



CELL PHONE USE AND DISTRACTED DRIVING LAWS

by Kurtis Morrison

With the rise in use of electronic messaging devices, text messaging and use of cell phones while driving has been identified as a significant distraction causing or contributing to automobile crashes. This trend is particularly high among younger drivers. Statistics show that cell phone use (for both phone calls and text messaging) are among the most prevalent distractions resulting in vehicle accidents. In 2009, the U.S. Department of Transportation reported that distracted driving was the cause of 16 percent of fatal crashes and 80 percent of all crashes.¹

In response to the high frequency of distracted driving accidents, state legislatures have responded by enacting new laws curbing use of cell phones while behind the wheel. This issue brief examines distracted driving laws relating to cell phone use in Colorado and other states, as well as actions taken by the federal government.

Colorado Law

During the 2009 session, the Colorado General Assembly passed House Bill 09-1094 to strengthen and add new cell phone use and text messaging restrictions for drivers. The bill went into effect on

December 1, 2009. Under previous state law, only drivers possessing a temporary instruction permit or a minor's instruction permit were prohibited from using a wireless communications device while behind the wheel. The following sections discuss specific provisions of the bill.

Minor drivers. Any driver under 18 years of age is prohibited from using a cell phone while driving. The prohibition includes phone calls, text messaging, or similar forms of manual data entry and transmission.

Adult drivers. Adult drivers are prohibited from using a cell phone to text-message, or send similar forms of transmission, while behind the wheel. Regular cell phone use for voice calls is permitted.

Exceptions. Exceptions to the law are provided under specified circumstances. Drivers, regardless of age, may use a wireless device for phone calls or sending or receiving text message either to contact a public safety emergency or during an emergency. An emergency is defined as any situation in which the following situations occur:

- a person has reason to fear for his or her life or safety;
- a person believes that a criminal act may be perpetrated against another person;
- reporting of a fire;

¹ *Text and Multimedia Messaging: Emerging Issues for Congress*, Congressional Research Service, October 22, 2008.

- reporting of a serious road hazard;
- reporting of a medical or hazardous materials emergency; and
- reporting of a person who is driving in a reckless, careless, or unsafe manner.

Penalties. Table 1 lists penalties assessed for violating state laws pertaining to cell phone use and text messaging while driving. The table indicates fines for both initial and subsequent offenses. In addition to fines set in statute, offenders are assessed a surcharge credited to the Victims and Witnesses Assistance and Law Enforcement Fund and the Crime Victim Compensation Fund.

**Table 1
Penalties for Improper
Cell Phone Use While Driving**

| Category | Violation | Points | Fine |
|--|--|--------|-------|
| Minor Drivers (all cell phone use) | Initial Violation Class A Traffic Infraction | 1 | \$50 |
| | Subsequent Violation Class A Traffic Infraction | 1 | \$100 |
| Adult Drivers (text messaging) | Initial Violation Class A Traffic Infraction | 1 | \$50 |
| | Subsequent Violation Class A Traffic Infraction | 1 | \$100 |

Source: Section 42-4-239, C.R.S.

Enforcement. Prior to the passage of House Bill 09-1094, a law enforcement officer could not cite a driver in violation of cell phone restrictions unless he or she had been pulled over for a different offense. Under House Bill 09-1094, cell phone use restrictions became primary offenses. Law enforcement officers

may stop and cite a violator for using a wireless device improperly while driving, without stopping the driver for another driving offense. A law enforcement officer must observe the violation before a citation may be issued.

Other States' Laws

The following list provides a breakdown of distracted driving bills enacted into law by state legislatures as of January 2010:²

- 21 states ban the use of cell phones by minor or "novice" drivers;
- 19 states prohibit or restrict text-messaging;
- 17 states ban the use of cell phones by school bus drivers; and
- 6 states ban the use of hand-held devices.

Federal Legislation and Executive Orders

In response to higher occurrences of distracted driving accidents, the federal government has also established restrictions to reduce cell phone use while behind the wheel. In October 2009, President Obama signed an executive order banning federal employees from text-messaging while driving federal government vehicles. The executive order also prohibits federal employees from text messaging on government-issued phones while driving personal vehicles. Congressional legislation has also been introduced to address the matter further at the federal level. All such legislation is still pending before the current Congress.

² *Cell Phone Driving Laws*, Governor's Highway Safety Association, January 2010.