry about this. Besides, if it's really that important to text, is it too much to ask to pull over to do it?

Thank you for your time and consideration.
Sincerely,

Jaxon Beitelspacher

Jaxon Beitelspacher

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#14

**Testimony of Brian Swanberg
Bismarck Public Schools student
North Dakota House Transportation Committee
H.B. No. 1430
February 9, 2017**

Good morning, chairman and members of the committee. My name is Brian Swanberg and I am currently a senior at Bismarck Legacy High School. I am currently the editor of the Legacy High School newsmagazine and was the captain of the high school tennis team for three years. However, driving a car is my most important responsibility right now because of the immediate negative impact I can have on others' lives. Personally, it is difficult for me to understand why this bill would want to repeal the current texting and driving law and replace it with a more general product. This makes me question if texting and driving would be legalized again.

As a leader for the student body, I cannot emphasize to you enough that there is some questionable decision-making that my friends, whether they are high school or college students, make everyday. Many of them make decisions I do not agree with because students do not care as much as they should about their future. If students had the ability to text and drive, or, in other cases, go out and party, vape, etcetera, they decide to do it because it will please their desires for today. Because I am worried about my friends who make these destructive decisions, I came here. I want my peers to realize that, without any doubt, being on your phone while driving WILL endanger the lives of others.

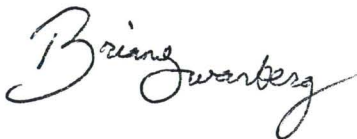
According to the National Safety Council, without the presence of a specific distracted driving bill, one in five teens would watch a video or video chat while driving. One out of every three drivers would text and drive. If a teen was driving on a highway, forty-six percent would look at their social media accounts. This is alarming, especially because twenty-four percent of teens knew someone who was injured from a crash related to distracted driving.

Teens are not alone. One in every three adults would text and drive if there was no texting and driving laws. Fifteen percent of adults would watch TV or a movie while driving. This is despite the fact that forty-six percent of drivers have almost been in a crash because a driver was distracted by technology!

I am here today to ask you to say no to H.B. 1430. That way, whether people text and drive or not, there is a law that helps keep everyone safe.

Sincerely,

Brian Swanberg



Opposition

Taylor Lassiter

#B1430

2-9-17

#15

Bill 1430 to replace the "texting while driving" phrase with "distractions" will defeat the purpose of making texting against the law. Distractions is not only too broad of a phrase but it misses important aspects of what makes texting while driving dangerous. Distractions would make it easy for drivers to say they are not distracted while texting and driving and can do it "safely". Statistics in recent years have shown that 9 people die a day in the U.S. from distractions which heavily include texting and driving. One's visual, cognitive, and manual actions are all affected when texting and driving. These actions are detrimental for safe driving in order to assure lives are not at risk. When texting and driving these actions are not at their 100%, making it difficult to safely operate a car. Not only does this put the driver's life at risk, but passengers of the car and other drivers on the road also.

It would be at an advantage for the state to keep the "texting and driving phrase" in 39-08-23 and 39-08-24 in order to guarantee that those who break the law and or cause damage due to texting and driving be punished accordingly and ensure safe driving for all. In this case it would also be beneficial for the state to not only keep the phrase but add "distractions" as a term to further the regard of safety of all.

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Testimony in Opposition to HB 1430 – Related to Distracted Driving

American Civil Liberties Union of North Dakota

House Transportation Committee

February 9, 2017

Good morning Chairman Ruby and members of the House Transportation Committee. Thank you for your time and attention this morning. My name is Jennifer Cook and I am licensed attorney in North Dakota and the Policy Director for the American Civil Liberties Union of North Dakota. The ACLU of North Dakota is a nonprofit, nonpartisan organization with more than 6,000 members, activists, and followers. The ACLU of North Dakota is one of the state's leading organizations dedicated to advancing and defending civil liberties and civil rights.

We rise in opposition to HB 1430 because the language in Section 3, lines 22 through 24 is problematic. Lines 22-24 read, "[t]he operator of a motor vehicle that is in motion or part of traffic may not engage in an activity that requires the *use of the operator's sight* unless that activity involves operating or using the whole motor vehicle or a built-in accessory." This language is overbroad and vague. It is conceivable under this language that a broad array of activity that ordinarily occurs in vehicles that does not necessarily distract the driver, but involves the operator's sight could be considered a violation of the law if this bill is passed. Examples of behavior that are likely to be included in prohibited activity are a driver glancing away from the road to admire the beauty of a North Dakota sunset, a driver handing a snack or drink to a child in the backseat, or a driver engaging in conversation with a person in the passenger seat.

Vague laws violate due process because they do not give adequate notice to citizens about what conduct is prohibited, and because they authorize or encourage arbitrary and discriminatory policing and enforcement.¹ The vagueness doctrine may be invoked whenever a law is insufficiently precise about the extent of its coverage.² The broad and vague language here casts so wide of a net that drivers are left to speculate as to what *use of their sight* constitutes distracted driving.

We can appreciate the sponsors' good intent to ensure our roadways are safer for all who use them. And while we agree that distracted driving is a serious problem, we believe this bill is not an adequate solution to the problem given the constitutional and policing concerns it raises. Our recommendation to the committee is to give the bill a Do Not Pass recommendation or amend the bill in such a way that it narrows the scope of activities that may be considered impermissible as does the texting while driving law referenced and repealed in Section 4 of the bill so as to give North Dakota citizens proper notice of conduct considered impermissible under the law.

Again thank you for your time and attention this morning. I will stand for questions from the committee.

¹ *Chicago v. Morales*, 527 U.S. 41, 56 (1999)(holding an anti-loitering statute was overbroad and vague).

² E.g., *Village of Hoffman Estates v. Flipside, Hoffman Estates*, 455 U.S. 489 (1982) (drug paraphernalia law not vague); *Smith v. Goguen*, 415 U.S. 566, 574 (1974) (flag desecration law vague).

Name: Samuel Wolf

In opposition to House Bill 1430

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With the increase of distractions on the road, especially from cellular devices, such as the app Pokemon GO, Snapchat, and texting, a law that would encompass every distracting action on a cellular device would be very welcomed for the average driver, as it would increase safety on the road. However, House Bill 1430 is too vague with its wording of “distracted driving” and it repeals previously set legislature that already makes texting while driving illegal, no questions asked. Therefore, I am opposed to House Bill 1430 because the bill repeals the current specification of texting while driving, and the term “distracted driving” is too vague to make into a law.

Texting while driving is one of the most dangerous acts that can be performed on the road; in fact, according to the National Highway Traffic Safety Administration, texting while driving is six times more dangerous than driving. However, House Bill 1430 would repeal 39-08-23 of the North Dakota Century Code. It is common knowledge that you can't legally drive while intoxicated, so it would make little to no sense to repeal the law setting the legal limit to Blood Alcohol Content (BAC) to .08%. Therefore, if texting while driving is more dangerous than driving intoxicated, why would you repeal a law that makes texting while driving illegal?

You may argue that texting while driving is covered under “distracted driving,” hence the repeal of the 39-08-23 would be appropriate. However, “distracted driving” is too vague. In the wording of the law, Section 3 of House Bill 1430 states that “The operator of a motor vehicle that is in motion or part of traffic may not engage in an activity that requires the use of the

operator's sight unless that activity involves operating or using the whole motor vehicle or built-in accessory." The main problem with the statement is the phrase that it may not use "the operator's sight," but sight is not clearly defined or elaborated. Does this mean 100% of my sight, or 50%, or 5% of my sight? Can I look at scenery that I am driving near, because the human eye can only focus on one thing at a time, so if I am looking at scenery, I am not focusing on the road. Plus, does this include dialing a number, because unless it is connected via accessory to a motor vehicle, you have to look at the screen (of a smartphone) to dial, which is "distracting" in its own right, yet it is established as legal.

In conclusion, I do think that the law should be extended to "distracted driving," as many new avenues other than texting have been developed, but House Bill 1430 is too vague in the circumstances it has set forth and the current law on texting and driving should not be repealed. I recommend that future legislation should focus on one avenue of "distracted driving," such as application use on smartphones such as Pokemon GO and Snapchat, while keeping the current legislation on texting while driving.

Dylan Hale

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Page 1

Questions for the bill:

When stated "May not engage in an activity that the takes away the operator's sight." Is this only limited to electronic devices?

What will be an officer's discretion if this bill is employed? Will there be more black and white statements or will it remain as is?

Response to HB 1430:

While this bill does have a mindset in the right direction, I do not think that this would be a bill that would benefit the people of North Dakota, we are already well known for the ramifications of texting and driving and already do have strict texting and driving laws. I do not believe that our issues are based in the behaviors of drivers, but rather the people that we have behind the wheel. A vast majority of North Dakotans fully understand and know that it is in fact illegal to be texting and driving and adolescents also understand this it is completely illegal to use their phones in general. Yet they still do. Even after receiving the \$100 fine people will be quick to get right back on their phone and most likely didn't learn their lesson. I believe that what we need to do versus making people more susceptible on receiving simple tickets is we need to enact a bill that restricts the age when licenses are given. For the longest time 14 year olds were able to receive licenses. We are one of the very few states where people under the age of 16 were able to drive unrestricted. Young kids do not know how to properly drive even after receiving driver ed training it soon is forgotten. Ladies and gentlemen of the house I do not believe that the answer lies in slapping people with yet more fines but tightening our belt when it comes to the people who are able to get behind the wheel of the car.

Opening up the century code to have such an open statement as "an activity that takes away the driver's eyesight" I feel is just an open invitation for police officers to potentially overuse this and in the long run cause more issues than it can any good. I fully agree that people

do deserve to have safe passage on the roadways, however I don't think this is the right answer for this solution. People will be people and pushing more fines on them is not going to solve the problem, that we already do not really have in this state that I am aware of.

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#19
Page 1

February 8, 2017

The Honorable Dan Ruby
Chair, Committee on Transportation
North Dakota House of Representatives
State Capitol
600 East Boulevard
Bismarck, North Dakota 58505-0360

The Honorable Rick C. Becker
Vice Chair, Committee on Transportation
North Dakota House of Representatives
State Capitol
600 East Boulevard
Bismarck, North Dakota 58505-0360

Dear Chairman Ruby and Vice Chairman Becker:

As representatives of leading public health and safety organizations, we urge you to oppose House Bill (HB) 1430 which would repeal North Dakota's all-driver ban on texting while operating a vehicle. This bill would remove an important tool for law enforcement to combat the deadly and dangerous practice of texting while driving.

Distracted driving is a serious safety threat to families traveling on North Dakota streets and roads. The North Dakota Strategic Highway Safety Plan - 2016 (Plan), commits to "advance traffic safety by establishing a goal of moving toward zero deaths on North Dakota roads," and identifies "priority emphasis areas and selection of evidence-based strategies for implementation, and increased resource commitment to the process."ⁱ Distracted driving is identified as a safety priority to be addressed by law enforcement and other safety stakeholders. HB 1430 repeals the state's texting ban, significantly weakens the state's distracted driving law and undercuts North Dakota's goals to improve roadway safety and its efforts to reduce distracted driving.

Safety research, studies and data conclusively show that the use of electronic devices for text messaging can readily distract drivers from the task of safely operating a vehicle. Text messaging requires visual, manual, and cognitive attention from the driver, and it is by far the most alarming distraction for drivers (National Highway Traffic Safety Administration (NHTSA)). Research has shown that because of the degree of cognitive distraction these devices cause, one text message is equivalent to the behavior of drivers at the threshold of the legal limit for alcohol in North Dakota of 0.08 percent blood alcohol concentration.ⁱⁱ Sending or receiving a text message causes the driver's eyes to be off the road for an average of 4.6 seconds. When driving 55 miles per hour, that time period amounts to driving the entire length of a football field blind.ⁱⁱⁱ

Moreover, distracted driving not only results in crashes, deaths and injuries, it also imposes economic costs borne by the public. According to NHTSA, nationally, 3,477 people were killed and 391,000 more were injured in crashes involving a distracted driver in 2015. The economic cost of these crashes amounts to a staggering \$40 billion and is likely higher because of issues with underreporting crashes involving cell phone use because of gaps in police crash report coding, database limitations, and other challenges.

Businesses are also negatively impacted by distracted driving crashes. According to the Network of Employers for Traffic Safety 2015 report, "The employer cost of distracted driver crashes was \$8.2 billion in 2013. Almost half of the costs resulted from crashes involving employees and their benefit-eligible dependents while away from work."^{iv}

According to NHTSA, approximately 542,000 drivers are using cell phones or manipulating electronic devices while driving at any given point in the day light, in 2015. NHTSA notes that their numbers continue to rise, and

that the percentage of drivers visibly manipulating hand-held devices while driving increased by 267 percent between 2009 and 2015. As technology advances and continues to integrate into our lives, it is essential that we have strong laws, enforcement and education to avoid dangerous and deadly consequences.

In North Dakota, motor vehicle crashes cost the state nearly \$706 million each year. If the texting ban is removed, North Dakota's citizens will be paying with their lives and their wallets. We urge you to oppose HB 1430. Thank you for your consideration.

Sincerely,

Jacqueline Gillan
President
Advocates for Highway and Auto Safety

Lyn J. Telford, BSN, RN, CEN
Government Affairs Chair
North Dakota Emergency Nurses' Association

cc: Transportation Committee Members

ⁱ North Dakota Department of Transportation Traffic Safety Office 2016 North Dakota Highway Safety Plan, available at: https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/nd_fy16hsp.pdf

ⁱⁱ Strayer, David, Drews, Frank and Crouch, David, *A Comparison of the Cell Phone Driver and the Drunk Driver* (2006), Human Factors: The Journal of the Human Factors and Ergonomics Society, Summer 2006.

ⁱⁱⁱ Olson RL, Hanowski RJ, Hickman JS, et al. Driver distraction in commercial vehicle operations FMCSA. 2009 DOT Report No. FMCSA-RRR-09-042.

^{iv} Cost of Motor Vehicle Crashes to Employers—2015TM, January 1, 2016. Available at: http://trafficsafety.org/nets_road_resources/cost-of-motor-vehicle-crashes-to-employers-2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1430

Page 1, line 2, replace "distracted driving" with "failure to maintain control of a motor vehicle"

Page 1, line 3, replace "section" with "sections"

Page 1, line 3, after "39-06.1-09" insert "and 39-08-23"

Page 1, line 4, replace "; to repeal section 39-08-23 of the North Dakota Century Code, relating to" with " and the"

Page 1, line 16, overstrike the first "or" and insert immediately thereafter a comma

Page 1, line 16, remove the overstrike over "~~39-08-23~~"

Page 1, line 16, replace "3" with ", or section 4"

Page 2, line 12, remove the overstrike over "~~39-08-23~~"

Page 2, line 12, remove "section 3 of this Act"

Page 2, line 12, after the sixth comma insert "section 4 of this Act"

Page 2, after line 18, insert:

"SECTION 3. AMENDMENT. Section 39-08-23 of the North Dakota Century Code is amended and reenacted as follows:

39-08-23. Use of a wireless communications device prohibited.

1. 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.
2. Under this section:
 - a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:
 - (1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;
 - (2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;
 - (3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, smartphones,

citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;

- (4) Voice or other data transmitted as a result of making a telephone or cellular phone call; ~~or~~
 - (5) Data transmitted automatically by a wireless communication device without direct initiation by an individual; or
 - (6) A wireless communications device used in a voice-activated, voice-operated, or any other hands-free manner.
- b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.
3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties."

Page 2, line 21, replace "**Distracted driving**" with "**Failure to maintain control of a motor vehicle**"

Page 2, replace lines 22 through 30 with:

- "1. An operator of a motor vehicle may not fail to maintain control of that motor vehicle. An individual is in violation of this section if that individual:
- a. Commits an offense under this title and, at the time of the offense, the individual was engaged in the operation of a motor vehicle while distracted; or
 - b. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 39-08-09 which resulted in property damage and, at the time the reportable accident occurred, the individual was engaged in the operation of a motor vehicle while distracted.
2. An individual may be issued a citation or summons for any other traffic offense that was committed by the individual in relation to the individual's commission of the traffic offense of failure to maintain control of a motor vehicle.
3. As used in this section, "operation of a motor vehicle while distracted" means the operation of a motor vehicle by an individual who, while operating the vehicle, is engaged in an activity that:
- a. Is not necessary to the operation of the vehicle; and
 - b. Actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle."

Page 2, remove line 31

Renumber accordingly



HB1430
2-16-17
#2

Introduced by

Representatives Mock, Dobervich, D. Ruby, Sukut

Senators Laffen, D. Larson

1 A BILL for an Act to create and enact a new section to chapter 39-08 of the North Dakota
 2 Century Code, relating to ~~distracted driving~~ failure to maintain control of a motor vehicle; to
 3 amend and reenact subsection 2 of section 39-06.1-06 and ~~section~~ sections 39-06.1-09 and
 4 39-08-23 of the North Dakota Century Code, relating to fees for a moving violation; ~~to repeal~~
 5 ~~section 39-08-23 of the North Dakota Century Code, relating to~~ and the use of a wireless
 6 communication device while driving; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Subsection 2 of section 39-06.1-06 of the North Dakota
 9 Century Code is amended and reenacted as follows:

- 10 2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except
 11 for:
- 12 a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, or 39-10-42, a fee of fifty
 13 dollars.
 - 14 b. A violation of section 39-10-05 involving failure to yield to a pedestrian or
 15 subsection 1 of section 39-10-28, a fee of fifty dollars.
 - 16 c. A violation of section 39-21-41.2, a fee of twenty-five dollars.
 - 17 d. A violation of subsection 1 of section 39-12-02 ~~or~~, section 39-08-233, or section 4
 18 of this Act, a fee of one hundred dollars.
 - 19 e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one
 20 hundred dollars.
 - 21 f. A violation of subsection 1 of section 39-04-37 by an individual by becoming a
 22 resident of this state, a fee of one hundred dollars.
 - 23 g. A violation of subsection 2 of section 39-10-21.1, a fee of two hundred fifty
 24 dollars.

- 1 h. A violation of section 39-10-59, a fee of one hundred dollars.
- 2 i. A violation of section 39-09-01, a fee of thirty dollars.
- 3 j. A violation of section 39-09-01.1, a fee of thirty dollars.
- 4 k. A violation of section 39-10-46 or 39-10-46.1, a fee of one hundred dollars.
- 5 l. A violation of subsection 1 of section 39-08-20, one hundred fifty dollars for a first
- 6 violation and three hundred dollars for a second or subsequent violation in three
- 7 years.

8 **SECTION 2. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **39-06.1-09. Moving violation defined.**

11 For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a
12 violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01,
13 39-06-14, 39-06-14.1, 39-06-16, 39-08-20, ~~39-08-23~~section 3 of this Act, 39-08-24, section 4 of
14 this Act 39-09-01, 39-09-01.1, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02,
15 section 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-21-45.1, 39-24-02, or 39-24-09, except
16 subdivisions b and c of subsection 5 of section 39-24-09, or equivalent ordinances; or a
17 violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except
18 subsection 5 of section 39-10-26, section 39-21-44, and subsections 2 and 3 of section
19 39-21-46, and those sections within those chapters which are specifically listed in subsection 1
20 of section 39-06.1-08.

21 **SECTION 3. AMENDMENT.** Section 39-08-23 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **39-08-23. Use of a wireless communications device prohibited.**

- 24 1. The operator of a motor vehicle that is part of traffic may not use a wireless
25 communications device to compose, read, or send an electronic message.
- 26 2. Under this section:
 - 27 a. "Electronic message" means a self-contained piece of digital communication that
28 is designed or intended to be transmitted between physical devices. The term
29 includes electronic mail, a text message, an instant message, a command or
30 request to access a worldwide web page, or other data that uses a commonly
31 recognized electronic communications protocol. The term does not include:

- (1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;
- (2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;
- (3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, ~~smartphones,~~ citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;
- (4) Voice or other data transmitted as a result of making a telephone or cellular phone call; ~~or~~
- (5) Data transmitted automatically by a wireless communication device without direct initiation by an individual; or
- (6) A wireless communications device used in a voice-activated, voice-operated, or any other hands-free manner.

b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.

3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties.

SECTION 4. A new section to chapter 39-08 of the North Dakota Century Code is created and enacted as follows:

Distracted driving **Failure to maintain control of a motor vehicle.**

~~—The operator of a motor vehicle that is in motion or part of traffic may not engage in an activity that requires the use of the operator's sight unless that activity involves operating or using the whole motor vehicle or a built in accessory. The operator may use:~~

1 ~~1. An electronic device that transmits data automatically and does not require direct~~
2 ~~initiation by the operator;~~

3 ~~2. A voice-operated device;~~

4 ~~3. A navigational system; or~~

5 ~~4. An electronic device to obtain emergency assistance; report a crime; or report a traffic~~
6 ~~offense, hazard, or accident.~~

7 1. An operator of a motor vehicle may not fail to maintain control of that motor vehicle. An
8 individual is in violation of this section if that individual:

9 a. Commits an offense under this title and, at the time of the offense, the individual
10 was engaged in the operation of a motor vehicle while distracted; or

11 b. Is determined to have been the operator of a motor vehicle that was involved in a
12 reportable accident as defined in section 39-08-09 which resulted in property
13 damage and, at the time the reportable accident occurred, the individual was
14 engaged in the operation of a motor vehicle while distracted.

15 2. An individual may be issued a citation or summons for any other traffic offense that
16 was committed by the individual in relation to the individual's commission of the traffic
17 offense of failure to maintain control of a motor vehicle.

18 3. As used in this section, "operation of a motor vehicle while distracted" means the
19 operation of a motor vehicle by an individual who, while operating the vehicle, is
20 engaged in an activity that:

21 a. Is not necessary to the operation of the vehicle; and

22 b. Actually impairs, or would reasonably be expected to impair, the ability of the
23 individual to safely operate the vehicle.

24 ~~**SECTION 5. REPEAL.** Section 39-08-23 of the North Dakota Century Code is repealed.~~

HOUSE BILL NO. 1430
TESTIMONY OF REP. LAWRENCE R. KLEMIN
SENATE TRANSPORTATION COMMITTEE
MARCH 16, 2017

Attachment #1
3-16-17 HB 1430 pg 1

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 Section 3 of House Bill 1430. Section 3 amends Section 39-08-23, which is the no texting while driving law that we enacted in 2011. I am not opposed to the rest of the bill, but I am only here to testify about Section 3, which was included in this bill by the House Transportation Committee at my request. I was the prime sponsor of the no texting while driving law enacted in 2011.

Just ten years ago, there were *only* 158 billion text messages being sent by cell phones each year. The statistics now show that there about **1.9 trillion** text messages sent by cell phones in the United States each year. 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. Drivers are now also using their smartphones to access the Internet, Facebook, and other sites while driving. There may be a time and place for everything, but texting or accessing the Internet while driving is not one of them.

In 2011, when I appeared before this committee to testify in favor of the no texting while driving bill, House Bill 1195 at that time, 30 states and the District of Columbia had laws prohibiting texting. North Dakota became the 31st state to ban texting while driving when the bill passed the Legislature. Today, there are 46 states, the District of Columbia, the U.S. Virgin Islands, Puerto Rico, and Guam that have laws that prohibit texting while driving. See Government Highway Safety Association (GHSA), Cell Phone and Texting Laws, January 2017.

Section 3 of HB 1430 updates the law to exempt voice-activated or hands free devices. We didn't have the prevalence of Bluetooth technology in our cellphones and in our cars and other vehicles when this law was enacted in 2011. This is the same update recently made in Minnesota, which has a no texting while driving law that is very similar to our law. However, in Minnesota, the fine is \$225 for a texting violation, versus the \$100 we have in North Dakota

Texting and surfing the Internet are dangerous to the people doing it while they drive and are also a danger to their passengers and others who use the roads. Texting is the functional equivalent of drunken drivers on the road. I could provide you with a lot of statistics relating to the dangers of texting while driving and the deaths and accidents that have occurred in North Dakota and the rest of the USA, but suffice it to say that the dangers are well established by numerous state, federal, and insurance company studies. I have attached some information concerning this. We need to continue to maintain our efforts to stop texting. I would appreciate your support for Section 3 of House Bill 1430.

Distracted Driving Laws by State

Updated January 2017

3-16-17 - HB1430

State	Hand-held Ban	All Cell Phone Ban		Text Messaging Ban			Crash Data
		School Bus Drivers	Novice Drivers	All Drivers	School Bus Drivers	Novice Drivers	
Alabama			16, or 17 w/ Intermediate License <6 months (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Alaska				Yes (Primary)	Covered under all driver ban		Yes
Arizona		Yes (Primary)					Yes
Arkansas ¹	18 - 20 years old (Primary)	Yes (Primary)	<18 (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
California	Yes (Primary)	Yes (Primary)	<18 (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
Colorado			<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Connecticut	Yes (Primary)	Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		
Delaware	Yes (Primary)	Yes (Primary)	Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
D.C.	Yes (Primary)	Yes (Primary)	Learners Permit (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Florida				Yes (Secondary)	Covered under all driver ban		Yes
Georgia		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Guam	Yes (Primary)			Yes (Primary)	Covered under all driver ban		
Hawaii	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Idaho				Yes (Primary)	Covered under all driver ban		Yes
Illinois	Yes (Primary)	Yes (Primary)	<19 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Indiana			<21 (Primary) (eff. 7/2015)	Yes (Primary)	Covered under all driver ban		Yes
Iowa			Restricted or Intermediate License (Primary)	Yes (Secondary)	Covered under all driver ban		Yes
Kansas			Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Kentucky		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Louisiana	Learner or Intermediate License (regardless of age)	Yes (Primary)	1st year of License (Primary for <18)	Yes (Primary)	Covered under all driver ban		Yes

Maine			Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Maryland	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Massachusetts		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Michigan		Yes (Primary)	Level 1 or 2 License (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Minnesota		Yes (Primary)	<18 w/ Learner or Provisional License (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Mississippi		Yes (Primary)		Yes (Primary)	Covered under all driver ban	Yes
Missouri					<21 (Primary)	Yes
Montana						Yes
Nebraska			<18 w/ Learner or Intermediate License (Secondary)	Yes (Secondary)	Covered under all driver ban	Yes
Nevada	Yes (Primary)			Yes (Primary)	Covered under all driver ban	Yes
New Hampshire	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban	
New Jersey	Yes (Primary)	Yes (Primary)	Permit or Provisional License (Primary)	Yes (Primary)	Covered under all driver ban	Yes
New Mexico	In State vehicles		Learner or Provisional License (Primary)	Yes (Primary)	Covered under all driver ban	Yes
New York	Yes (Primary)			Yes (Primary)	Covered under all driver ban	Yes
North Carolina		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban	Yes
North Dakota			<18 (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Ohio			<18 (Primary)	Yes (Secondary)	Covered under all driver ban	Yes
Oklahoma	Learner or Intermediate License (Primary)			Yes (Primary)	Covered under all driver ban	Yes
Oregon	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban	Yes
Pennsylvania				Yes (Primary)	Covered under all driver ban	Yes

Puerto Rico	Yes (Primary)			Yes (Primary)	Covered under all driver ban		
Rhode Island		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
South Carolina				Yes (Primary)	Covered under all driver ban		Yes
South Dakota			Learner or Intermediate License (Secondary)	Yes (Secondary)	Covered under all driver ban		Yes
Tennessee		Yes (Primary)	Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Texas ²		Yes, w/ passenger <17 (Primary)	<18 (Primary)		Yes, w/ passenger <17 (Primary)	<18 (Primary)	Yes
Utah		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Vermont	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Virgin Islands	Yes (Primary)			Yes (Primary)	Covered under all driver ban		Yes
Virginia		Yes (Primary)	<18 (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
Washington	Yes (Primary)		Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
West Virginia	Yes (Primary)		<18 w/ Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Wisconsin			Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Wyoming				Yes (Primary)	Covered under all driver ban		Yes
Total States	14 + D.C., PR, Guam, Virgin Islands All Primary	20 + D.C. All Primary	38 + D.C. Primary (32 + D.C.) Secondary (6)	46 + D.C., PR, Guam, Virgin Islands Primary (41 + D.C., PR, Guam, Virgin Islands) Secondary (5)	1 Primary	2 Primary	48 + D.C., Virgin Islands

¹ Arkansas also bans the use of hand-held cell phones while driving in a school zone or in a highway construction zone. This law is secondarily enforced.

² Texas has banned the use of hand-held phones and texting in school zones.

Attachment # 1 pg 5
NB 1430
3.16.17

Facts and Statistics

What is distracted driving?

Distracted driving is any activity that could divert a person's attention away from the primary task of driving. All distractions endanger driver, passenger, and bystander safety. These types of distractions include:

- **Texting**
- Using a cell phone or smartphone
- Eating and drinking
- Talking to passengers
- Grooming
- Reading, including maps
- Using a navigation system
- Watching a video
- Adjusting a radio, CD player, or MP3 player

But, because text messaging requires visual, manual, and cognitive attention from the driver, it is by far the most alarming distraction.

The best way to end distracted driving is to educate all Americans about the danger it poses. On this page, you'll find facts and statistics that are powerfully persuasive. If you don't already think distracted driving is a safety problem, please take a moment to learn more. And, as with everything on Distraction.gov, please share these facts with others. Together, we can help save lives.

Got questions? Visit our FAQ (faq.html)! Want even more information? Look at sample research reports (/stats-research-laws/research.html).

Key Facts and Statistics

In 2014, 3,179 people were killed, and 431,000 were injured in motor vehicle crashes involving distracted drivers.

As of December 2014, 169.3 billion text messages were sent in the US (includes PR, the Territories, and Guam) every month.

(CTIA) (<http://www.ctia.org/your-wireless-life/how-wireless-works/annual-wireless-industry-survey>)

CTIA 2016 1.89T PER YEAR Stats, Research & Laws

Ten percent of all drivers 15 to 19 years old involved in fatal crashes were reported as distracted at the time of the crashes. This age group has the largest proportion of drivers who were distracted at the time of the crashes. (NHTSA) (<http://www-nrd.nhtsa.dot.gov/Pubs/812132.pdf>)


Drivers in their 20s are 23 percent of drivers in all fatal crashes, but are 27 percent of the distracted drivers and 38 percent of the distracted drivers who were using cell phones in fatal crashes. (NHTSA) (<http://www-nrd.nhtsa.dot.gov/Pubs/812132.pdf>)


The percentage of drivers text-messaging or visibly manipulating handheld devices increased from 1.7 percent in 2013 to 2.2 percent in 2014. Since 2007, young drivers (age 16 to 24) have been observed manipulating electronic devices at higher rates than older drivers. (NHTSA) (<http://www-nrd.nhtsa.dot.gov/Pubs/812197.pdf>)

At any given daylight moment across America, approximately 660,000 drivers are using cell phones or manipulating electronic devices while driving, a number that has held steady since 2010. (NOPUS) (<http://www-nrd.nhtsa.dot.gov/Pubs/811719.pdf>)

A 2015 Erie Insurance distracted driving survey reported that drivers do all sorts of dangerous things behind the wheel including brushing teeth and changing clothes. The survey also found that one-third of drivers admitted to texting while driving, and three-

Take Action

Pledge  (/take-action/take-the-pledge.html)

Campaign  (/take-action/texting-campaign.html)

Downloads  (/take-action/downloads.html)

Stats, Research & Laws

Facts & Statistics (/stats-research-laws/facts-and-statistics.html)

Research (/stats-research-laws/research.html)

State Laws (/stats-research-laws/state-laws.html)

FAQ (/stats-research-laws/faq.html)

DOT Activities

Experience the Stories (/experience-the-stories/index.html)

About Us

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quarters saying they've seen others do it.
(ERIE INSURANCE)
(<https://www.erieinsurance.com/about-us/newsroom/press-releases/2015/distracted-driving>)

Five seconds is the average time your eyes are off the road while texting. When traveling at 55mph, that's enough time to cover the length of a football field blindfolded. (2009, VTTI)
(<http://mcsac.fmcsa.dot.gov/documents/DriverDistract>)

Smartphone ownership is growing. In 2011, 52 percent of drivers reported owning a smartphone, and by 2014 that number had grown to 80 percent. The greatest increases in smartphone ownership are among adults age 40 and older. (STATE FARM)
(<http://www.multivu.com/players/English/7292854-state-farm-distracted-driving-survey-cellphone-use/>)

More than half (53%) of all adult cellphone owners have been on the giving or receiving end of a distracted walking encounter. (PEW RESEARCH)
(<http://www.pewresearch.org/fact-tank/2014/01/02/more-than-half-of-cell-owners-affected-by-distracted-walking/>)

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Eyes on the road,
not on your phone

text
search
post
view
email
No is worth a life.

Nearly 4 in 10 social network while driving.¹

27% Facebook

14% Instagram

14% Twitter

11% Snapchat

49%

Nearly half
of commuters admitted
to texting while driving.²

75%

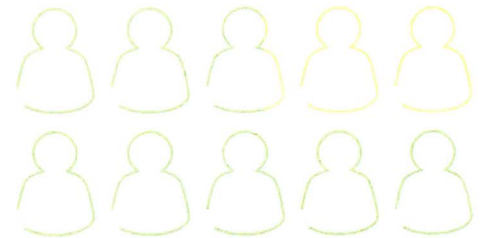
of teen drivers say texting
while driving is "common
among their friends".³

82%

of drivers
who have taken action
to stop texting while
driving feel good about
themselves.⁴

78%

of teen drivers
say they are likely not to
text and drive if friends tell
them it's wrong or stupid.⁵



1. Research commissioned by AT&T and conducted by Brain Research. Polled 2,007 people in the U.S. aged 16-65 who use their smart phones and drive at least once a day.

2. Commuter survey conducted by ResearchNow on behalf of AT&T.

3. AT&T Teen Driver Survey.

4. AT&T Compulsion Research.

5. ConnectSafely.org survey sponsored by AT&T.

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Distracted Driving 2013

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The Department of Transportation works to reduce the occurrence of distracted driving and raise awareness of the dangers of distracted driving. This risky behavior poses a danger to vehicle occupants as well as nonoccupants such as pedestrians and bicyclists. Driver distraction is a specific type of driver inattention. Distraction occurs when drivers divert their attention from the driving task to focus on some other activity. Oftentimes, discussions regarding distracted driving center around cell phone use and texting, but distracted driving also includes other activities such as eating, talking to other passengers, or adjusting the radio or climate controls, to name but a few. A distraction-affected crash is any crash in which a driver was identified as distracted at the time of the crash.

- Ten percent of fatal crashes, 18 percent of injury crashes, and 16 percent of all police-reported motor vehicle traffic crashes in 2013 were reported as distraction-affected crashes.
- In 2013, there were 3,154 people killed and an estimated additional 424,000 injured in motor vehicle crashes involving distracted drivers.
- Ten percent of all drivers 15 to 19 years old involved in fatal crashes were reported as distracted at the time of the crashes. This age group has the largest proportion of drivers who were distracted at the time of the crashes.
- In 2013, there were 480 nonoccupants killed in distraction-affected crashes.

Methodology

The data sources include NHTSA's Fatality Analysis Reporting System (FARS) and National Automotive Sampling System (NASS) General Estimates System (GES). FARS contains data on a census of fatal traffic crashes from all 50 States, the District of Columbia, and Puerto Rico. NASS GES contains data from a nationally representative probability sample of police-reported crashes of all severities, including those that result in death, injury, or property damage. The national estimates produced from GES data are subject to sampling errors.

defined in the *Overview of the National Highway Traffic Safety Administration's Driver Distraction Program* (Report

No. DOT HS 811 299), distraction is a specific type of inattention that occurs when drivers divert their attention from the driving task to focus on some other activity instead. That document describes that distraction is a subset of inattention (which also includes fatigue, and physical and emotional conditions of the driver). However, while NHTSA may define the terms in this manner, inattention and distraction are often used interchangeably or simultaneously in other material, including police accident reports. It is important that NHTSA and NHTSA's data users be aware of these differences in definitions.

There are inherent limitations in the data for distraction-affected crashes and the resulting injuries and fatalities. These limitations are being addressed through efforts within and outside of NHTSA as detailed in the Overview. The appendix of this document contains a table that describes the coding for distraction-affected crashes for FARS and GES as well as a discussion regarding limitations in the distracted driving data.

Data

Fatalities in Distraction-Affected Crashes

In 2013, there were a total of 30,057 fatal crashes in the United States involving 44,574 drivers. As a result of those fatal crashes, 32,719 people were killed.

In 2013, there were 2,910 fatal crashes that occurred on U.S. roadways that involved distraction (10% of all fatal crashes). These crashes involved 2,959 distracted drivers, as some crashes involved more than one distracted driver. Distraction was reported for 7 percent (2,959 of 44,574) of the drivers involved in fatal crashes. In these distraction-affected crashes, 3,154 fatalities (10% of overall fatalities) occurred. Table 1 provides information on crashes, drivers, and fatalities involved in fatal distraction-affected crashes in 2013.

Much attention across the country has been devoted to the use of cell phones and other electronic devices while driving. In 2013, there were 411 fatal crashes reported to have involved the use of cell phones as distractions (14% of all fatal

Table 1
Fatal Crashes, Drivers in Fatal Crashes, and Fatalities, 2013

	Crashes	Drivers	Fatalities
Total	30,057	44,574	32,719
Distraction-Affected (D-A)	2,910 (10% of total crashes)	2,959 (7% of total drivers)	3,154 (10% of total fatalities)
Cell Phone in Use	411 (14% of D-A crashes)	427 (14% of distracted drivers)	445 (14% of fatalities in D-A crashes)

Source: National Center for Statistics and Analysis (NCSA), FARS 2013 (ARF)

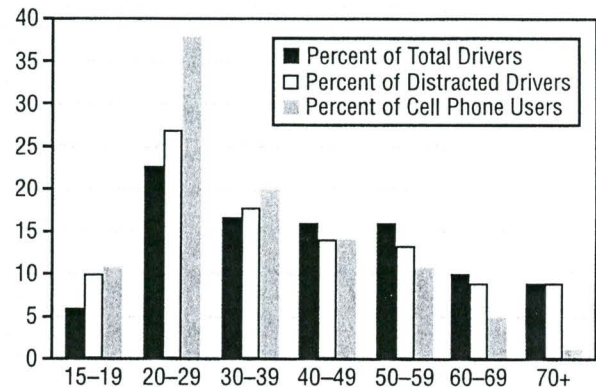
distraction-affected crashes). For these distraction-affected crashes, the police accident report stated that the driver was talking on, listening to, or manipulating a cell phone (or other cell phone activity) at the time of the crash. Cell phones were reported as a distraction for 14 percent of the distracted drivers in fatal crashes. A total of 445 people died in fatal crashes that involved the use of cell phones or other cell phone-related activities as distractions.

Table 2 presents 2013 fatal crash data for distraction-affected crashes by driver age. Ten percent of all drivers 15 to 19 years old involved in fatal crashes were distracted at the time of the crash. This age group is the group with the largest proportion of drivers who were distracted.

The comparison of the proportion of drivers involved in fatal crashes and those involved in distraction-affected fatal crashes points to overrepresentation of drivers under 40. For all fatal crashes, only 6 percent of the drivers in the fatal crashes were 15 to 19 years old. However, for distracted drivers in fatal crashes, 10 percent of the distracted drivers were 15 to 19 years old. And 11 percent of all the distracted drivers using cell phones were 15 to 19 years old. Similarly, drivers in their 20s are 23 percent of drivers in all fatal crashes, but are 27 percent of the distracted drivers and 38 percent of the distracted drivers that were using cell phones in fatal crashes.

Figure 1 illustrates the distribution of drivers by age for total drivers involved in fatal crashes, distracted drivers involved in fatal crashes, and distracted drivers on cell phones during fatal crashes.

Figure 1
Percent Distribution of Drivers Involved in Fatal Crashes By Age, Distraction, and Cell Phone Use, 2013



Source: NCSA, FARS 2013 (ARF)

In 2013, 85 percent of the fatalities in distraction-affected crashes involved motor vehicle occupants or motorcyclists.

Table 2
Drivers Involved in Fatal Crashes by Age, Distraction, and Cell Phone Use, 2013

Age Group	Total Drivers		Distracted Drivers			Drivers Using Cell Phone		
	#	% of Total	#	% of Total Drivers	% of Distracted Drivers	#	% of Distracted Drivers	% of Cell Phone Drivers
15-19	2,839	6	294	10	10	45	15	11
20-29	10,427	23	803	8	27	161	20	38
30-39	7,598	17	517	7	17	84	16	20
40-49	7,321	16	423	6	14	61	14	14
50-59	7,079	16	384	5	13	46	12	11
60-69	4,483	10	258	6	9	22	9	5
70+	3,951	9	252	6	9	6	2	1
Total	44,574	100	2,959	7	100	427	14	100

Source: NCSA, FARS 2013 (ARF); Note: The total includes 56 drivers 14 and younger, 7 of whom were noted as distracted. Additionally, the total includes 820 of unknown age, of whom were noted as distracted.

This compares to 83 percent of all motor vehicle crash fatalities involving occupants. Thus, the victims of distraction-affected crashes vary little from the victims of crashes overall. Table 3 describes the role of the people killed in distraction-affected crashes in 2013. Distracted drivers were involved in the deaths of 480 nonoccupants during 2013. It is unknown how many of these nonoccupants were potentially distracted as well.

Table 3
People Killed in Distraction-Affected Crashes, by Person Type, 2013

Person Type	Killed in Distraction-Affected Crashes	Percentage of Distraction-Affected Fatalities
Occupants		
Driver	1,898	60%
Passenger	776	25%
Total Occupants	2,674	85%
Nonoccupants		
Pedestrian	384	12%
Pedalcyclist	74	2%
Other	22	1%
Total Nonoccupants	480	15%

Source: NCSA, FARS 2013 (ARF)

In 2013, 69 percent of the distracted drivers in fatal crashes were male as compared to 73 percent of drivers in all fatal crashes. Additionally, 58 percent of distracted drivers involved in fatal crashes were driving in the daytime (between 6 a.m. and 5:59 p.m.) as compared to 53 percent of drivers in all fatal crashes.

Estimates of People Injured in Distraction-Affected Crashes

In 2013, an estimated 2,313,000 people were injured in motor vehicle traffic crashes (Table 4). The number of people injured in distraction-affected crashes in 2013 was estimated at 424,000 (18% of all the injured people). An estimated 34,000 people were injured in 2013 in crashes involving cell phone use or other cell phone-related activities, 8 percent of all people injured in distraction-affected crashes.

Table 4
Estimated Number of People Injured in Crashes and People Injured in Distraction-Affected Crashes

Year	Total	Distraction	
		Estimate (% of Total Injured)	Cell Phone Use (% of People Injured in Distraction-Affected Crashes)
2010	2,239,000	416,000 (19%)	24,000 (6%)
2011	2,217,000	387,000 (17%)	21,000 (5%)
2012	2,362,000	421,000 (18%)	28,000 (7%)
2013	2,313,000	424,000 (18%)	34,000 (8%)

Source: NCSA, GES 2010-2013

Over the past four years, the estimated number of people injured in distraction-affected crashes has shown decreases and increases. The percentage of injured people in distraction-affected crashes as a portion of all injured people has remained relatively constant. As these are estimates, the changes may not be statistically significant.

In 2013, there were an estimated 284,000 distraction-affected injury crashes (Table 5) or 18 percent of all injury crashes. In these crashes, 294,000 drivers were distracted at the time of the crashes.

Table 5
Estimates of Distraction-Affected Injury Crashes, Drivers In Injury Crashes, and Injured People, 2013

Distraction-Affected Injury Crashes	Distracted Drivers in Injury Crashes	People Injured in Distraction-Affected Crashes
284,000 (18% of all injury crashes)	294,000 (10% of all drivers in injury crashes)	424,000 (18% of all injured people)

Source: NCSA, GES 2013

Crashes of All Severity

Table 6 provides information for all police-reported crashes from 2010 through 2013 including fatal crashes, injury crashes, and property-damage-only (PDO) crashes for the year. During this time period, the percentages of crashes of all severities that involve distractions fluctuated very little.

Table 6
Motor Vehicle Traffic Crashes and Distraction-Affected Crashes by Year

Crash by Crash Severity	Overall Crashes	Distraction-Affected Crashes (% of Total Crashes)	D-A Crashes Involving Cell Phone Use (% of D-A Crashes)
2010	Fatal Crash	30,296	2,993 (10%)
	Injury Crash	1,542,000	279,000 (18%)
	PDO* Crash	3,847,000	618,000 (16%)
	Total	5,419,000	900,000 (17%)
2011	Fatal Crash	29,867	3,047 (10%)
	Injury Crash	1,530,000	260,000 (17%)
	PDO Crash	3,778,000	563,000 (15%)
	Total	5,338,000	826,000 (15%)
2012	Fatal Crash	31,006	3,098 (10%)
	Injury Crash	1,634,000	286,000 (18%)
	PDO Crash	3,950,000	619,000 (16%)
	Total	5,615,000	908,000 (16%)
2013	Fatal Crashes	30,057	2,910 (10%)
	Injury Crash	1,591,000	284,000 (18%)
	PDO Crash	4,066,000	616,000 (15%)
	Total	5,687,000	904,000 (16%)

*PDO - Property Damage Only

Source: NCSA, FARS 2010-2012 Final, FARS 2013 ARF, GES 2010-2013.

Appendix—Coding of Distraction During Crashes

keeping with its distraction plan (*Overview of the National Highway Traffic Safety Administration's Driver Distraction Program*, April 2010, Report No. DOT HS 811 299), NHTSA continues to refine collection of information about the role of distracted driving in police-reported crashes. This includes improvements to the coding of distraction in FARS. Prior to 2010, FARS, which contains data about fatal motor vehicle crashes, and the NASS-GES, which contains data about a sample of all severities of police-reported crashes, coded distraction information in different formats. FARS was more general and inclusive of generally inattentive behavior, whereas GES identified specific distracted driving behaviors. In 2010, the two systems' coding of distraction was unified. Beginning in 2010 for both systems, when looking at distraction-affected crashes, the driver in both FARS and GES is identified as "Yes-Distracted," "No-Not distracted," or "Unknown if distracted." If the driver is identified as distracted, further coding is performed to distinguish the specific activity that was distracting the driver. This was not a change for data coding for GES, but was in FARS. The data collected on the PAR did not change; rather, it is the way the data is classified in FARS to focus the fatal crash data on the set of distractions most likely to affect the crash. Prior to 2010 in FARS, distraction was not first identified in a Yes/No/Unknown manner. Rather, specific behaviors of the driver as coded on the PAR were combined and categorized as "distracted."

Because of this change in data coding in FARS, distraction-affected crash data from FARS beginning in 2010 cannot be compared to distracted-driving-related data from FARS from previous years. With only four years of fatal crash information for distraction under the new coding, the reader should take caution in making conclusions of trends in these data. GES data can be compared over the years, as the data coding did not change in this system.

Of additional note is the terminology regarding distraction. For FARS and GES data, beginning with 2010 data, any crash in which a driver was identified as distracted at the time of the crash is referred to as a distraction-affected crash. Discussion of cell phones is also more specific starting with the 2010 data. Starting in 2010, FARS no longer offers "cell phone present in vehicle" as a coding option; thus this code cannot be considered a distraction within the data set. From discussion with law enforcement officers, this code in years past was used when it was believed that the driver was using a cell phone at the time of the crash and thus contributed to the crash, but proof was not available. The use of a cell phone is more specific with the current coding and if the specific involvement cannot be determined, law enforcement has other options available to discuss the role of the cell phone and thus the coding would reflect such. Because of these changes, the current language referring to cell phones is that

the crash involved the use of a cell phone as opposed to the generic cell-phone-involvement used previously.

In a continuing effort towards uniformity in data collection among states, the Model Minimum Uniform Crash Criteria (MMUCC) was updated in June 2012. MMUCC is a guideline for collection of crash characteristics in police accident reports. In this updated edition, *MMUCC Guideline, 4th Edition*, the reporting element for distraction was improved after consultation with law enforcement, safety advocates, first responders, and industry representatives. The States are increasingly becoming compliant with these MMUCC guidelines.

Attribute Selection

As discussed in the Methodology section of this Research Note, FARS and GES were accessed to retrieve distraction-affected crashes. Table A-1 contains every variable attribute available for coding for driver distraction along with examples to illustrate the meaning of the attribute. This is the coding scheme available for FARS and GES. Table A-1 further indicates whether that attribute was included in the analysis for distraction-affected crashes.

In 2012, the variable attributes changed to account for different ways that State police accident reports describe general categories of distraction, inattention, and careless driving. These additional attributes provide a more accurate classification of the behavior indicated on the police accident report. If the cell in the table is greyed out, the attribute did not exist for the indicated data years.

If there are no indications of usage for distraction-affected crashes, the attribute was not considered as a type of distraction behavior and therefore not included in the analysis.

Data Limitations

NHTSA recognizes that there are limitations to the collection and reporting of FARS and GES data with regard to driver distraction. The data for FARS and GES are based on PARs and information gathered after the crashes have occurred.

One significant challenge for collection of distracted driving data is the PAR itself. Police accident reports vary across jurisdictions, thus creating potential inconsistencies in reporting. Many variables on the police accident report are nearly universal, but distraction is not one of those variables. Some police accident reports identify distraction as a distinct reporting field, while others do not have such a field and identification of distraction is based upon the narrative portion of the report. The variation in reporting forms contributes to variation in the reported number of distraction-affected crashes. Any national or State count of distraction-affected crashes should be interpreted with this limitation in mind

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Table A-1
Attributes Included in "Driver Distracted by" Element and Indication of Inclusion in Distraction-Affected Definitions, SES and FARS

Attribute	Examples	Distraction-Affected Crashes	
		2010-2011	2012-2013
Not distracted	Completely attentive to driving; no indication of distraction or noted as Not Distracted		
Looked but did not see	Driver paying attention to driving but does not see relevant vehicle, object, etc.		
By other occupant	Distracted by occupant in driver's vehicle; includes conversing with or looking at other occupant	X	X
By a moving object in vehicle	Distracted by moving object in driver's vehicle; includes dropped object, moving pet, insect, cargo.	X	X
While talking or listening to cellular phone	Talking or listening on cellular phone; includes talking or listening on a "hands-free" or Bluetooth enabled phone	X	X
While manipulating cellular phone	Dialing or text messaging on cell phone or any wireless email device; any manual button/control actuation on phone qualifies	X	X
Other cellular phone-related	Used when the police report indicated the driver is distracted from the driving task due to cellular phone involvement, but none of the specified codes are applicable (e.g., reaching for cellular phone, etc.). This code is also applied when specific details regarding cellular phone distraction/usage are not provided.	X	X
While adjusting audio and/or climate controls	While adjusting air conditioner, heater, radio, cassette, using the radio, using the cassette or CD mounted into vehicle	X	X
While using other component/controls integral to vehicle	Manipulating a control in the vehicle including adjusting headlamps, interior lights, controlling windows, door locks, mirrors, seats, steering wheels, on-board navigational devices, etc.	X	X
While using or reaching for device/object brought into vehicle	Radar detector, CDs, razors, music portable CD player, headphones, a navigational device, a laptop or tablet PC, etc.; if unknown if device is brought into vehicle or integral, use Object Brought Into Vehicle	X	X
Distracted by outside person, object, or event	Animals on roadside or previous crash, non-traffic related signs. Do not use when driver has recognized object/event and driver has taken evasive action	X	X
Eating or drinking	Eating or drinking or actively related to these actions	X	X
Smoking related	Smoking or involved in activity related to smoking	X	X
No driver present/unknown if driver present	When no driver is in this vehicle or when it is unknown if there is a driver present in this vehicle at the time of the crash		
Distraction/Inattention	Used exclusively when "distraction/inattention" or "inattention/distraction" are noted in case materials as one combined attribute		X
Distraction/Careless	Used exclusively when "distraction/careless" or "careless/distraction" are note in case materials as one combined attribute		X
Careless/Inattentive	Used exclusively when "careless/inattentive" or "inattentive/careless" are noted in case materials as one combined attribute		X
Distraction/inattention, details unknown	Distraction and/or inattention are noted on the PAR but the specifics are unknown	X	
Distraction (distracted), details unknown	Used when "distraction" or "distracted" are noted in case materials but specific distraction(s) cannot be identified		X
Inattention (inattentive), details unknown	Used when "inattention" or "inattentive" are noted in the case materials but it cannot be identified if this refers to a distraction		X
Not reported	No field available on PAR; field on PAR left blank; no other information available		
Inattentive or lost in thought	Driver is thinking about items other than the driving task (e.g., daydreaming)	X	
Lost in thought/Daydreaming	Used when the driver is not completely attentive to driving because he/she is thinking about items other than the driving task.		X
Other distraction	Details regarding the driver's distraction are known but none of the specified codes are applicable	X	
Unknown if distracted	PAR specifically states unknown		

due to potential under-reporting in some States and over-reporting in others.

The following are potential reasons for underreporting of distraction-affected crashes.

- There are negative implications associated with distracted driving—especially in conjunction with a crash. Survey research shows that self-reporting of negative behavior is lower than actual occurrence of that negative behavior. There is no reason to believe that self-reporting of distracted driving to a law enforcement officer would differ. The inference is that the reported driver distraction during crashes is lower than the actual occurrence.
- If a driver fatality occurs in the crash, law enforcement must rely on the crash investigation in order to report on whether driver distraction was involved. Law enforcement may not have information to indicate distraction. These investigations may rely on witness account and oftentimes these accounts may not be available either.
- Technologies are changing at a rapid speed and it is difficult to update the PAR to accommodate these changes. Without broad-sweeping changes to the PAR to incorporate new technologies and features of technologies, it is difficult to capture the data that involve interaction with these devices.

The following is a challenge in quantifying external distractions.

- In the reporting of distraction-affected crashes, oftentimes external distractions are identified as a distinct type of distraction. Some of the scenarios captured under external distractions might actually be related to the task of driving (e.g., looking at a street sign). However, the crash reports may not differentiate these driving-related tasks from other external distractions (looking at previous crash or billboard). Currently, the category of external distractions is included in the counts of distraction-affected crashes.



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Limitations in the data can be seen in a quantifiable manner in a research paper titled, *Pre-crash Data Collection in NHTSA's Databases* by Mark Mynatt and Greg Radja, published in 2013 for the ESV Conference. In this research paper, Mynatt and Radja reviewed crashes that were common in the National Motor Vehicle Crash Causation Survey (NMVCCS), an on-site investigations crash survey; the GES (police report data); and the Crashworthiness Data System (CDS), data from follow-on vehicle and crash scene inspections and driver interviews along with the police report. A total of 379 crashes involving 653 vehicles were determined to be present in all three programs. Mynatt and Radja looked at specific data for distraction in the common cases to quantify the difference in reporting of distracted driving behaviors due to additional sources of information as can be seen in the following excerpt from the paper:

Table A-2 shows the percentage of the common vehicles with a coded Distraction in each of the programs.

Table A-2
**Common Vehicles With a Distraction Present
(Percentages rounded)**

Distraction	NASS-GES	NASS-CDS	NMVCCS
Yes	11%	14%	28%
No	60%	46%	48%
Unknown	30%	40%	24%

As Table A-2 indicates, in these same vehicles a distraction was coded in the on-scene program twice as often as in the follow-on program; and 2½ times more often than in the PAR-based program. The on-scene based program also had a lower percentage of Unknown Distraction coding.

While these findings cannot be expanded to quantify the potential underreporting in FARS and GES, they are valuable in understanding the potential underreporting that the FARS and GES data may experience for driver distraction.

This research note and other general information on highway traffic safety may be accessed by Internet users at: www-nrd.nhtsa.dot.gov/CATS/index.aspx

1200 New Jersey Avenue SE., Washington, DC 20590

Attachment # 3 pg 1

NB 1430

3-16-17

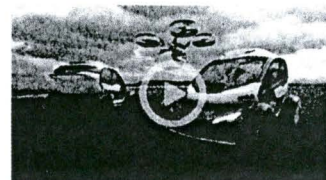
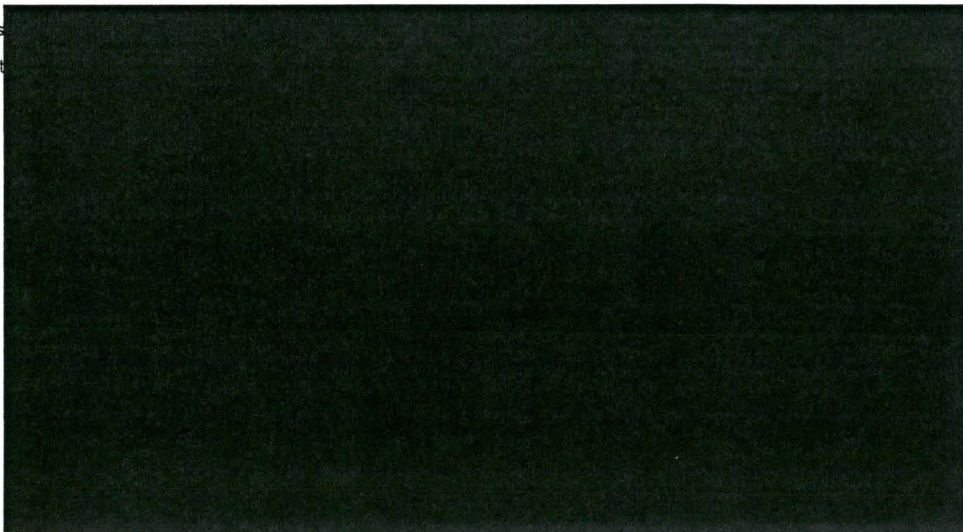
Crash injures teens near Jamestown



By Max Grossfeld | Posted: Sat 2:32 PM, Mar 11, 2017

JAMESTOWN, ND - North Dakota Highway Patrol Officials say distracted driving may have caused a 15-year-old West Fargo girl to crash headed east on I-94. About 10 miles west of Jamestown, the police say the girl drove the car into the south ditch. She then over corrected and hit a support pole for an exit sign. Authorities took both the driver and her passenger, also 15, to the Jamestown Regional Medical Center. The driver later traveled by LifeFlight to Sanford in Fargo. Authorities continue to investigate.

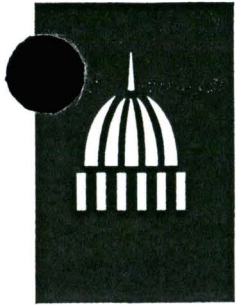
This
An It



This Flying Drone Car Could Mean No More Traffic Jams



Ax Attack Injures 7 At German Train Station



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NATIONAL CONFERENCE *of* STATE LEGISLATURES

~~#308~~
Attachment #4 pg 1
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To: Representative Corey Mock
CC: Karmen Hanson
From: Amanda Essex
Date: February 7, 2017
Subject: General Distracted Driving Laws

Representative Mock,

Thank you for contacting NCSL regarding state laws prohibiting distracted driving, regardless of the cause of the distraction. I was able to locate the following statutes on this topic.

- **Georgia** has a statute specifying: "A driver shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions which shall distract such driver from the safe operation of such vehicle, provided that, except as prohibited by Code Sections 40-6-241.1 and 40-6-241.2, the proper use of a radio, citizens band radio, mobile telephone, or amateur or ham radio shall not be a violation of this Code section." Ga. Code Ann. § 40-6-241 (West)
- **Maine** has a statute addressing failure to maintain control of a vehicle.
 - 1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
 - A. "Operation of a motor vehicle while distracted"** means the operation of a motor vehicle by a person who, while operating the vehicle, is engaged in an activity:
 - (1)** That is not necessary to the operation of the vehicle; and
 - (2)** That actually impairs, or would reasonably be expected to impair, the ability of the person to safely operate the vehicle.
 - 2. Failure to maintain control of a motor vehicle.** A person commits the traffic infraction of failure to maintain control of a motor vehicle if the person:

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A. Commits either a traffic infraction under this Title or commits the crime of driving to endanger under section 2413 and, at the time the traffic infraction or crime occurred, the person was engaged in the operation of a motor vehicle while distracted; or

B. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 2251, subsection 1 that resulted in property damage and, at the time the reportable accident occurred, the person was engaged in the operation of a motor vehicle while distracted.

Me. Rev. Stat. tit. 29-A, § 2118

- **Utah** has a statute prohibiting careless driving: “(1) A person operating a motor vehicle is guilty of careless driving if the person: ...(b) commits a moving traffic violation ... while being distracted by one or more activities taking place within the vehicle that are not related to the operation of a motor vehicle, including: (i) searching for an item in the vehicle; or (ii) attending to personal hygiene or grooming. (2) A violation of this section is a class C misdemeanor.” Utah Code Ann. § 41-6a-1715
- **Wisconsin’s** law specifies that “(1) No person while driving a motor vehicle may be engaged or occupied with an activity, other than driving the vehicle, that interferes or reasonably appears to interfere with the person's ability to drive the vehicle safely.” Wis. Stat. Ann. § 346.89 (West)
- **Washington, DC** has a general prohibition on distracted driving. “Distracted driving shall be prohibited. A person found guilty of distracted driving shall be subject to the fines and penalties set forth in § 50-1731.06(a).” D.C. Code Ann. § 50-1731.03 (West)

If you have any further questions, or if you would like additional information, please feel free to contact me at amanda.essex@ncsl.org.

Sincerely,

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Distracted drivers face new fines

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IMA LEGHORN
MENT STAFF

September 25, 2009

Starting this month, Maine law enforcement will be cracking down on drivers who fail to keep driving safely their first priority while on the road.

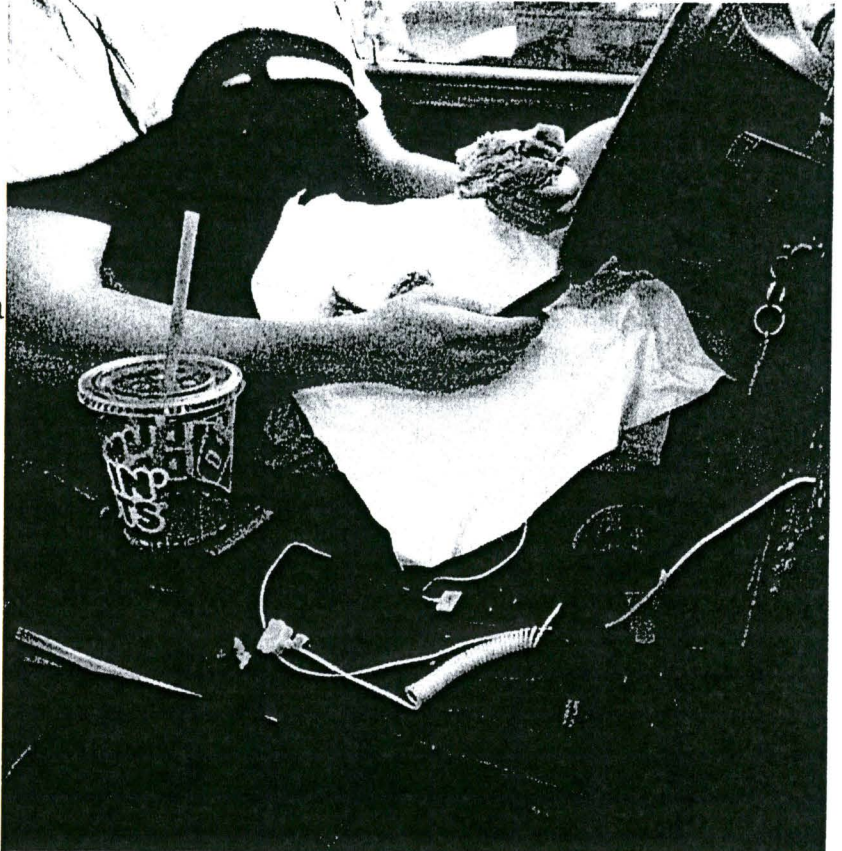
Maine's new Distracted Driver Law, enacted on September 12, stipulates that a drivers' "failure to maintain control of a motor vehicle" as a result of an activity "not necessary to the operation of the vehicle" will now result in a fine of \$119 for distracted driving on top of the consequences of the traffic infraction.

According to Lieutenant Christopher Grotton, Director of the Maine State Police Traffic Safety Unit, 10,000 to 15,000 crashes per year occur in Maine as a result of distracted driving.

The Distracted Driver law was passed in an effort to curb the dangerous behavior that leads to accidents, but it does not specifically ban the use of any one device.

"The problem is that there is literally no end to the list of activities that could be distracting," said Grotton.

Grotton added that state troopers have witnessed drivers talking on cell phones, eating, reading the



EYES ON THE ROAD: State troopers will be watching for distractions such as cell phone use and eating.

Margot D. Miller

newspaper, fiddling with GPS devices, and watching television, all while driving.

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If a trooper witnesses a driver committing a traffic violation such as running a red light, weaving in and out of lanes, or rear-ending another vehicle while distracted, the driver can be fined twice over: once for the traffic violation itself, and again for driving with distractions.

Under the law, drivers cannot be fined simply for using their cell phones or engaging in other activities, as long as their ability to drive is not impaired in any way.

"[Lawmakers] took a conservative approach and have a universal expectation that everyone drive their vehicle safely," said Grotton.

"If we see you talking on your cell phone, that's not enough to cite you for a violation," said Lieutenant Mark Waltz of the Brunswick Police Department.

Director of Safety and Security Randy Nichols said he thinks this approach is preferable to banning devices altogether.

"The good thing about this law is that it isn't singling out any device...it's singling out the behavior of the driver," said Nichols.

Given the fact that cell phones have proven themselves useful on the road, particularly to law enforcement, Nichols said he believes a ban of cell phones might actually be detrimental to public safety, and would limit the ability of motorists to report drunk drivers, among other things.

"Cell phones are one of the greatest tools that law enforcement has ever had," said Nichols. "I would never be in favor of any law that banned the use of phones behind the wheel. It's just a matter of using it safely and responsibly."

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Though the law does not specifically prohibit the use of cell phones, they are a common distraction that can lead to irresponsible driving.

While driving home recently, Grotton said that he followed a vehicle that was speeding and weaving outside of its lane. When Grotton stopped the vehicle, the woman driving admitted to have been talking on her cell phone.

"The speeding is bad," said Grotton, "but what would probably have caused her to lose control was that...she clearly wasn't focused on driving."

According to Waltz, when his department conducted an OUI road block in August, the number of people driving with distractions was significant.

"I was amazed how many people were actually texting as they drove," he said.

Though some distractions, like texting on cell phones, tend to be age specific, drivers of all ages do get distracted.

"Every age group has its distracting behavior behind the wheel," said Nichols.

According to Waltz, as of Wednesday, Brunswick had yet cited any drivers for infractions of the new

In addition, Waltz said that it is not likely that troopers will see an overwhelming number of people breaking the law.

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"I don't think we'll probably be writing a lot of these," he said. "Realistically, it's hard to catch people."

According to Grotton, however, the public attention focused on the new law is the first step in the right direction.

"The goal isn't to write tickets," said Grotton. "The goal is to keep folks safe."

TESTIMONY OF PATRICK J. WARD
IN SUPPORT OF ENGROSSED HB 1430

Chairman Laffen and Members of the Senate Transportation Committee.

My name is Pat Ward. I am an attorney with Zuger Kirmis & Smith in Bismarck. I represent State Farm Insurance Company. State Farm is one of North Dakota's largest market share companies in home and auto and does business nationwide. State Farm supports Engrossed HB 1430.

Cell phone distracted driving is a significant problem that has resulted in considerable property damage, injuries, and fatalities. The National Highway Traffic Safety Administration (NHTSA) estimates that nine percent of all drivers at any given time are using cell phones, and the National Safety Council estimates about one in four motor vehicle crashes involve cell phone use at the time of the crash.¹ Because text messaging has grown dramatically – an almost 10,000-fold increase in 10 years – and because there is already near-public consensus that it's a serious driving safety risk, texting receives a great deal of attention. More than one-third of people admitted to reading a text or email while driving in the past 30 days, and more than one-quarter admitted to sending a text or email. In 2010, an estimated minimum of 160,000 crashes involved texting or emailing, versus 1.1 million crashes involving talking on cell phones. In 2014, according to the NHTSA, 3,179 individuals were killed and 431,000 people were injured in accidents involving a distracted driver.²

¹ Understanding the distracted brain, National Safety Council,
<http://www.nsc.org/DistractedDrivingDocuments/Cognitive-Distracted-White-Paper.pdf>

² <https://www.nhtsa.gov/risky-driving/distracted-driving>

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With the enactment of NDCC 39-08-23, North Dakota joined 45 other states, the District of Columbia, Puerto Rico, Guam, and the US Virgin Islands that currently have “no texting” laws. NDCC 39-08-23 provides a necessary safeguard to protect our roads from texting drivers. The current statutory language of NDCC 39-08-23 provides a bright line rule to help prohibit and sanction the use of wireless devices by operators of motor vehicles. Whereas, the original language in HB 1430 was extremely ambiguous and potentially unconstitutionally vague, this bill as engrossed now retains that clarity. While we believe that voice operated calls are still a distraction, line 29-30, page 3, we respect the compromise reached by the House. We also support the new distracted driving provision.

I strongly urge a Do Pass recommendation on Engrossed HB 1430.