

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1196

2007 HOUSE TRANSPORTATION

HB 1196

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1196

House Transportation Committee

Check here for Conference Committee

Hearing Date: 01-26-2007

Recorder Job Number: 2080

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Weisz opened the hearing on HB 1196. All representatives were present.

HB 1196 relates to the definition of a moving violation.

Rep. Klemin introduced the bill. See written testimony.

Rep. Ruby: Initially, the original bill that dealt with young drivers I was concerned because the only major accident in the last ten years was with someone who must have close to ninety and they had an inability to see and notice. There are so many other factors that deals with accidents. There all sort of things that distract people when driving. It seems like it's a lot easier to introduce a bill that deals with sixteen year olds because they don't vote as it would be to require someone eighty or ninety.

Rep. Klemin: If your question is, is it less difficult to pass a bill that deals with people who don't vote, than it is for people who do vote, I don't know that I could answer that. I did introduce this bill because I thought teen drivers were more at risk than other people. However, I have seen the rational from a lot of the criticism and I think this committee should consider expanding it to everyone.

Rep. Kelsch: I received an email from a mother that basically said, "Since when did the 141 people decide that they were going to take over my parental responsibilities?" She went on to

sate that it's the legislatures responsibility to tell her child that how to live. She took it quite personally that we are challenging her parenting.

Rep. Klemin: I did receive that email and I believe that the criticism is that it wouldn't apply to everyone. If we are going to do it only for teens we should include it as part of the graduated license. I think by applying it to everyone in this amendment, that takes away the criticism.

Rep. Owens: When this bill first came up, it addressed, basically younger than eighteen. I couldn't decide where I stood on that. Then I started getting complaints about the points. I did always believe that you should restrict hands and handheld devises in the urban areas. The minute people get in the car, they turn the phone on. As I read this amendment, I guess, I can see where this may be interpreted that even the hands-free, would not be allowed.

Rep. Klemin: There are a number of other states with restrictions relating to the use of hand held cell phones and the experience that they found in other state, enforcement was not an issue. How do you tell when they are on a hands free cell phone.

Rep. Owens: My point is, they are all hand held cell phones, or most of them are. So even if they are using a head set, they are using a hand held phone.

Dean Conrad of Bismarck, spoke in support of the bill without amendments.

Conrad: I want to express my support, not with the amendment, partly because I believe that a similar bill with the amendment was defeated two years ago. I think you aught to concentrate on the young people. Teenagers were distracted by hormones, maturing, schools, jobs, relationships, etc, you can't get away from the fact that there are enough distractions already for our young people who think they are invincible.

Tom Kelsch, Alltel, spoke in opposition to the bill. See written testimony.

Tom Baulzer, ND Motor Carriers Association, spoke in opposition to the bill if amended. If not amended, they have no position on the bill.

There was no further testimony for the bill. The hearing was closed. No action was taken at this time.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1196

Page 1, line 1, remove "subsection 3 to section 39-06-01.1 and"

Page 1, line 2, after "39-06.1-10" insert "and section 39-08-23"

Page 1, line 3, remove "by minors"

Page 1, remove lines 6 through 9

Page 1, line 14, remove "subsection 3 of section 39-06-01.1; section"

Page 1, line 15, after the first semicolon insert "39-08-23;"

Page 1, line 24, remove "subsection 3 of", replace "39-06-01.1" with "39-08-23", and replace "4" with "2"

Page 1, after line 24, insert:

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

Cell phone use prohibited. An individual operating a motor vehicle that is in motion may not operate a hand-held wireless or cellular telephone or other hand-held communications device.

Re-number accordingly

House Amendments to HB 1196 (70318.0103) - Transportation Committee 02/01/2007

Page 1, line 9, after the underscored period insert "The minor may assert as an affirmative defense that the violation was made for the sole purpose of obtaining emergency assistance to prevent a crime about to be committed or in a reasonable belief that an individual's life or safety was in danger."

Page 1, line 24, replace "4" with "2"

Renumber accordingly

Date: 2-1-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1196

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendments Voice Vote

Motion Made By Vigesaa Seconded By Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Delmore		
Vice Chairman Ruby			Rep. Gruchalla		
Rep. Dosch			Rep. Myxter		
Rep. Kelsch			Rep. Schmidt		
Rep. Owens			Rep. Thorpe		
Rep. Price					
Rep. Sukut					
Rep. Vigesaa					

Total Yes _____ No _____

Absent Motion Carried

Floor Assignment _____

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

Date: 2-1-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1196

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS As Amended?

Motion Made By Thorpe Seconded By Myxter

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Delmore	✓	
Vice Chairman Ruby	✓		Rep. Gruchalla		✓
Rep. Dosch	A		Rep. Myxter	✓	
Rep. Kelsch	✓		Rep. Schmidt	✓	
Rep. Owens	✓		Rep. Thorpe	✓	
Rep. Price	✓				
Rep. Sukut	✓				
Rep. Vigesaa		✓			

Total Yes 10 No 2

Absent 1

Floor Assignment Ruby

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

REPORT OF STANDING COMMITTEE

HB 1196: Transportation Committee (Rep. Welsz, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO NOT PASS** (10 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1196 was placed on the Sixth order on the calendar.

Page 1, line 9, after the underscored period insert "The minor may assert as an affirmative defense that the violation was made for the sole purpose of obtaining emergency assistance to prevent a crime about to be committed or in a reasonable belief that an individual's life or safety was in danger."

Page 1, line 24, replace "4" with "2"

Renumber accordingly

2007 TESTIMONY

HB 1196

Rep. Klement

WTR



32/11
Details, 6B

FRIDAY,
JANUARY 26, 2007

The Bismarck Tribune

www.bismarcktribune.com

Study: Distractions fuel crashes for teen drivers

By IAN DENNIS
Associated Press Writer

BLOOMINGTON, Ill. — More teenagers are heeding warnings about drinking and driving, but they routinely face behind-the-wheel distractions from cell phones to passengers that contribute to thousands of fatal crashes every year, according to a study released Thursday.

Teens often take the wheel amid commotion, angst or fatigue that would be challenging even for older drivers, said Dr. Flaura Winston, chief investigator for the study.

"We need to go beyond the mes-

sage of drinking and driving and also talk about the message of distractions," said Winston, a pediatrician with the Children's Hospital of Philadelphia.

The study by the children's hospital and State Farm Insurance Co., the nation's largest auto insurer, asked high school students what happens when their peers drive that makes them unsafe. The 2006 survey of more than 5,600 students was a scientific sampling of the 10.6 million students in public high schools across the U.S.

Ninety percent of teens said they rarely or never drive after drinking or using drugs, reflecting a trend that

has seen teen traffic deaths involving alcohol drop by about 35 percent from 1999 to 2006, according to National Highway Traffic Safety Administration data.

But teens reported a host of other in-car distractions that researchers say help make traffic accidents the No. 1 killer of U.S. teens, with a fatality rate four times higher than drivers aged 25-69, based on miles driven. About 3,000 teens died in traffic accidents in 2005, and about 7,500 were driving cars involved in fatal accidents.

Researchers found that one teenage passenger with a teen driver

doubles the risk of a fatal crash, while the risk is five times higher when two or more teens ride along.

Nearly 90 percent of teens reported seeing peers drive while talking on cell phones and more than half spotted drivers using hand-held games, listening devices or sending text messages. About 75 percent said they see teens driving while tired or struggling with powerful emotions, such as worries about grades or relationships. More than nine of 10 teens also reported seeing teen drivers speeding and half said they sometimes drive at least 10 mph over posted speed limits themselves.



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Political Subdivisions
Constitutional Revision

HOUSE BILL NO. 1196
TESTIMONY OF REP. LAWRENCE R. KLEMIN
HOUSE TRANSPORTATION COMMITTEE
JANUARY 26, 2007

Younger Drivers

According to the National Highway Traffic Safety Administration (NHTSA) and the Insurance Institute for Highway Safety (IIHS), teen drivers have the highest crash risk of any age group. The crash rate per mile driven for 16-year-old drivers is almost 10 times the rate for drivers aged 30-59.

Teen drivers have the most limited driving experience, and this inexperience coupled with immaturity often results in risk-taking behind the wheel.

Risk taking behaviors often include speeding, alcohol use and low safety belt use - all of which contribute to an increased death rate.

An effective way to reduce the death rate is to enact graduated licensing laws, under which driving privileges are phased in. Beginner experiences are more controlled, thereby reducing the risk.

Traffic safety experts agree that graduated licensing programs that are well-designed:

- restrict night driving
- limit teen passengers
- set zero alcohol tolerance
- require a specified amount of supervised practice during the initial phase

According to results published by NHTSA in June 2006, significant reductions in deaths were associated with programs that included age requirements, a waiting period of at least three months before the intermediate stage, a restriction on nighttime driving, 30 or more hours of supervised driving and a restriction on carrying passengers or the number and age of passengers carried.

GHSA tracks information on Graduated Licensing Laws in each state.

In addition to laws, safety experts also agree that parents play a role in helping teens become good drivers. Efforts include not relying solely on driver education classes to teach good driving habits, restricting night driving, restricting numbers of passengers, supervising practice driving, always requiring use of safety belts and choosing vehicles for safety, not image.

To help supplement driver education instruction, GHSA and the Ford Motor Company developed *Driving Skills for Life*, an innovative skills development program for new teen drivers that addresses the factors most involved in teen crashes. The program presents material in a format that is both acceptable and relevant to teenagers. Read more about the *Driving Skills for Life* program.

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FOR IMMEDIATE RELEASE: June 3, 2003 SB-03-20

NTSB SAYS NOVICE DRIVERS SHOULD BE PROHIBITED FROM USING CELL PHONES WHILE AT THE WHEEL

WASHINGTON, D.C. - The National Transportation Safety Board said today that the nation's driver education courses should include warnings about the dangers of distracted driving, and novice drivers should be prohibited from using cell phones while at the wheel.

These were two of the recommendations contained in the Board's final report on its investigation into a highway crash last year that took the lives of 5 persons, including a driver who was using a wireless phone at the moment she lost control of her vehicle.

On February 1, 2002, at about 8:00 p.m., a Ford Explorer was traveling northbound on Interstate 95/495 (the Capital Beltway) near Largo, Maryland at an estimated speed of 70 to 75 miles an hour when it veered off the left side of the roadway, crossed over the median, climbed a guardrail, flipped over and landed on top of a southbound 2001 Ford Windstar minivan. All 5 persons in the two vehicles were killed.

The Board found that the probable cause of the crash was the Explorer driver's failure to maintain control of her vehicle in windy conditions due to a combination of inexperience, unfamiliarity with the vehicle (she had just purchased it the evening), speed and distraction caused by use of a handheld wireless telephone.

The Safety Board has long been concerned with the issues of distracted driving and novice drivers. The Board recommended to all States - except New Jersey, which already has a similar proscription - to prohibit holders of learner's permits and intermediate licenses from using interactive wireless communication devices while driving.

"Learning how to drive and getting comfortable in traffic requires all the concentration a novice driver can muster," NTSB Chairman Ellen Engleman said. "Adding a distracting element like a cell phone is placing too many demands on a young driver's skills."

The Board also urged the National Highway Traffic Safety Administration to develop a media campaign stressing the dangers of distracted driving, and that it work with the American Driver and Traffic Safety Education Association to develop driver training curricula that emphasize the risks of distracted driving. The Board cited a study showing that drivers engaged in phone conversations were unaware of traffic movements around them.

In addition, the Board said that NHTSA should determine the magnitude and impact of driver-controlled, in-vehicle distractions, including the use of interactive wireless communication devices, on highway safety and report its findings to the United States Congress and the States. The NTSB noted that the extent of wireless phone use in car crashes is unknown because most jurisdictions don't have driver distraction codes on their accident report forms. The Board recommended that those 34 States change their forms to add driver distraction codes and include wireless phone use in those codes.

Referred to another issue raised during this investigation, the Board recommended that NHTSA expand its current evaluation of electronic stability control (ESC) systems and determine their potential for assisting drivers in maintaining control of passenger cars, light trucks, sport utility vehicles and vans. Should this evaluation show benefits

in ESCs, then NHTSA should develop a schedule to mandate them for these vehicles. The Board noted in today's report that such a device might have helped the driver of the Explorer in the Largo crash maintain control of her vehicle.

The Largo crash once again demonstrated the benefits of seatbelt use. The driver of the Explorer, who was not wearing a seatbelt, was ejected and killed (because of the severity of the impact, seat belt use was not an issue for the four persons in the Windstar). However, during the accident sequence a Jeep Grand Cherokee ran into the wreckage of the minivan; the adult driver and the two children in the back seat were all restrained and escaped with minor injuries.

"The NTSB will continue to be aggressive in pursuit of safety," Chairman Engleman stated. "It is not enough to issue these recommendations, we want to make sure they are implemented."

A summary of today's report, including the findings, probable cause and safety recommendations, can be found on the Publications page of the Board's web site, <http://www.nts.gov>. The complete report will be available there in about six weeks.

NTSB Press Contact: Ted Lopatkiewicz (202) 314-6100

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INSURANCE INSTITUTE FOR HIGHWAY SAFETY

NEWS RELEASE

July 12, 2005

1ST EVIDENCE OF EFFECTS OF CELL PHONE USE ON INJURY CRASHES: CRASH RISK IS **(FOUR)** TIMES HIGHER WHEN DRIVER IS USING A HAND-HELD CELL PHONE

ARLINGTON, VA — Common sense as well as experience tell us that handling and dialing cell phones while driving compromise safety, and evidence is accumulating that phone conversations also increase crash risk. New Institute research quantifies the added risk — drivers using phones are four times as likely to get into crashes serious enough to injure themselves. The increased risk was estimated by comparing phone use within 10 minutes before an actual crash occurred with use by the same driver during the prior week. Subjects were drivers treated in hospital emergency rooms for injuries suffered in crashes from April 2002 to July 2004.

The study, "Role of cellular phones in motor vehicle crashes resulting in hospital attendance" by S. McEvoy et al. is published in the *British Medical Journal*, available at bmj.com.

"The main finding of a fourfold increase in injury crash risk was consistent across groups of drivers," says Anne McCartt, Institute vice president for research and an author of the study. "Male and female drivers experienced about the same increase in risk from using a phone. So did drivers older and younger than 30 and drivers using hand-held and hands-free phones."

Weather wasn't a factor in the crashes, almost 75 percent of which occurred in clear conditions. Eighty-nine percent of the crashes involved other vehicles. More than half of the injured drivers reported that their crashes occurred within 10 minutes of the start of the trip.

— MORE —

The study was conducted in the Western Australian city of Perth. The Institute first tried to conduct this research in the United States, but U.S. phone companies were unwilling to make customers' billing records available, even with permission from the drivers. Phone records could be obtained in Australia, and the researchers got a high rate of cooperation among drivers who had been in crashes.

Another reason for conducting the study in Australia was to estimate crash risk in a jurisdiction where hand-held phone use is banned. It has been illegal while driving in Western Australia since July 2001. Still one-third of the drivers said their calls had been placed on hand-held phones.

Hands-free versus hand-held: The results suggest that banning hand-held phone use won't necessarily enhance safety if drivers simply switch to hands-free phones. Injury crash risk didn't differ from one type of reported phone use to the other.

"This isn't intuitive. You'd think using a hands-free phone would be less distracting, so it wouldn't increase crash risk as much as using a hand-held phone. But we found that either phone type increased the risk," McCartt says. "This could be because the so-called hands-free phones that are in common use today aren't really hands-free. We didn't have sufficient data to compare the different types of hands-free phones, such as those that are fully voice activated."

Evidence of risk is mounting: The findings of the Institute study, based on the experience of about 500 drivers, are consistent with 1997 research that showed phone use was associated with a fourfold increase in the risk of a property damage crash. This Canadian study also used cell phone billing records to establish the increase in risk. The Institute's new study is the second to use phone records and the first to estimate whether and how much phone use increases the risk of an injury crash.

Taken together, the two studies confirm that the distractions associated with phone use contribute significantly to crashes. Other studies have been published about cell phone use while driving, but most have been small-scale and have involved simulated or instrumented driving, not the actual experience of drivers on the road. When researchers have tried to assess the effects of phone use on real-world crashes, they usually have relied on police reports for information. But such reports aren't reliable because, without witnesses, police cannot determine whether a crash-involved driver was using a phone.

**End of 3-page news release on cell phone risk while driving
For more information go to www.iihs.org**

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CELL PHONE LAWS
as of September 2006

- California, Connecticut, New York, New Jersey and the District of Columbia each have enacted a jurisdiction-wide ban on driving while talking on a handheld cellular phone.
- Six states (Illinois, Massachusetts, Michigan, New Mexico, Ohio, and Pennsylvania) allow localities to ban cell phone use. Localities that have enacted restrictions on cell phone use include: Chicago, IL; Brookline, MA; Detroit, MI; Santa Fe, NM; Brooklyn, North Olmstead and Walton Hills, OH; and Conshohocken, Lebanon and West Conshohocken, PA.
- Eight states (Florida, Kentucky, Louisiana, Mississippi, Nevada, Oklahoma, Oregon, and Utah) prohibit localities from banning cell phone use.
- Eleven states (Arizona, Arkansas, California, Connecticut, Delaware, Illinois, Massachusetts, New Jersey, Rhode Island, Tennessee, and Texas) and DC prohibit the use of all cellular phones while driving a school bus.
- Thirteen states (Colorado, Connecticut, Delaware, Illinois, Maine, Maryland, Minnesota, New Jersey, North Carolina, Rhode Island, Tennessee, Texas, and West Virginia) and DC restrict the use of cellular phones by teens in the graduated licensing system.
- All but four states with cell phone bans have primary enforcement laws. New Jersey's ban is a secondary enforcement law for everyone except school bus drivers and learner's permit and intermediate license holders. Colorado, Maryland, and West Virginia have secondary enforcement laws. Secondary enforcement laws may only be enforced when a driver has been stopped for another infraction.

State	Cell Phone Restrictions	
	Hand Held Ban	All Cell Phone Ban
Alabama	no	no
Alaska	no	no
Arizona	no	School bus drivers
Arkansas	no	School bus drivers
California	yes (eff. 7/1/08)	School and transit bus drivers
Colorado	no	Learner's permit holders
Connecticut	yes (eff. 10/1/05)	Learner's permit holders, drivers younger than 18, and school bus drivers (eff. 10/1/05)
Delaware	no	School bus drivers and learner's permit and intermediate license holders
District of Columbia	yes	School bus drivers and learner's permit holders
Florida	no	no

State	Cell Phone Restrictions	
	Hand Held Ban	All Cell Phone Ban
Georgia	no	no
Hawaii	no	no
Idaho	no	no
Illinois	By jurisdiction	Learner's permit holders, drivers younger than 18, and school bus drivers
Indiana	no	no
Iowa	no	no

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Kansas	no	no
Kentucky	no	no
Louisiana	no	no
Maine	no	Learner's permit and intermediate license holders

State	Cell Phone Restrictions	
	Hand Held Ban	All Cell Phone Ban
Maryland	no	Learner's permit and intermediate license holders
Massachusetts	By jurisdiction	School bus drivers
Michigan	By jurisdiction	no
Minnesota	no	Learner's permit holders and provisional license holders during the first 12 months after licensing (eff. 1/1/2006)
Mississippi	no	no
Missouri	no	no
Montana	no	no
Nebraska	no	no
Nevada	no	no
New Hampshire	no	no

State	Cell Phone Restrictions	
	Hand Held Ban	All Cell Phone Ban
New Jersey	yes	School bus drivers and learner's permit and intermediate license holders
New Mexico	By jurisdiction	no
New York	yes	no
North Carolina	no	Drivers younger than 18 (eff. 12/1/06)
North Dakota	no	no
Ohio	By jurisdiction	no
Oklahoma	no	no
Oregon	no	no
Pennsylvania	By jurisdiction	no
Rhode Island	no	School bus drivers and drivers younger than 18

State	Cell Phone Restrictions	
	Hand Held Ban	All Cell Phone Ban
South Carolina	no	no
South Dakota	no	no
Tennessee	no	School bus drivers and learner's permit and intermediate license holders
Texas	no	Bus drivers when a passenger 17 and younger is present; intermediate license holders for first six months
Utah	no	no
Vermont	no	no
Virginia	no	no

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Washington	no	no
West Virginia	no	Learner's permit and intermediate license holders (eff. 6/9/06)
Wisconsin	no	no
Wyoming	no	no

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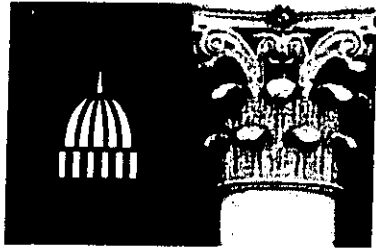
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National Conference of State Legislatures LEGISBRIEF

BRIEFING PAPERS ON THE IMPORTANT ISSUES OF THE DAY

JUNE/JULY 2005

Vol. 13, No. 30

Cell Phones and Novice Drivers

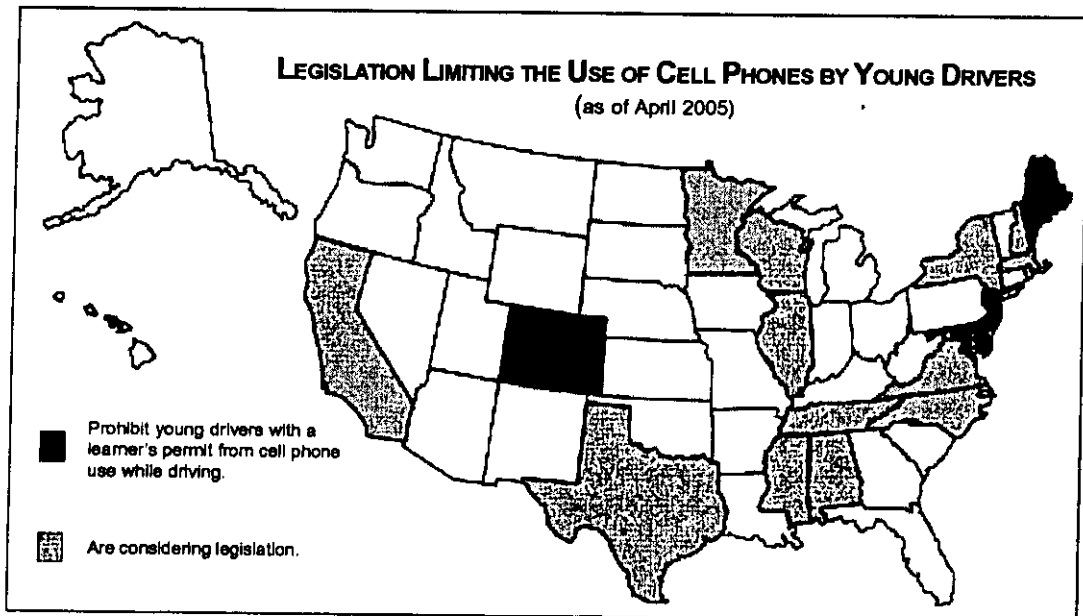
By Matt Sundeen

Cell phone use while driving is a hot issue.

The proliferation of cell phones and other wireless communication and information technologies has drawn new attention to an old traffic safety problem—driver distraction. The National Highway Traffic Safety Administration (NHTSA) estimates that driver inattention is a contributing cause in some 20 percent to 30 percent of all motor vehicle crashes each year—or 1.2 million accidents. There is little conclusive evidence to link cell phone use with motor vehicle crashes. But there are factors that make cell phones and driving a hot issue: the relative newness of cell phones and other wireless technologies, their prevalence and high visibility in vehicles, and the capacity of such technologies to more actively divert a driver's attention than more mundane activities such as eating or drinking.

There is growing agreement in many states that cell phone use among young novice drivers should be restricted.

Among traffic safety experts and state lawmakers, there is little consensus on whether all drivers should be prohibited from using a phone while operating a vehicle. There is growing agreement in many states, however, that young novice drivers' use of such devices should be restricted. More than 180 million people now subscribe to wireless services in the United States and some studies have estimated that as many as 85 percent of those subscribers have used their phones while driving. Although the exact number of teenage drivers using cell phones is unknown, a recent observational survey by NHTSA found that the number of young



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