

State Notes

TOPICS OF LEGISLATIVE INTEREST

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Cell Phones and Driving: A Dangerous Mix? **By Patrick Affholter, Legislative Analyst**

Anyone who has driven on American roads in recent years has witnessed the proliferation of cellular phone use by drivers. According to a 2003 National Conference of State Legislatures (NCSL) *Legislative Update*, the number of wireless telephone subscribers in the United States doubled in the previous five years to more than 151 million, and estimates on the percentage of motorists who use their phones while driving range from 50% to as high as 73%.¹

Anecdotal evidence of driver distraction caused by cell phone use is abundant. There has been a plethora of television, radio, print media, and on-line commentaries on the topic, and scientific studies have examined the effects of cell phone use and other driver distractions.

Public attention to the issue has grown along with the rate of cell phone use and media commentary, and state legislatures have considered a variety of approaches to restricting drivers' use of cell phones. Although Michigan has not enacted new laws to address cell phone use while driving, bills on the subject have been introduced in the State Legislature, and other states have adopted measures regulating the use of wireless phones by some drivers.

This article examines some of the studies pertaining to motorists' cell phone use and some responses to the studies. The article also describes legislative action taken in various states to address the issue of driver distraction by cell phone use.

Studies of the Effects of Drivers' Cell Phone Use

The pioneering study on cell phone use and driving was published in the *New England Journal of Medicine (NEJM)* in February 1997. The project studied 699 drivers in the Toronto area who had cellular phones and were involved in automobile collisions. Calls on the day of each collision were analyzed through the use of billing records. By comparing the billing records with accident reports, the researchers concluded that using cell phones in motor vehicles "is associated with a quadrupling of the risk of a collision during the brief period of a call".²

In the same issue, the *NEJM* editors reported the findings of the journal's further analysis of the data from the Toronto study. The editors suggested that the risk of a collision "more than doubled within five minutes after the start of a call" and that 6% to 12% of the collisions in the study could be attributed to cell phone use. The editors concluded that, while the study did not adequately address the use of hands-free telephone devices, prohibiting drivers from using hand-held telephones "can still be justified by the...experimental evidence".³

While the *NEJM* study did not distinguish between the use of hand-held and hands-free phones, some "studies suggest that hands-free phones are not risk-free because communicating effectively with someone you can't see takes twice as much mental effort, causing some drivers to zone out on the road",⁴ according to a July 2000 *Detroit News* article. Indeed, a study published in March 2000 evaluated the "consequences of performing verbal and spatial-imagery tasks on visual search when driving".⁵ According to the *Detroit News* article, that study "found



that cognitive tasks, such as engaging in emotional or in-depth phone conversations, narrows drivers' field of vision so that they scan traffic and look at their rear-view mirrors less often".⁶

In April 2002, *Michigan Radio* reported on a study conducted by researchers at the University of Central Florida and the Liberty Mutual insurance company that examined the use of hands-free cell phones. According to the radio report, the study showed that "drivers who use hands-free cell phones still have a greater risk of getting into an accident" and "found that drivers using the hands-free devices sometimes failed to stop at red lights and often braked much harder than usual".⁷ The same story cited a researcher at the University of North Carolina's Highway Safety Research Center (HSRC) who explained that hands-free cell phone devices do not reduce the mental demands on a driver. Since a passenger in a car conversing with the driver is able to see what is happening with traffic, he or she can moderate the conversation accordingly, but the other person in a phone conversation, regardless of whether the driver uses a hands-free phone, cannot accommodate the driver based on traffic conditions and the driver's attention is diverted from safely operating the vehicle to engaging in the conversation.⁸

A more recent study, focusing on cell phone use by drivers in North Carolina, was conducted by the HSRC in 2002. Extrapolating from their findings, researchers projected that the total number of cell phone-related crashes in that state would be almost 1,500 annually. The researchers found that cell phone-related crashes "were nearly twice as likely to involve rear-end collisions (45.1% versus 25.6%)" and that the most common driver violations for cell phone users involved in crashes were failure to reduce speed (23.5%), traffic signal violation (9.6%), speeding (4.9%), following too closely (3.5%), and failure to yield (3.5%).⁹

Further, the NCSL report cited a 2003 article published by the Harvard Center for Risk Analysis that estimated that cell phone use by drivers may cause approximately 2,600 deaths, 330,000 moderate to critical injuries, and 1.5 million instances of property damage in America per year.¹⁰

Reaction to the Studies

Judging by research projects like those discussed above, it might seem that a clear link has been established between drivers' cell phone use and the likelihood of traffic accidents, and that policies should be adopted to restrict the use of cell phones by drivers. Indeed, in an on-line press release for an HSRC survey, the former deputy director of that research center stated: "It's absolutely clear from the research literature that talking on a cell phone while driving does elevate the risk of a crash...Using cell phones slows reaction times and degrades drivers' tracking abilities."¹¹

Opponents of regulating motorists' cell phone use, however, are not convinced. They contend that, while use of a cell phone might distract a driver temporarily, using a phone is no more dangerous than other distractions that are not regulated, such as eating, adjusting the radio, or conversing with passengers. A 2001 MSNBC column suggested that car phones are being demonized and that the same logic some rely on to advocate against their use could be used to prohibit other activities that distract drivers. The column cited an American Automobile Association (AAA) study that found that the use of cell phones caused only about 1.5% of the 284,000 distraction-related accidents each year. According to the column, the AAA study also



found that 1.7% of those accidents were caused by eating and drinking, 10.8% were caused by distraction due to other occupants of the vehicle, 2.8% were due to drivers' adjusting the air conditioner or heater, 11.4% were caused by drivers' adjusting the radio, cassette, or CD player, and 15% resulted because the driver simply was not paying attention.¹²

Also, as pointed out by the NCSL's 2003 *Legislative Update*, while "it is clear that both the use and complexity of technology in the car have increased, the effects of this technology are in dispute". Proponents of cell phone restrictions contend that, unlike other types of driver distraction, the use of "phones and other in-vehicle communication devices takes a driver's attention away from the road more dangerously than do other activities". Opponents of cell phone restrictions, however, "often cite the value of wireless phones and other devices as a reason against singling them out for regulation". The NCSL reported that, according to the Cellular Telecommunications and Internet Association (CTIA), "more than 160,000 emergency calls are placed on wireless phones every day" and cell phones "can be used to promote on-the-road safety programs such as the Amber Alert system".¹³ Indeed, the widely-cited 1997 *NEJM* study stated in its conclusions that decisions about regulating cell phones "need to take into account the benefits of the technology".¹⁴

In addition, critics of regulating drivers' cell phone use point out that the use of a cell phone at or around the time of a traffic accident does not necessarily mean that one caused the other. According to the MSNBC column, simply showing that accidents involved cell phone use does not imply that use of the phones caused the accidents, but only proves something that we already know: "more people are using cell phones, so of course more of the people who are in accidents are on the phone at the time". The column characterized the number of traffic accidents to which cell phones contribute as hardly "a blip on the radar screen", compared with the 6.3 million accidents reported annually nationwide, and claimed that limiting cell phone use "will not impact the number of accidents or fatalities".¹⁵

Legislative Measures and Proposals

To date, no state has completely banned drivers from using cell phones. In 2001, New York became the first (and still only) state to prohibit drivers from using hand-held phones. According to a 2003 *New York Times News Service* article, however, relatively few tickets were being issued for the violation ("Study Finds Phones Are Back In New York Drivers' Hands"). Between December 2001 and February 2003, about 100,500 citations were issued, accounting for only 2% of all traffic citations. In addition, the article reported that, although drivers' use of hand-held cell phones decreased by about 50% immediately after the New York law went into effect and police began issuing warnings to drivers in November 2001, a study by the Insurance Institute for Highway Safety revealed that compliance with the law had dropped by about half in less than two years.¹⁶

While New York continues to have the most extensive regulation of drivers' cell phone use, the NCSL reported that bans similar to New York's were proposed in 33 states in 2003. Although none of those proposals was enacted, they passed one legislative chamber in California, Connecticut, Hawaii and New Jersey.¹⁷



In addition, some measures are aimed at specific types of drivers. Maine and New Jersey, for instance, prohibit cell phone use by drivers under 21 years old who have a learner's or instructional permit. In 2003, nine other states considered bills related to young drivers' cell phone use. Also, seven states prohibit school bus drivers from using cell phones while behind the wheel of a bus and similar legislation was proposed in six states in 2003.¹⁸

The NCSL further reported on an "emerging trend...to address a broad range of behaviors" that may distract drivers. Last year, Oregon enacted a measure that prohibits "distracting activities" while driving. "Distracting activity" is defined as "responding to events, persons or objects inside or outside the vehicle that are not related to the safe operation of the vehicle". Violators of the Oregon law are subject to fines of up to \$150. While Oregon was the only state to enact such a measure in 2003, similar legislation was introduced in nine other states.¹⁹

Some states, on the other hand, took action to restrict local laws pertaining to cell phone use and driving. These restrictions were passed by legislatures in eight states, most notably Florida, where several local units of government, including Miami-Dade County, had taken measures to prohibit drivers' use of hand-held phones. Municipalities in Massachusetts, New Jersey, New Mexico, New York, Ohio, Pennsylvania, and Utah also have passed bans, though many are not enforcing their laws because of court challenges, attorney general opinions, or state preemption.²⁰

The Federal government has not acted on distracted driving issues to date, but proposed legislation would require states to prohibit the use of hand-held phones by drivers or lose 5% of Federal transportation funding. The NCSL report suggested, however, that the Federal legislation is not expected to move out of committee.²¹

Michigan Statistics and Proposals

Although Michigan has not enacted any restrictions on cell phone use by drivers, law enforcement agencies have begun collecting relevant statistics in traffic accident reports. According to "2002 Michigan Traffic Crash Facts", there were 395,515 reported motor vehicle crashes in Michigan during 2002, and "driver using a cell phone" was recorded as a possible condition of the driver in 870 of those incidents. The report noted, however, that because some conditions are known only if the driver admits to them, certain driver conditions may be under-reported.²²

To date, three legislative proposals pertaining to driver use of cell phones have been introduced in the current legislative session:

- Senate Bill 555, sponsored by Senator Bruce Patterson and referred to the Senate Committee on Technology and Energy, would require the Secretary of State to add one point to a driver's record for each conviction, civil infraction determination, or probate court disposition if the citation indicated that the use of a cell phone contributed to the cause of a traffic violation. The bill also would require an additional \$25 civil fine for a civil infraction traffic violation if it were determined that using a cell phone contributed to the cause of the violation.

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- House Bill 5084, sponsored by Representative Frank Accavitti, Jr. and referred to the House Committee on Transportation, would prohibit a driver from using a hand-held cell phone while driving, if the driver had a temporary instruction permit or a level 1 or 2 graduated license status. A violation would be a civil infraction.
- House Bill 5085, sponsored by Representative Jack Minore and referred to the House Committee on Transportation, would prohibit cell phone communication by a driver who had a temporary instruction permit or a level 1, 2, or 3 graduated license status.

In recent legislative sessions, bills that proposed all of the following were introduced, but not acted upon:

- Adding points to a person's driver's license and increasing civil fines for a traffic violation, if the violation involved the driver's use of a cell phone (House Bill 4158 of 2001-02 and House Bill 5567 of 1999-2000).
- Including use of a hand-held cell phone while driving in the current civil infraction of operating a vehicle in a careless or negligent manner (House Bill 5015 of 2001-02 and Senate Bill 1015 of 1999-2000).
- Requiring a police officer's crash report to indicate whether a cell phone was in use by one or more of the drivers at the time of the crash, and requiring the Department of State Police to compile statistics on the extent of cell phone use, based on information gathered from crash reports (House Bill 5101 of 2001-02).
- Prohibiting a person from operating a vehicle while using a hand-held cell phone that prevented the person from having both hands on the steering wheel (House Bill 5862 of 1999-2000).

Conclusion

There has been a marked increase in the availability of cell phones in recent years, and subscription rates have escalated accordingly. Not surprisingly, this has resulted in a commensurate increase in cell phone use by drivers. Anyone who drives on Michigan's roads no doubt has noticed more drivers talking on phones and has witnessed poor or careless driving by those people. The evidence is more than anecdotal, however, as numerous studies have shown that driver distraction related to cell phone use may contribute to traffic accidents that can cause property damage, injury, or death.

As motorists' cell phone use has risen, so too has public interest in the issue, leading to legislative action to regulate the practice. Although Michigan has not enacted any restrictions on drivers' using a cell phone, New York prohibits drivers from using hand-held phones and a number of other states have taken measures to restrict cell phone use by certain vehicle operators, such as school bus drivers and young, inexperienced drivers. Policy-makers have been cautioned, however, to consider the issue in a broader context, weighing the relative risk compared with other types of driver distraction and the benefits of cell phone technology, such as the ability to report emergencies.

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End Notes

- ¹ National Conference of State Legislatures, *Cell Phones and Highway Safety: 2003 Legislative Update*, December 2003.
- ² *New England Journal of Medicine*, Volume 336, No. 7, "Association Between Cellular-Telephone Calls and Motor Vehicle Collisions".
- ³ *NEJM*, Volume 336, No. 7, "Cautions About Car Telephones and Collisions.
- ⁴ *Detroit News*, "Car Phones: Unsafe At Any Speed?", July 31, 2000.
- ⁵ *Journal of Experimental Psychology*, Volume 6, No. 1, "Effects of Verbal and Spatial-Imagery Tasks on Eye Fixations While Driving".
- ⁶ *Detroit News*, Op. Cit.
- ⁷ Transcript of *Michigan Radio* report, April 2, 2002.
- ⁸ *Michigan Radio*, Ibid.
- ⁹ Highway Safety Research Center, "Cell Phone Use While Driving in North Carolina: 2002 Update Report", December 2002.
- ¹⁰ NCSL, Op. Cit.
- ¹¹ HSRC, "Cell Phones and Driving: How Dangerous is the Combination?"
http://www.hsrb.unc.edu/pressrelease/cell_phone.htm.
- ¹² Elliot Zaret, MSNBC on-line column, "Stop Demonizing Cell Phones!", May 24, 2001.
- ¹³ NCSL, Op. Cit.
- ¹⁴ *NEJM*, Op. Cit.
- ¹⁵ Zaret, MSNBC, Op. Cit.
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- ¹⁷ NCSL, Op. Cit.
- ¹⁸ NCSL, Op. Cit.
- ¹⁹ NCSL, Op. Cit.
- ²⁰ NCSL, Op. Cit.
- ²¹ NCSL, Op. Cit.
- ²² "2002 Michigan Traffic Crash Facts", published by the University of Michigan Transportation Research Institute for the Department of State Police Office of Highway Safety Planning, with data on file at the Department.