

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 385 (Delegate Ali, *et al.*)
Environmental Matters

Smartphone Safety Act

This bill repeals the provision that prohibits a person from using a text messaging device to write or send a text message while operating a motor vehicle that is either in motion or in the travel portion of the roadway and instead prohibits a person who is operating a subway vehicle, light rail vehicle, or motor vehicle that is in motion from using a wireless communication device, except as otherwise specified. A violation of the bill's provisions is a misdemeanor with a maximum fine of \$500.

Fiscal Summary

State Effect: Minimum general fund revenue increase from the penalty provision applicable to this offense under the Maryland Vehicle Law. Enforcement can be handled with existing resources.

Local Effect: Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: A person operating a subway, light rail, or motor vehicle that is in motion is prohibited from using a wireless communication to:

- type, send, or read an electronic message, including a text message;
- search for or read Internet content;
- access or update social networking sites;

- take photographs;
- play video games;
- download any content;
- view any video content; or
- engage in any other use of the device that is not specifically authorized by the bill.

An operator of a subway, light rail, or motor vehicle that is in motion is not prohibited from using a wireless communication device to:

- select a telephone number from a list;
- talk on a telephone;
- select downloaded content from a list;
- listen to downloaded content;
- use a global positioning system; or
- contact a 9-1-1 system.

Current Law: A “9-1-1 system” means a telephone service that meets the guidelines established under the Public Safety Article and automatically connects an individual dialing the digits 9-1-1 to an established public safety answering point. A “wireless communication device” means a handheld or hands-free device used to access a wireless telephone service or a text messaging device. A “text messaging device” means a handheld device that sends a text message or an electronic message via a short message service, wireless telephone service, or electronic communication network.

A driver is prohibited from using a text messaging device to write or send a text message while operating a motor vehicle in motion or in the travel portion of the roadway. The prohibition does not apply to the use of a global positioning system or to the use of a text messaging device to contact a 9-1-1 system.

A violator is guilty of a misdemeanor and subject to a maximum fine of \$500. The prepayment penalty established by the District Court for this offense is \$70. If the violation contributes to an accident, the prepayment penalty increases to \$110. The Motor Vehicle Administration (MVA) is required to assess one point against the driver’s license for a violation, or three points if the violation contributes to an accident.

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. This prohibition on minor drivers is only enforceable as a secondary action. A violator is subject to a maximum fine of \$500. The prepayment

penalty assessed by the District Court is \$70, or \$110 if the violation contributes to an accident. MVA is required to assess one point against the driver's license for a violation, or three points if the violation contributes to an accident. A violator is also subject to license suspension for up to 90 days by MVA. (*See* Transportation Article § 21-1124.)

A person is deemed 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 prepayment penalty assessed by the District Court for this offense is \$140. If the offense contributes to an accident, the prepayment penalty increases to \$280 and three points are assessed against the driver's license.

Background: State law does not specifically address the use of cell phones by subway and light rail vehicle operators; however in 2009, the Maryland Transit Administration (MTA) adopted a zero-tolerance policy authorizing the immediate firing of any bus, subway, or light rail operator found using a cell phone or text messaging device, even if it is a first offense. MTA is responsible for the operation of the bus, light rail, and subway systems in Baltimore City and the surrounding area. The Washington Metropolitan Area Transit Authority (WMATA) also has a similar policy. WMATA is responsible for the operation of the bus and subway systems in Washington, DC and the surrounding Maryland and Virginia suburbs. Before this policy change in 2009, the policies at MTA and WMATA forbade the use of cell phones and text messaging devices by bus, subway, and light rail vehicle operators but allowed the imposition of interim sanctions under a "three strikes and you're out" policy before firing the violating drivers. According to a 2009 article by *The Baltimore Sun*, the changes in WMATA and MTA policies were precipitated by concerns over rail accidents in California and Massachusetts that killed as many as 25 with texting identified as a major causative factor. The possibility of cell phone use or texting was an early focus of the investigation of a deadly subway accident that took place in the Washington area in June 2009. It was later determined, however, that use of a wireless communication device was not a factor in that accident.

According to the Governors Highway Safety Association, 19 states and the District of Columbia specifically prohibit texting while driving. In addition to Maryland, 14 other states (Alaska, Arkansas, California, Colorado, Connecticut, Illinois, Minnesota, New Hampshire, New Jersey, North Carolina, Oregon, Rhode Island, Tennessee, and Utah) and the District of Columbia authorize primary enforcement of their text-messaging bans. In four other states, (Louisiana, New York, Virginia, and Washington) enforcement of the texting bans is secondary, that is, the driver has to first be detained for another violation before being charged with a texting while driving violation. Many local jurisdictions have also established texting while driving bans or cell phone use restrictions within their limits.

General statewide restrictions on cell phone use while in a motor vehicle may effectively make driving while texting illegal. California, Connecticut, New Jersey, New York, Oregon, Washington, and the District of Columbia prohibit all drivers from using handheld phones while operating motor vehicles. Illinois bans the use of cell phones by all drivers when travelling through school or highway construction zones. Since texting generally requires a cell phone to be held in the hand, these laws appear to prohibit that activity. Ten states and the District of Columbia prohibit any use of cell phones by all drivers younger than age 18. In Illinois, that prohibition is extended to any driver younger than age 19. Another 10 states, including Maryland, prohibit young drivers with instructional permits or provisional or intermediate licenses from using a wireless communication device while operating a motor vehicle. Generally these types of bans apply to drivers younger than age 18, but in some states, the prohibition applies to drivers up to age 21.

Experts estimate that the nearly 250 million wireless phone users in the United States sent about 158 billion text messages in 2006. It is unknown how many of these messages were sent while people were operating motor vehicles, but texting while driving appears to be a growing trend. A study by Nationwide Mutual Insurance estimated that 20% of all drivers send or receive text messages. A Zogby poll of drivers between the ages of 18 and 24 revealed that 66% confessed to texting while driving.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Governors Highway Safety Association, Code of Maryland Regulations, *The Baltimore Sun*, *edgeboston.com*, Nationwide Mutual Insurance, Department of Legislative Services

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