

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

Senate Bill 103

(Senator Stone)

Judicial Proceedings

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**Vehicle Laws - Use of Handheld Telephone While Driving - Prohibitions**

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This bill prohibits the driver of a school vehicle that is carrying passengers and is in motion from using a handheld telephone. The prohibition also applies to the holder of a learner's instructional permit or provisional driver's license who is age 18 or older. Any other driver of a motor vehicle that is in motion may not use a *handheld* telephone; instead, the driver may only use his/her hands to initiate or terminate a wireless telephone call or to turn the handheld telephone on or off. These prohibitions do not apply to the emergency use of a handheld telephone, including calls to a 9-1-1 system, hospital, ambulance service provider, fire department, law enforcement agency, or first aid squad. These prohibitions also do not apply to law enforcement or emergency personnel when acting within the scope of official duty.

The offense is enforceable as a secondary action only. For a first offense, the violator is subject to a maximum fine of \$100. The court is authorized to waive the fine for a first-time conviction if the person proves that he/she has a hands-free accessory, attachment, add-on, or built-in feature for the handheld telephone that will allow the person to operate a motor vehicle in compliance with the bill's provisions. For a second or subsequent offense, the fine is \$250.

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**Fiscal Summary**

**State Effect:** Minimal general fund revenue increase from the penalty provision applicable to this offense. The increase in the District Court caseload is expected to be minimal and can be handled with existing resources.

**Local Effect:** Enforcement can be handled with existing resources.

**Small Business Effect:** None.

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## Analysis

**Current Law:** A wireless communication device means a handheld or hands-free device used to access a wireless telephone service or a text messaging device.

Except as otherwise provided, a school vehicle is a motor vehicle that is used regularly for the exclusive transportation of children, students, or teachers for educational purposes, or in connection with a school activity. It is either of the body-on chassis type or integral type construction. A type I school vehicle has a gross vehicle weight (GVW) exceeding 15,000 pounds and at least 13 inches seating space per passenger. A type II school vehicle has a maximum GVW of 15,000 pounds and at least 13 inches seating space per passenger.

There are no restrictions applicable to adults in the Maryland Vehicle Law governing the use of handheld telephones or electronic devices while driving. However, except to contact a 9-1-1 system in an emergency, a minor holding a learner's permit or provisional license is prohibited from using a wireless communication device while operating a motor vehicle.

A person is guilty of negligent driving if the person drives in a careless or imprudent manner that endangers property or human life. A negligent driving violation requires the assessment of one point against the driving record and is a misdemeanor subject to a maximum fine of \$500. The fine assessed by the District Court for this offense is \$140. If the offense contributes to an accident, the penalty increases to \$280 and three points are assessed against the driver's license. (*See* Transportation Article §§ 11-154, 11-173, 11-174, 21-901.1 and 21-1124.)

**Background:** The use of telephones while driving and the impact of other distractions on drivers has been a major traffic safety issue for the past several years. In addition to telephones, cars are equipped with on-board navigation systems, DVD players, and television monitors, all competing to divert the driver's attention away from the road.

A persistent issue with the use of cell phones and other wireless devices in motor vehicles has been the mixed results of published studies; however, more recent studies have indicated a stronger connection between cell phone use and risky driving behavior.

A 2008 study of cell phones and driving involving brain imaging from the Center for Cognitive Brain Imaging and Carnegie Mellon University showed that just listening to a cell phone conversation while driving reduces the amount of brain activity devoted to driving by 37%. The scientists noted an overall decline in driving quality. Drivers were likely to weave in and out of lanes and commit other lane maintenance errors. The study concluded that engaging in a demanding cell phone conversation while driving could

jeopardize judgment and reaction times. A 2006 study of real world driver behavior, completed by the National Highway Traffic Safety Administration and the Virginia Tech Transportation Institute, concluded that the most common distraction for drivers is cell phone use. Also, the number of crashes and near-crashes resulting from dialing a cell phone was nearly identical to the number of accidents resulting from listening or talking; although dialing is more dangerous, it occurs less often than listening or talking. A 2005 study published in the *British Medical Journal* concluded that drivers who use cell phones are four times more likely to be involved in a vehicle crash. A study of young drivers conducted at the University of Utah in 2004 found that their response time slowed significantly when using cell phones, so much so, that drivers younger than age 21 were found to have the reaction times of drivers age 65 to 74.

The National Safety Council recently launched a nationwide campaign aimed at getting motorists to stop using cell phones and other wireless devices while driving. States have also been very active in this area. According to the Governors Highway Safety Association, California, Connecticut, New Jersey, New York, Washington, and the District of Columbia prohibit the use of handheld phones by all drivers while operating a motor vehicle. Washington authorizes secondary enforcement only for the offense. The other states and the District of Columbia authorize primary enforcement. Also, 17 states (Arizona, Arkansas, California, Connecticut, Delaware, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, Minnesota, New Jersey, North Carolina, Rhode Island, Tennessee, Texas, and Virginia) and the District of Columbia prohibit the operators of school vehicles that carry passengers from using a wireless telephone device while driving. Every state and the District of Columbia has considered legislation in the area of driving and cell phone use during the last three years.

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### **Additional Information**

**Prior Introductions:** This bill is similar to SB 2 of 2008, as introduced, which passed the Senate as amended and then received an unfavorable report from the House Environmental Matters Committee. Similar bills were introduced as SB 44 of 2007 and HB 817 of 2006. SB 44 was heard by the Senate Judicial Proceedings Committee but received no further action. HB 817 of 2006 received an unfavorable report from the House Environmental Matters Committee.

**Cross File:** None.

**Information Source(s):** Allegany, Montgomery, Talbot, and Wicomico counties; Baltimore City; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Governors Highway Safety Association; Carnegie Mellon University; Center for Cognitive Brain Imaging; National Safety Council; Insurance Information Institute; *The Tulsa Beacon*; Department of Legislative Services

**Fiscal Note History:** First Reader - February 6, 2009  
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