

Distracted Driving: A Bicycling Advocate's Resource

Safe, responsible driving requires concentration. While there have always been many distractions on the road, technology and hundreds of new gadgets have given drivers many more distractions. The proliferations of technologies designed for and available to drivers have currently overtaken the ability of state and local laws to monitor and regulate usage. Roads in the United States are getting more dangerous. In 2008, there were [5.8 million crashes](#) reported to the police, causing 2.3 million injuries and nearly forty thousand deaths. The [estimated annual cost](#), in adjusted 2010 dollars, of all crashes is \$296.8 billion.

The aim of distracted driving legislation is to ensure drivers take safe driving seriously and avoid doing things that divert attention away from that primary task. Drivers must pay attention to the road to keep everyone safe: themselves, other drivers and the most vulnerable roads users – children, pedestrians, motorcyclists and bicyclists. Though most laws so far have focused on technology use and specific devices and behavior, the broader need is to create a culture of attention among drivers.

The severity of the distracted driving problem was brought to national attention in the fall of 2009 by a series of *New York Times* articles by Matt Richtel called “Driven to Distraction.” Richtel reported that in 2003 the [National Highway Traffic Safety Administration](#) (NHTSA) withheld research into the dangers of distracted driving. Researchers had estimated that cell phone use by drivers led to about 240,000 crashes and 955 fatalities in 2002. Researchers proposed an extensive study that was never undertaken. A letter to be signed by the Transportation Secretary warning that hands-free cell phone laws are insufficient was also scrapped.

Now, more than six years, thousands of deaths and hundreds of thousands of crashes later, the U.S. Department of Transportation (USDOT) is finally taking distracted driving seriously. Secretary Ray LaHood hosted a major Distracted Driving Summit and the U.S. Senate is debating two federal laws (see page 4). Just as importantly, state legislatures across the country are considering distracted driving, cell phone and texting bans. According to the [National Conference of State Legislators](#), in 2009, 209 distracted driving bills were considered in 45 states.

Recently, distracted driving received the most widespread public attention to date when Oprah Winfrey dedicated an [entire episode to the issue](#). She highlighted the research, heard testimony from the families of victims of distracted driving and urged viewers to take the No Phone Zone pledge: <http://www.oprah.com/questionaire/ipledge.html?id=4>

Local bicycling and walking advocacy groups are joining a broad coalition to bring attention to the issue and explain just how important a safety concern distracted driving is.

The importance of distracted driving laws

Distracted driving leads to hundreds of thousands of crashes, [thousands of fatalities](#), and countless close calls every year. Texting while driving quadruples the risk of crashing for car drivers. The danger is comparable to that of [driving drunk](#). However, unlike drunk driving, a distracted driver consciously, deliberately and soberly decides not to pay attention to the road. Drunk driving was once considered publically acceptable. Distracted driving must be addressed with the same level of attention.

Bicycling and walking advocates are supporting distracted driving laws because bicyclists and pedestrians have the least protection if hit by a car driven by a distracted driver. According to an FHWA report, a pedestrian hit by a car traveling at 40 miles per hour has an [85 percent chance of being killed](#). Banning all cell phone use, text messaging and other distractions will help drivers focus on the road and keep an eye out for bicyclists, pedestrians and others.

Twenty years ago, five million people used cell phones. Today, more than 270 million people do. During that same time period, the number of [vehicle miles traveled](#) increased by 50 percent, to 35.7 trillion miles in 2008. Technology is changing as well. [Nine million smartphones](#) with internet access were sold in the first half of 2008 – up 84 percent from the same period the year before. Smartphones made up [23 percent](#) of the cell phone sales in the first quarter of 2009 (up from 17 percent the year before). As the number of people who regularly use cell phones, the complexity of those devices and the amount of driving has grown, so has the amount that people use their phones behind the wheel of a car. The risks of driving distracted are becoming more apparent. There is a great deal of momentum for laws banning texting and handheld cell phone use at the local, statewide and federal levels. Now is the time to launch, join or carry on a campaign for these laws.

Dangers of Distracted Driving

Distractions lead to crashes and deaths. During a study by NHTSA and the Virginia Tech Transportation Institute (VTTI) driver inattention led to [78 percent of all crashes](#) and 65 percent of all near-crashes. Distractions are deadly too. According to the federal database that tracks traffic deaths, Fatality Analysis Reporting System (FARS,) in 2008, driver distraction was involved in at least [16 percent of all fatal crashes](#) -- up from 12 percent in 2007. Driver distraction led to at least 5,870 fatalities. The problem is particularly acute among younger drivers – 39 percent of the distracted drivers involved in fatal crashes were younger than 30 years old (Magladry, Office of Highway Safety, [Summit slide](#)). These numbers rely on police reports, which mean they most likely underestimate the frequency that distracted driving leads to crashes.

Another study by VTTI found that professional truck drivers who sent text messages while driving are [23 times](#) more likely to crash or nearly crash than when not texting. A study using a driving simulator at the University of Utah found that drivers who text are eight times more likely to crash. The risks, however, are not limited to text messaging – and hands free talking is not the answer. Another study showed that

the likelihood of a crash quadruples while talking on a phone – with little to no improvement while using hands-free devices. In 2006, the researchers at the University of Utah confirmed an [earlier finding](#) and concluded “the impairments associated with using a cell phone while driving can be as profound as those associated with [driving while drunk](#)” at a 0.08 percent blood alcohol level. For [dozens of studies on the risks](#), visit the National Safety Council Website: http://www.nsc.org/safety_road/Distracted_Driving/Pages/KeyResearch.aspx.

Despite the risks, surveys show that distracted driving is extremely common. A 2009 [report by the National Highway Traffic Safety Administration](#), estimates that 11 percent or 812,000 vehicles are “being driven by someone using a handheld cell phone at any given daylight moment.” State Farm Insurance sponsored a survey of their customers which found that three in ten send and receive text messages while driving and 65 percent talk on a hand-held cell phone. There are higher rates among teens. According to the [Pew Internet & American Life Project](#), one third of texting 16- and 17-year olds say they have texted while driving and half of cell phone-owning 16- and 17-year olds say they have talked on a cell phone while driving.

Distracted driving increases the risk of a crash for everyone on the road. However, the consequences of a crash can be intensified for those walking and biking. [Motorcyclists, bicyclists and pedestrians – including children](#) – are smaller and more likely to go unnoticed by distracted drivers, with disastrous consequences. Bicyclists, even infrequent bicyclists, are well aware of the risks of distracted drivers. A survey of nearly 10,000 federal employees asked respondents — half of whom ride a bike less than once a month in the summer — to identify significant problems they encounter while riding. By far the most commonly cited problem, with 78 percent, was aggressive and inattentive drivers. To improve cycling conditions, 77 percent of respondents said increased driver awareness and courtesy was important, making it the most popular answer (Federal Workers Transportation Survey, 2009).

A strong, broad coalition

As awareness about the risks of distracted driving spreads, more individuals and groups are advocating for better laws, education and enforcement. Distracted driving campaigns are an opportunity for bicycling and walking advocates to work with a diverse, and sometimes surprising, coalition of groups fighting for safety.

Polls and surveys show that the American public supports restrictions on cell phone use. A [survey by Nationwide Insurance](#) found that 67 percent supported a ban on phone calls and 57 percent supported a ban on all cell phone use — 45 percent said they had been hit or nearly hit by another driver using a cell phone. Support for text bans is even higher. A [Rasmussen poll](#) from October 2009 showed that 91 percent of respondents favor a ban on texting while driving.

After initially suppressing important research, the USDOT has since taken leadership of the distracted driving issue. Under Secretary LaHood, the department held a [Distracted Driving Summit](#) as an early step to raise awareness and signal the change in attitude. The list of more than 200 organizations participating in the summit provides an indication of the diverse and influential groups that are involved

in trying to solve the problem. Summit participants included automobile companies and universities, safety advocacy groups and insurance companies, wireless phone companies and children's hospitals. Here are just a few examples: the AAA Foundation for Safety, the Alliance of Automobile Manufacturers, Mothers Against Drunk Driving, CTIA – The Wireless Association, *Seventeen* magazine, the Harvard University School of Public Health, Insurance Institute for Highway Safety, the National Sheriffs' Association, the U.S. Air Force and the League of American Bicyclists.

In September, [AAA announced](#) that they would “work to pass laws banning text messaging by drivers in all 50 states by 2013” because of the overwhelming public support for texting bans, the dangers of distracted driving and new research showing the positive impact of California's texting ban. The [Governors Highway Safety Committee](#) initially favored education over legislation but has since [thrown its weight behind](#) texting bans.

Steve Farley, a member of the Arizona House of Representatives, wanted to get a texting ban passed in his state and worked with several various allies. First he worked with victim's families who spoke out for the law and city councils that showed support by passing bans. Then the media got involved by publishing pro-ban editorials. Finally, he won the support of AAA, the Red Cross, the Insurance Institute for Highway Safety, Verizon Wireless, Sprint and AT&T Wireless.

These campaigns are an opportunity to call greater attention to the safety risks to our most vulnerable road users. These distracted driving fines could also be used to fund safety programs. All of these groups working together to ban distracted driving, cell phone use and texting, is creating a strong alliance for road safety.

CURRENT LAWS

Federal laws

Currently, there is no federal law against distracted driving per se. The Obama administration has taken several measures to limit cell phone use in vehicles and the U.S. Senate is considering two bills.

On October 1, 2009 President Obama signed an [executive order](#), which [banned texting while driving](#) for federal employees using government-provided vehicles or phones. On January 26, the administration also banned on text messaging by [bus drivers and truckers](#) who travel across state lines. Violators face penalties of up to \$2,750.

Two bills have been proposed in the U.S. Senate to encourage states to pass distracted driving legislation. One offers incentives, the other inflicts penalties. Senator Jay Rockefeller's Distracted Driving Prevention Act of 2009 provides the incentives. The law would give grants to states that:

1. Enact a ban on texting while driving,
2. Ban hand-held cell phone use (allowing hands-free use), and
3. Restrict all cell phone use for drivers under 18 years old.

To receive the grants, the state's law must make the violation a primary offense, set a minimum fine that increases for repeat offenses, test for distracted driving on the licensing exam, and increase civil and criminal penalties for a violation that leads to a crash. The state would be able to use half the grant money for distracted driving education, signage and law enforcement, and the other half for traffic safety improvements.

Senator Charles Schumer's bill would impose the penalty. [The Alert Drivers Act](#) would "reduce the amount of federal highway funding available to states that do not enact a law prohibiting an individual from writing, sending or reading text messages while operating a motor vehicle." The penalty would be significant: 25 percent of the state's apportioned federal money for certain federal-aid highway program funds would be withheld.

The USDOT has released a [sample texting ban law](#) that states can use as a model (see appendix).

State laws

States have passed different types of laws to decrease the amount of distractions that drivers face. For a complete list of cell phone laws in each state, visit the Governor's Highway Safety Association's website: http://www.ghsa.org/html/stateinfo/laws/cellphone_laws.html. As of February 2010, the following laws were in place:

1. States, such as Maine, New Hampshire and Utah have broad **distracted driving** legislation.
 - a. It is against the law to drive while distracted in Maine (see appendix for law) and New Hampshire.
 - b. Utah considers speaking on a cell phone to be an offense only if a driver is also committing some other moving violation (other than speeding). See Utah's [Careless driving law](#).
2. It is against the law in six states to talk on a **hand-held cell phone** while driving.
 - a. In California, Connecticut, New Jersey, New York and Oregon (as well as the District of Columbia and the Virgin Islands) talking on a hand-held phone is a primary offense. Drivers may be ticketed without committing another violation.
 - b. In Washington state it is considered a secondary offense; a driver must be committing another violation to be penalized.
3. No state currently bans absolutely **all cell phone use** for all drivers. Many states, however, ban all cell phone use for certain groups.
 - a. Twenty-one states (and the District of Columbia) ban all cell use by **novice drivers**. See [Colorado's novice driver cell phone ban](#) (HB 1127).
 - b. Seventeen states (and the District of Columbia) prohibit **school bus drivers** with passengers present from all cell phone use. See [North Carolina's bus driver cell phone ban](#) (HB 1104).

4. Nineteen states and the District of Columbia now ban text messaging for all drivers. See [text of Virginia's texting ban](#) (H 1876).
 - a. Nine states prohibit text messaging by **novice drivers**.
 - b. [Texas prohibits school bus drivers](#) with passengers present from texting while driving.
5. In a twist, eight states have made it illegal for local jurisdictions to put restrictions in place. For example, [Philadelphia](#) passed a texting ban that contradicts the state's vehicle code. There is a bill in the state senate that would penalize Philadelphia by revoking \$90 million of Pennsylvania's gas-tax revenue and money. On the other hand, localities in six other states are explicitly allowed to ban cell phone use.
6. **Special cases:** Illinois bans the use of cell phones while driving in a school zone or in a highway construction zone. Texas has banned the use of hand-held phones and texting in school crossing zones. In Michigan, teens with probationary licenses whose cell phone usage contributes to a traffic crash or ticket may not use a cell phone while driving.

Primary versus secondary violation: The majority of the laws that restrict cell phone use make it a primary violation (an officer can ticket the offender without another violation having occurred). A few other states only have it as a secondary offense. Washington state's hand-held ban and some of the states' bans on phone use by novice drivers require another violation to have taken place.

Many other countries have been more aggressive than the United States in pursuing cell phone laws: http://www.cellular-news.com/car_bans/

Recommendations for effective, enforceable distracted driving legislation

The goal is to have distracted driving laws or total cell phone bans in all 50 states.

1. **Ban distracted driving. Period.** Technology is constantly changing. There is a real chance that today's technological distraction will be replaced tomorrow by a new device. Instead of fighting one battle at a time, our laws should simply ban distracted driving. See appendix B for an example from Maine. Should circumstances make that impossible, seek the strongest cell phone bans possible. Distracted driving, cell phone bans and texting bans should be *primary enforcement* laws.
2. **Distracted driving ought to be treated the same as driving drunk.** "Driving while distracted" must be treated as an aggravating offense that changes the underlying offense (like vehicular homicide) from a misdemeanor to a felony (i.e. aggravated vehicular homicide) and thereby substantially increases the penalties. (Gideon, memo, 2009)
3. **Revenue from distracted driving fines should go to safety programs.** The income from all fines for distracted driving should be put toward awareness programs and marketing campaigns,

street safety and targeted traffic enforcement (assistance for police department to do explicit pull overs and ticketing for distracted driving). These efforts should emphasize safety for all road users, including the most vulnerable, such as children, cyclists and pedestrians.

Furthermore, fines in school zones should be doubled and the money should go to a School Zone Safety Fund to support [Safe Routes to Schools](#) and infrastructure upgrades to increase safety for children. This would be similar to laws passed in several states that send fines from school zone speed violations to such a fund. See Appendix D for the Arizona law, and see the [Washington State](#) and [Illinois](#) school zone laws for other examples.

4. **NHTSA must give distracted driving as much priority as it gives its drunken driving and seatbelt campaigns.** Experience demonstrates that compliance with cell phone bans drops over time if there is not high-profile enforcement. NHTSA should follow the guidelines outlined in its own online seatbelt campaign booklet, "[Primary Enforcement Saves Lives: The Case For Upgrading Secondary Seatbelt Laws.](#)" The following suggestions from the document have been abbreviated and edited to remove reference to seatbelts:

Enact strong legislation – It is imperative to adopt primary enforcement laws and to close the gaps in safety laws in all states.

Build public-private partnerships at the local, state and federal levels – The goal is too big for any one group or agency to accomplish alone. But working together, the nation can achieve higher use through stronger laws, visible enforcement, and public education and information.

Conduct active, high-visibility enforcement – Without active and sustained high-visibility enforcement, [compliance] soon drops again.

Expand effective public education – It is critical to educate the public about the benefits of [the law].

These recommendations should be adapted for distracted driving legislation.

In addition, special efforts should be made to record and track the impact of distracted driving on bicyclists and pedestrians. The data on the distractions involved in auto crashes with bicyclists and pedestrians is insufficient.

Also note that these laws should apply to everyone — bicyclists, motorcyclists and drivers.

Effectiveness of cell phone bans

There is increasing energy around the idea to ban driving distractions, especially cell phones and text messaging. But do those bans work?

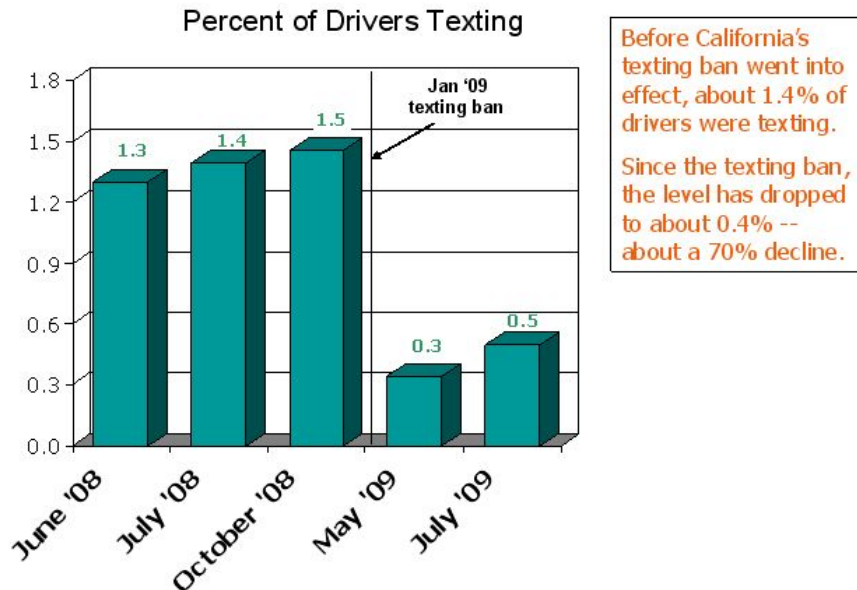
A study called [Long-Term Effects of Hand-Held Cellphone Laws on Driver Hand-Held Cellphone Use](#) found that bans in three different jurisdictions immediately lowered the percentage of drivers talking on hand-held cell phones and maintained reductions over time. In Washington, D.C. the rate of hand-held cell phone use dropped 41 percent right away and, five years later, was 43 percent lower than it would have been without a ban. In Connecticut, the immediate drop was 76 percent, and remained at 65 percent 3 1/2 years later. In New York, cell phone use went down 47 percent at first and was 24 percent lower seven years later than it would have been without the ban. While demonstrating the impact of the ban, the article makes an important point about enforcement. Enforcement in New York was initially more lax than it was in Washington, D.C. The threat of being penalized may have been discredited in New York because of weak initial enforcement.

The study says that in all three locations, the likelihood of getting ticketed is low. Nonetheless, there have been reductions in cell phone use. This may suggest that bans have an educational benefit that helps lower cell phone use even if people are not worried about being caught. Bans can play an important role in publicizing the dangers of distracted driving. The chairman of the Governors Highway Safety Association, Vernon Betkey Jr., told the *New York Times* that a ban “will send a message to the public that this dangerous practice is unacceptable. We can begin to change the culture that has permitted distracted driving.”

The only study of texting laws has shown a noticeable impact. The [Auto Club of Southern California conducted three surveys](#) before the ban on texting took effect. They revealed that about 1.4 percent of drivers were texting while driving. The two surveys taken after the law indicate that level is now about 0.4 percent — a decline of about 70 percent overall. AAA supported distracted driving legislation after seeing the results. (The ban was slow to take effect on Maria Shriver, the wife of Governor Arnold Schwarzenegger, who signed the bill into law. Shriver has been filmed a number of times on her cell phone since the ban was enacted. The result has effectively publicized the ban. <http://www.tzm.com/2009/10/13/hands-of-maria-shriver/>)

Effects of California's In-Vehicle Texting Ban

June 2008 - July 2009



(Source: [Cell phone Digest](#))

Police say good laws are important and useful

Law enforcement officials say that distracted driving laws are necessary and enforceable – but they emphasize the need for strong legislation. The National Sheriffs Association voiced their support for the laws at the Distracted Driving Summit. At the state level, officers point to the extensive data on the dangers of distracted driving to support the need for the laws. There is also the benefit of public awareness. Sergeant Chris Hawkins, the Michigan State Police legislative liaison, said that distracted driving laws “send a message that doing other things while driving is dangerous behavior and that it is prohibited.”

Police dismiss concerns that the laws are difficult to enforce. “We get criticism that these laws aren’t enforceable,” the director of Traffic Services for the New York State Police, Major David Salmon said, “the truth is that police in New York State have issued more 81,000 tickets for cell phone use” since the law was passed. Major Salmon acknowledged that enforcing texting laws may be “slightly more problematic” but he said that police officers “tend to use ingenuity” to identify when a driver is using a phone for text messaging. Sergeant Hawkins agreed. As a police officer on patrol, he said “I can always follow someone [long enough to confirm that] they are texting.”

Both Major Salmon and Sergeant Hawkins argue that for the laws to be most effective they need to be primary enforcement, giving police the authority to issue a ticket without there being another offense. Major Salmon of New York state called secondary laws “handcuffing” for police, whereas primary laws give law enforcement officers the “ability to do what’s intended” by the law. Michigan already has a “careless driving” law that adds three points to a violator’s license. If they pass the proposed secondary enforcement texting law with weaker penalties, careless drivers would have a plea bargain option, effectively weakening the existing law. However, advocates and lawmakers thought the texting ban was necessary because there is uncertainty as to whether drivers can be pulled over for texting under the careless driving law.

In addition to primary enforcement, the laws would ideally go beyond cell phone laws. The police spokesman for Peoria, Ariz. told [The Arizona Republic](#) that “law-enforcement officials need an ‘all-encompassing’ law aimed at the spectrum of bad driving behavior.” In Major Salmon’s words, “who knows what technology will have for us in the future? Will we have to keep passing laws? Let’s focus on the overall issue of distracted driving.”

Making the case

Mothers Against Drunk Driving (MADD) has been one of the most successful groups in getting the message out about safe driving practices. They have years of experience fighting to eliminate drunk driving. At the Distracted Driving Summit they offer advocates the following advice:

Follow the research – Use peer reviewed data and official fatalities data (FARS) to establish credibility. This works better than enthusiasm alone. “Non-science based campaigns not only don’t work,” MADD says, “they displace what does.”

Put a human face on the numbers – They say the “public understands risk best on a human scale.” The stories must be real and accurate, but respectful to the victim’s family. (Hurley, MADD, [Summit slide](#))

The [National Safety Council](#) sponsored the Distracted Driving Summit and has been one of the strongest advocates for legislative action. They say the Click it or Ticket campaign shows that education, by itself, does not effectively change behavior. They say that “strong laws, policies or rules – coupled with visible enforcement – are required to change behavior.” They recommend using the following arguments to educate three different groups:

Legislators – Remind them that 57 percent of the public support *total* bans on cell phone use while driving — hands-free devices are not safer. Texting bans alone are insufficient. Phone conversations are the leading cause of distraction-related crashes.

Business leaders – Tell them that more than 500 members of the National Safety Council have company bans. Banning cell phones in work vehicles shows safety leadership and reduces risks for employees. The *New York Times* reports that [companies are being sued](#): “Lawyers and expert witnesses in cases involving multitasking drivers say such lawsuits are common.”

Parents – Remind them that teenagers are at highest risk because they are inexperienced and more easily distracted. Teens do listen to parents. Visit: [onroadoffphone.com](#). (Froetscher, NSC, [Summit slide](#))

Bicycle advocacy organization campaigns

Bicycling advocates are working in the front lines of these campaigns across the United States. These case studies from Michigan and Chicago illustrate how bicyclists can work to develop and improve laws against distracted driving.

Case Study: Michigan

The [League of Michigan Bicyclists](#) has an existing relationship with their state lawmakers through their annual lobby day. When they decided to work to ban texting, this relationship worked to their advantage. With the strong support of LMB, the state legislature has considered five bills so far. The latest bill that has advanced in the Senate and House is a secondary law. LMB is advocating the removal of the secondary enforcement language.

Sarah Schillio, the chief of staff for Michigan State Representative Lee Gonzales (who sponsored the bill), says advocacy organizations that want to start a campaign should find a legislator who is willing to sponsor the bill and set up a meeting. At the meeting, the advocates can use the information in this report to: lay out the issue, say why it is important to bicyclists, and mention how many states already have laws in place. It is helpful to mention how many people ride bikes for fun and transportation in the lawmaker’s district.

Schillio says that advocates need to be prepared to answer questions from skeptics. For example, some people argue that “you cannot legislate common sense.” Advocates can counter by saying that we pass laws on drunk driving and seatbelt use.

Opponents also worry that texting and phone laws are too close to other behaviors (that they don’t want to ban) like putting on makeup and using GPS navigation. Advocates should argue that to reduce crashes and increase safety, we need to create a culture of safe driving. This requires education and legislation to discourage dangerous practices behind the wheel. Laws help combat the attitude that: “texting and other distracting behavior may be wrong, but it’s legal, so it can’t be *that* wrong.”

Finally, lawmakers themselves are often resistant to putting any restrictions on their own cell phone use while driving across their districts. This can be addressed by educating them on the risk they are putting themselves and others in when they talk on the phone behind the wheel.

Even though the League of Michigan Bicyclists and their allies in the legislature are still working to strengthen the texting laws, they have been able to raise awareness of distracted driving.

Case Study: Chicago, Ill.

The [Active Transportation Alliance](#), Chicago's biking, walking and transit advocacy group, was one of the leading forces behind the passage of Illinois bans on texting and cell phone use in school and construction zones. The Governor [signed the bills into law](#) on August 6, 2009. Dan Persky, the Alliance's Walk Across Illinois Program Director, described their campaign as "a true lobbying effort" made together with other groups. Their campaign had a number of different elements.

To foster support among leaders inside the government, local advocates worked on getting the Secretary of State's office, which in Illinois is equivalent to the Department of Motor Vehicles, to champion the cause. They pushed for a resolution to make the Secretary of State the head of the taskforce to gather information on how distracted driving impacts traffic safety. The taskforce issued a [final report](#) recommending the passage of a texting ban and several other laws.

In advance of the campaign, the Active Transportation Alliance had already shown what could be done to make the roads safer with education and enforcement with their North West Chicago [Drive With Care Zone](#). The Drive With Care Campaign focused on an eight-mile section of Chicago with high levels of traffic crashes. The success of the campaign made people more aware of road safety issues. During the texting campaign, the advocates then used crash data from the state DOT to target particular districts in the state. They customized maps for each elected official to illustrate the need to improve traffic safety in their district. Finally, Active Transportation Alliance used their relationships with the news media to tell stories of tragic crashes in Illinois. The media attention showed that distracted driving was a serious and prevalent problem for pedestrians and children. The main lesson, Pesky says, is to create the environment of awareness of the issue before pushing for specific legislation.

Bicycling advocacy organizations have also joined coalitions of state distracted driving advocates. For example, the [Bicycle Alliance of Washington](#) has been supporting cell phone and distracted driving laws in the state [House](#) and [Senate](#) as a member of the [Driven to Distraction Task Force](#) of Washington State, a group that campaigns for bans on texting and cell phone use.

Building a coalition – Arizona

Despite the public support for the laws, the statistics and the compelling human stories, not everyone wants to see distracted driving laws passed. In a presentation at the national Distracted Driving Summit, Steve Farley of the Arizona House of Representatives described the political environment in his state and the strategies he used to overcome opposition to a texting ban. The director of the Arizona Governor's Office of Highway Safety worried about creating a "nanny state." The chairman of the House Transportation Committee argued that there were already enough laws on the books dealing with dangerous driving and said, "I don't think we need any more laws." The lobbyist for a telecommunications association said, "There are a multitude of behaviors that you should not be doing

while driving, from potentially texting to smoking a cigarette. *Whatever.*” Finally, an editorial in the *East Valley Tribune* worried over the enforceability of the texting laws.

To present the strongest argument in favor of the laws possible, Representative Farley stayed persistent, built a strong coalition, appealed to the public through the media, and looked for unexpected allies. The widower of a woman who was killed by a driver who was texting spoke out, saying “As long as one life can be saved, then why not pass it?” The city council in Phoenix passed a law, showing local support. The media got involved. An editorial in the *Arizona Republic* said “An official state ban [on texting] would do a lot to set a standard and inform people of the widespread recognition of this practice as dangerous.” He built a coalition with AAA, the Red Cross, the Insurance Institute for Highway Safety, and Verizon Wireless, Sprint and AT&T Wireless. Verizon Wireless’ statement was: “Verizon Wireless has the position that it can support legislation banning text messaging while driving.” (Farley, Representative, [Summit slides](#)) Despite Representative Farley’s efforts in the House, the bill was [rejected by the Arizona State Senate](#). However, Representative Farley is reintroducing the bill and is optimistic. He told the [New York Times](#), “People are starting to see it like drunk driving, and that’s the comparison we need to continue to make.” When debate occurs on his bill this time around he said, “This is going to be a show of powerful consensus.”

A story behind every law

As the advocates above point out, research and statistics can sometimes get a campaign only so far. Often, it takes particular stories of tragedy to convince people how important distracted driving laws are. Unfortunately, there are many examples. Telling a story from your state can make a huge impact.

Distracted driving “[forced itself onto the legislative agenda](#)” in Utah after a 19-year-old college student crossed the yellow center line and killed two scientists on their way to work. Phone records revealed that the student had been texting moments before the crash. At a hearing the driver said, “I decided I’ve got to do whatever it takes to make this come to an end. If there was anything I could do — spend a year in jail, two years in jail, whatever — I’d do it.” He later gave tearful testimony to the state House Subcommittee on Law Enforcement and Criminal Justice, which was considering a texting ban. That testimony was the turning point in the campaign to ban texting in Utah, according to one of the campaign’s leading advocates.

New York State [passed the nation’s first handheld cell phone ban](#) after two parents were killed and their two children injured by a distracted driver.

In November 2009, the Pennsylvania House of Representatives began considering a texting ban after 28 year-old social worker Kristin Bowser and her cab driver, Michael Amisshah, were [killed by a text messaging driver](#).

More human stories behind distracted driving crashes

[Matthew C. Wilhelm](#), 25, died on September 8, 2006, at Carle Foundation Hospital in Urbana, Ill. Wilhelm died of injuries suffered when the bicycle he was riding on the shoulder of Illinois Route 130 southeast of Urbana was struck from behind by an automobile on September 2. The driver allegedly was distracted by downloading ring-tones to her cell phone. She drove so far off the highway that she hit Wilhelm, who was riding on the shoulder of the road, with the driver's side of her vehicle. Wilhelm was a summa cum laude graduate of the University of Illinois and had recently begun a job with Caterpillar, Inc. in Peoria, Ill. The Champaign County State's Attorney declined to prosecute the driver for anything more than illegal lane usage. Matthew's parents, Charles and Gloria Wilhelm, have started an organization to lobby the Illinois State Legislature and other governmental bodies to stiffen the laws and penalties for driving distracted.

In New York City, a [bus driver struck and killed a pedestrian](#) the same day he returned from a suspension for texting while driving. New York City Transit had suspended the bus driver and tried to have him fired after he was caught texting while driving. An arbitrator overruled the firing and called for safety and customer-service training instead.

Sometimes a campaign can attach itself to a related tragedy in the news. Texas Governor Rick Perry vetoed a safe passing law, weeks before a driver took his eyes off the road and killed a couple on a tandem bike. [BikeTexas](#) has organized [a petition](#) in response. The sad event can raise awareness for other safety campaigns like distracted driving.

Not all stories that can convey the message are as tragic. In La Marque, Texas, a man reached for his phone and [drove his million-dollar sports car into a marsh](#). He told the police that he was driving his French-built Bugatti Veyron when he became distracted by a bird flying towards him. According to the news report, he then "dropped his cell phone, reached to pick it up and veered off the road and into the salt marsh. The car was half-submerged in the brine about 20 feet from the road when police arrived." In this case, the cost of driving distracted was about \$1.25 million.

Stories like these can remind people of the cost of driving distracted and lead to legislative action.

Conclusion

Distracted driving is an important issue for everyone interested in making the streets safer. This legislation has broad public support. Launching or joining a campaign is a great way for a bicycling and walking advocacy organizations to build alliances with new and influential partners because the dangers of distracted driving affect everyone.

However, legislation will not, by itself, eliminate the risks to cyclists. Nor is passage of a law alone sufficient to reduce levels of distracted driving. Local groups have found, with this and other laws, that advocacy coalitions need to work with police to make sure that the laws are enforced and given proper priority. By developing working relationships with a range of groups and organizing around the issue, a

distracted driving or cell phone ban is an important part of an overall strategy to build coalitions and raise awareness of safe streets.

Acknowledgements

Our thanks to all of the advocates who provided resources and input including Transportation Alternatives' for their "Executive Order" report, John Gideon, Co-Founder, Bike, Walk Ohio! for sharing his memo on distracted driving legislation, Dan Persky of the Active Transportation Alliance, and John Lindenmayer of the League of Michigan Bicyclists. Our appreciation to Sarah Schillio, Sergeant Chris Hawkins and Major David Salmon for sharing their expertise on distracted driving laws and enforcement. Thanks also to Margo Pedroso from the Safe Routes to School National Partnership, Jeff Miller from the Alliance for Bicycling and Walking, Mark Plotz of the National Center for Bicycling and Walking and Randy Neufeld from SRAM Cycling Fund for their comments and suggestions. They are not responsible for any errors found within the report.

For more information on distracted driving, or to report any broken links in the report, contact Darren Flusche at darren@bikeleague.org.

Further Distracted Driving Resources

The [National Safety Council](http://www.nsc.org/safety_road/Distracted_Driving/Pages/KeyResearch.aspx#cognitive) has an exhaustive list of research on distracted driving.
http://www.nsc.org/safety_road/Distracted_Driving/Pages/KeyResearch.aspx#cognitive.

Some of the key studies on risk include:

Cooper & Strayer (2008) Effects of Simulator Practice and Real-World Experience on Cell-Phone-Related Driver Distraction, *Human Factors*, 50(6): pp. 893–902.
<http://hfs.sagepub.com/cgi/content/abstract/50/6/893>

Just, et al. (2008) A decrease in brain activation associated with driving when listening to someone speak, *Brain Research* 1205, 70-80.
http://www.elsevier.com.br/bibliotecadigital/Newsletter_Esp01/pdf/brain.pdf

Klauer, et al. (2006) The Impact of Driver Inattention on Near-Crash/Crash Risk: An Analysis Using the 100-Car Naturalistic Driving Study Data, NHTSA Technical Report. DOT HS 810 594.
<http://www.nhtsa.dot.gov/staticfiles/DOT/NHTSA/NRD/Multimedia/PDFs/Crash%20Avoidance/2006/DriverInattention.pdf>

Ishigami & Klein (2009) Is a hands-free phone safer than a handheld phone? *Journal of Safety Research* 40, 157–164.

Madden & Lenhart (2009) Teens and Distracted Driving, Pew Internet & American Life Project.
http://pewinternet.org/~media/Files/Reports/2009/PIP_Teens_and_Distracted_Driving.pdf

Redelmeier & Tibshirani (1997) Association between cellular telephone calls and motor vehicle collisions, *New England Journal of Medicine*, 336; 453-458.
<http://content.nejm.org/cgi/reprint/336/7/453>

Strayer, Drews, Crouch (2009) Fatal Distraction? A Comparison of the Cell-Phone Driver and the Drunk Driver Department of Psychology, University of Utah. PROCEEDINGS of the Second International Driving Symposium on Human Factors in Driver Assessment, Training and Vehicle Design.
http://www.cellphonefreedriving.ca/media/fatal_distraction.pdf

Institutions

CTIA: The Wireless Association

onroadoffphone.com

Governors Highway Safety Association

<http://ghsa.org/>

List of state laws: http://www.ghsa.org/html/stateinfo/laws/cellphone_laws.html

Insurance Institute for Highway Safety (www.iihs.org)

Congressional testimony: http://www.iihs.org/laws/testimony/pdf/testimony_11-04-2009.pdf

Status report – Phoning While Driving: <http://www.iihs.org/externaldata/srdata/docs/sr4409.pdf>

National Highway Traffic Safety Administration

<http://www.nhtsa.dot.gov/portal/site/nhtsa/menuitem.54757ba83ef160af9a7ccf10dba046a0/>

Statistics: <http://www-nrd.nhtsa.dot.gov/Pubs/811216.PDF>

TXTrresponsibly.org

<http://txtresponsibly.org/>

University of Utah's Applied Cognition Laboratory

<http://www.psych.utah.edu/AppliedCognitionLab/>

U.S. Department of Transportation

Distraction.gov: <http://www.distraction.gov/>

Distracted Driving Summit: http://www.rita.dot.gov/distracted_driving_summit/

PowerPoint slides: <http://www.tvworldwide.com/events/rita/090830/>

Virginia Tech Transportation Institute's Center for Automotive Safety Research

<http://www.vtti.vt.edu/casr.html>

Brief Selection of Mass Media Sources

Car and Driver:

http://www.caranddriver.com/features/09q2/texting_while_driving_how_dangerous_is_it_-feature

CNN: <http://amfix.blogs.cnn.com/2009/07/30/distracted-driving-senate-to-ban-texting-at-the-wheel/>

NPR's Car Talk: <http://www.cartalk.com/content/features/Distraction/>

The Oprah Show: <http://www.oprah.com/showinfo/Americas-New-Deadly-Obsession>

SoCal: <http://911law.blogspot.com/2009/10/distracted-driving-is-deadly.html>

Webster Dictionary's word of the year: <http://www.reuters.com/article/idUS150848+02-Nov-2009+PRN20091102>

New York Times Driven to Distraction Series by Matt Richtel

[Bills to Curb Distracted Driving Gain Momentum](#), January 01, 2010

[Promoting the Car Phone, Despite Risks](#), Dec 07, 2009

[At 60 M.P.H., Office Work Is High Risk](#), October 1, 2009

[Texting While Driving Banned for Federal Staff](#), October 1, 2009

[Truckers Insist on Keeping Computers in the Cab](#), September 28, 2009

[Ford Backs Ban on Text Messaging by Drivers](#), by Nick Bunkley, September 10, 2009

[Driver Texting Now an Issue in the Back Seat](#), September 9, 2009

[Utah Gets Tough With Texting Drivers](#), August 29, 2009

[Senators Seek a Ban on Texting and Driving](#), July 29, 2009

[In Study, Texting Lifts Crash Risk by Large Margin](#), July 27, 2009

[U.S. Withheld Data on Risks of Distracted Driving](#), July 21, 2009

[Drivers and Legislators Dismiss Cellphone Risks](#), July 19, 2009

[Poll: Americans on Distracted Driving](#)

“Room for debate”: <http://roomfordebate.blogs.nytimes.com/2009/07/18/should-cellphone-use-by-drivers-be-illegal/>

Interactive game: <http://www.nytimes.com/interactive/2009/07/19/technology/20090719-driving-game.html>

Appendix A.

US Department of Transportation Sample Texting While Driving Law

http://www.nhtsa.gov/staticfiles/DOT/NHTSA/Rulemaking/Texting_Law_021910.pdf

§ 1 Short title

This act may be cited as the [State] Ban on Texting While Driving Law

§ 2 Purpose

The purpose of this subchapter is to:

- (1) Improve roadway safety for all vehicle operators, passengers, bicyclists, pedestrians, and other road users;
- (2) Prevent crashes related to the act of text messaging while driving a motor vehicle;
- (3) Reduce injuries, death, property damage, health care costs, health insurance and automobile insurance rates related to motor vehicle crashes; and
- (4) Authorize law enforcement officers to stop vehicles and issue citations to persons texting while driving as a standard offense.

§ 3 Application

Except as provided in Section 4, this subchapter applies to all drivers during operation of a motor vehicle on the travel portion of public streets, roads and highways [Option: States may elect to cover only motor vehicles in motion]. This subchapter amends [insert state code] to make it unlawful to manually type or enter multiple letters, numbers, symbols or other text in a wireless communication device, or send or read data in the device, for the purpose of non-voice interpersonal communication, including texting, emailing and instant messaging.

§ 4 Exemptions

This subchapter does not apply to a driver who is:

- (1) A law enforcement, fire service, or emergency medical services professional performing official duties.
- (2) Reporting an emergency, or criminal or suspicious activity to law enforcement authorities.
- (3) Receiving messages related to the operation or navigation of a motor vehicle; safety-related information including emergency, traffic, or weather alerts; data used primarily by the motor vehicle; or radio.
- (4) Using a device or system for navigation purposes.
- (5) Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate a feature or function.

§ 5 Penalties

A driver violating this subchapter shall be subject to a penalty of:

- (1) For the 1st offense – traffic infraction or violation including a minimum fine of \$75 and action against driving privileges.
- (2) For a subsequent offense – penalties should escalate in accordance with the State’s motor vehicle and traffic laws.
- (3) For any offense that results in a death or serious injury –the infraction should increase to a felony (criminal offense) with penalties consistent with State sentencing guidelines.

Appendix B.

Maine's Distracted Driver Law

<http://www.mainelegislature.org/legis/statutes/29-A/title29-Asec2118.pdf>

29-A §2118. FAILURE TO MAINTAIN CONTROL OF A MOTOR VEHICLE (REALLOCATED FROM TITLE 29-A, SECTION 2117)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Operation of a motor vehicle while distracted" means the operation of a motor vehicle by a person who, while operating the vehicle, is engaged in an activity:

(1) That is not necessary to the operation of the vehicle; and

(2) That actually impairs, or would reasonably be expected to impair, the ability of the person to safely operate the vehicle.

2. Failure to maintain control of a motor vehicle. A person commits the traffic infraction of failure to maintain control of a motor vehicle if the person:

A. Commits either a traffic infraction under this Title or commits the crime of driving to endanger under section 2413 and, at the time the traffic infraction or crime occurred, the person was engaged in the operation of a motor vehicle while distracted; or

B. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 2251, subsection 1 that resulted in property damage and, at the time the reportable accident occurred, the person was engaged in the operation of a motor vehicle while distracted.

A person may be issued a citation or summons for any other traffic infraction or crime that was committed by the person in relation to the person's commission of the traffic infraction of failure to maintain control of a motor vehicle.

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Special Session of the 124th Legislature, and is current through December 31, 2009, but is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

Appendix C. Washington State's School Zone Penalty

<http://apps.leg.wa.gov/rcw/default.aspx?cite=46.61.440>

RCW 46.61.440

Maximum speed limit when passing school or playground crosswalks — Penalty, disposition of proceeds.

(1) Subject to RCW [46.61.400](#)(1), and except in those instances where a lower maximum lawful speed is provided by this chapter or otherwise, it shall be unlawful for the operator of any vehicle to operate the same at a speed in excess of twenty miles per hour when operating any vehicle upon a highway either inside or outside an incorporated city or town when passing any marked school or playground crosswalk when such marked crosswalk is fully posted with standard school speed limit signs or standard playground speed limit signs. The speed zone at the crosswalk shall extend three hundred feet in either direction from the marked crosswalk.

(2) A county or incorporated city or town may create a school or playground speed zone on a highway bordering a marked school or playground, in which zone it is unlawful for a person to operate a vehicle at a speed in excess of twenty miles per hour. The school or playground speed zone may extend three hundred feet from the border of the school or playground property; however, the speed zone may only include area consistent with active school or playground use.

(3) A person found to have committed any infraction relating to speed restrictions within a school or playground speed zone shall be assessed a monetary penalty equal to twice the penalty assessed under RCW [46.63.110](#). This penalty may not be waived, reduced, or suspended.

(4) The school zone safety account is created in the custody of the state treasurer. Fifty percent of the moneys collected under subsection (3) of this section shall be deposited into the account. Expenditures from the account may be used only by the Washington traffic safety commission solely to fund projects in local communities to improve school zone safety, pupil transportation safety, and student safety in school bus loading and unloading areas. Only the director of the traffic safety commission or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter [43.88](#) RCW, but no appropriation is required for expenditures until July 1, 1999, after which date moneys in the account may be spent only after appropriation.

Appendix D. Arizona Double-Fine in School Zone Legislation

28-797. School crossings; civil penalty; assessment; definition

A. The director with respect to state highways, the county board of supervisors with respect to county highways or the governing body of a city or town or its designee with respect to city or town streets, by and with the advice of the school district governing board, may mark or cause to be marked by the department or local authorities crosswalks in front of each school building or school grounds abutting the locations where children are required to cross the highway or street.

B. The department or local authorities may approve additional crossings across highways not abutting on school grounds on application of school authorities and with written satisfactory assurance given the department or local authorities that guards will be maintained by the school district at the crossings to enforce the proper use of the crossing by school children.

C. The manual prescribed in section 28-641 shall provide for yellow marking of the school crossing, yellow marking of the center line of the roadway and the erection of portable signs indicating that vehicles must stop when persons are in the crossing. The manual shall also provide the type and wording of portable signs indicating that school is in session and that the civil penalty for a violation of this section will be doubled when the signs are present and permanent signs that warn of the approach to school crossings.

D. When the school crossings are established, school authorities shall place within the highway the portable signs indicating that school is in session. This placement shall be not more than three hundred feet from each side of the school crossing. In addition, portable signs indicating that the driver shall stop when children are in the crosswalk shall be placed at school crossings. School authorities shall maintain these signs when school is in session and shall cause them to be removed within one hour after the end of a school session or pursuant to an agreement with a city or town.

E. Notwithstanding any other law:

1. An agency of appropriate jurisdiction may establish a school crossing on an unpaved highway or street adjacent to a school when the agency determines the need for the school crossing on the basis of a traffic study. School crossings on unpaved highways and streets shall be marked by the use of signs as prescribed in the manual prescribed in section 28-641.

2. A local authority may establish a school crossing at an intersection containing a traffic control signal if the local authority determines the need for a school crossing on the basis of a traffic study.

F. A vehicle shall not proceed at a speed of more than fifteen miles per hour between the portable signs placed on the highway indicating that there shall be no passing, that school is in session and that the driver shall stop when children are in the crosswalk.

G. When a school authority places and maintains the required portable signs indicating that there shall be no passing, that school is in session and that the driver shall stop when children are in the crosswalk, all vehicles shall come to a complete stop at the school crossing when the crosswalk is occupied by a person.

H. A vehicle approaching the crosswalk shall not proceed at a speed of more than fifteen miles per hour between the portable signs placed on the highway indicating that there shall be no passing, that school is in session, that the driver shall stop when children are in the crosswalk and that the civil penalty will double.

I. When a school authority places and maintains the required portable signs indicating that there shall be no passing, that school is in session, that the driver shall stop when children are in the crosswalk and that the civil penalty will double, all vehicles shall come to a complete stop at the school crossing when a person is in the crosswalk.

J. If a person is found responsible for a violation of subsection F or G of this section, the person is subject to a civil penalty.

K. If a person is found responsible for a violation of subsection H or I of this section, the person is subject to a civil penalty and shall pay an additional assessment equal to the amount of the civil penalty. The additional assessment is not subject to any surcharge.

L. The court shall collect the additional assessment imposed pursuant to subsection K of this section at the same time the court collects the civil penalty. Partial payments of the total amount due pursuant to this subsection shall be divided according to the proportion that the civil penalty, the penalty assessments levied pursuant to sections 12-116.01 and 12-116.02 and the additional assessment imposed pursuant to this section represent of the total amount due. The court and the department shall treat failure to pay the additional assessment imposed pursuant to this subsection in the same manner as failure to pay a civil penalty, including taking action against the person's driver license or permit or privilege to drive pursuant to sections 28-1601, 28-3153 and 28-3305.

M. If a person is found responsible pursuant to subsection K of this section in a justice court or superior court, the court shall transmit monies received to pay the additional assessment to the county treasurer. If a person is found responsible pursuant to subsection K of this section in a municipal court, the court shall transmit the monies received to pay the additional assessment to the city treasurer. The city or county treasurer shall deposit the monies received to pay the additional assessment in a fund to pay for costs related to enforcement of this section.

N. For the purposes of this section, "school is in session", when used either in reference to the period of time or to signs, means during school hours or while children are going to or leaving school during opening or closing hours.

Appendix E. [Virginia texting while driving ban](#)**CHAPTER 661**

An Act to amend the Code of Virginia by adding a section numbered [46.2-1078.1](#), relating to the use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.

[H 1876]

Approved March 30, 2009

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered [46.2-1078.1](#) as follows:

§ [46.2-1078.1](#). Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.

A. It shall be unlawful for any person to operate a moving motor vehicle on the highways in the Commonwealth while using any handheld personal communications device to:

1. Manually enter multiple letters or text in the device as a means of communicating with another person; or
2. Read any email or text message transmitted to the device or stored within the device, provided that this prohibition shall not apply to any name or number stored in the device nor to any caller identification information.

B. The provisions of this section shall not apply to:

1. The operator of any emergency vehicle;
2. An operator who is lawfully parked or stopped;
3. The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system; or
4. Any person using a handheld personal communications device to report an emergency.

C. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.

D. A violation of any provision of this section shall constitute a traffic infraction punishable, for a first offense, by a fine of \$20 and, for a second or subsequent offense, by a fine of \$50.

For the purposes of this section, "emergency vehicle" means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while engaged in the performance of official duties;
2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;
3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;
4. Any ambulance, rescue, or life-saving vehicle designed or used for the principal purpose of supplying resuscitation or emergency relief where human life is endangered;
5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;
6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and
7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § [46.2-1029.2](#).

Appendix F. [Colorado Novice Driver Cell Phone Ban](#)

HOUSE BILL 05-1137

BY REPRESENTATIVE(S) Garcia, Borodkin, Coleman, Green, Lindstrom, Marshall, Merrifield, Pommer, and Romanoff; also SENATOR(S) Johnson and Groff.

CONCERNING THE REGULATION OF THE USE OF MOBILE COMMUNICATION DEVICES BY PERMITTED DRIVERS IN MOTOR VEHICLES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 2 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-239. Misuse of mobile communication devices - definitions.

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "EMERGENCY" MEANS A SITUATION IN WHICH A PERSON:

(I) HAS REASON TO FEAR FOR SUCH PERSON'S LIFE OR SAFETY, OR BELIEVES THAT A CRIMINAL ACT MAY BE PERPETRATED AGAINST SUCH PERSON OR ANOTHER PERSON REQUIRING THE USE OF A MOBILE COMMUNICATION DEVICE WHILE THE CAR IS MOVING; OR (II) REPORTS A FIRE, A TRAFFIC ACCIDENT IN WHICH ONE OR MORE INJURIES ARE APPARENT, A SERIOUS ROAD HAZARD, A MEDICAL OR HAZARDOUS MATERIALS EMERGENCY, OR A PERSON WHO IS DRIVING IN A RECKLESS, CARELESS, OR OTHERWISE UNSAFE MANNER.

(b) "MOBILE COMMUNICATION DEVICE" MEANS A CELLULAR TELEPHONE OR OTHER DEVICE THAT ENABLES A PERSON IN A MOTOR VEHICLE TO TRANSMIT AND RECEIVE AUDIO SIGNALS TO AND FROM A PERSON OR AUDIO RECORDING DEVICE LOCATED OUTSIDE THE MOTOR VEHICLE.

(2) NO PERSON WHO HOLDS A TEMPORARY INSTRUCTION PERMIT OR A MINOR'S INSTRUCTION PERMIT PURSUANT TO SECTION 42-2-106 SHALL USE A MOBILE COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE.

THIS SECTION SHALL NOT APPLY TO A PERSON WHO IS USING THE MOBILE COMMUNICATION DEVICE:

(a) TO CONTACT A PUBLIC SAFETY ENTITY;

(b) WHILE THE VEHICLE IS LAWFULLY PARKED; OR

(c) DURING AN EMERGENCY.

(3) ANY PERSON WHO OPERATES A MOTOR VEHICLE IN VIOLATION OF SUBSECTION (2) OF THIS SECTION COMMITS A CLASS A TRAFFIC INFRACTION AS DEFINED IN SECTION 42-4-1701 (3).

(4) AN OPERATOR OF A MOTOR VEHICLE SHALL NOT BE CITED FOR A VIOLATION OF SUBSECTION (2) OF THIS SECTION UNLESS SUCH OPERATOR WAS STOPPED BY A LAW ENFORCEMENT OFFICER FOR AN ALLEGED VIOLATION OF ARTICLES 1 TO 4 OF THIS TITLE OTHER THAN A VIOLATION OF THIS SECTION.

SECTION 2. 42-2-127 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-2-127. Authority to suspend license - to deny license - type of conviction - points. (5) Point system schedule:

Type of conviction Points

(jj) A VIOLATION OF SECTION 42-4-239 1

SECTION 3. 42-4-1701 (4) (a) (I) (D), Colorado Revised Statutes, is amended to read:

42-4-1701. Traffic offenses and infractions classified - penalties- penalty and surcharge schedule - repeal. (4) (a) (I) Except as provided in paragraph (c) of subsection (5) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this title to which the provisions of paragraph (a) or (b) of subsection (5) of this section apply shall be fined or penalized, and have a surcharge levied thereon pursuant to section 24-4.2-104 (1) (b) (I), C.R.S., in accordance with the penalty and surcharge schedule set forth in sub-subparagraphs (A) to (P) of this subparagraph (I); or, if no penalty or surcharge is specified in the schedule, the penalty for class A and class B traffic infractions shall be fifteen dollars, and the surcharge shall be two dollars. These penalties and surcharges shall apply whether the defendant acknowledges the defendant's guilt or liability in accordance with the procedure set forth by paragraph (a) of subsection (5) of this section or is found guilty by a court of competent jurisdiction or has judgment entered against the defendant by a county court magistrate. Penalties and surcharges for violating specific sections shall be as follows:

See [http://www.leg.state.co.us/clics2005a/csl.nsf/billcontainers/5008267161DA690D87256F3900646317/\\$FILE/1137_enr.pdf](http://www.leg.state.co.us/clics2005a/csl.nsf/billcontainers/5008267161DA690D87256F3900646317/$FILE/1137_enr.pdf) for penalties.