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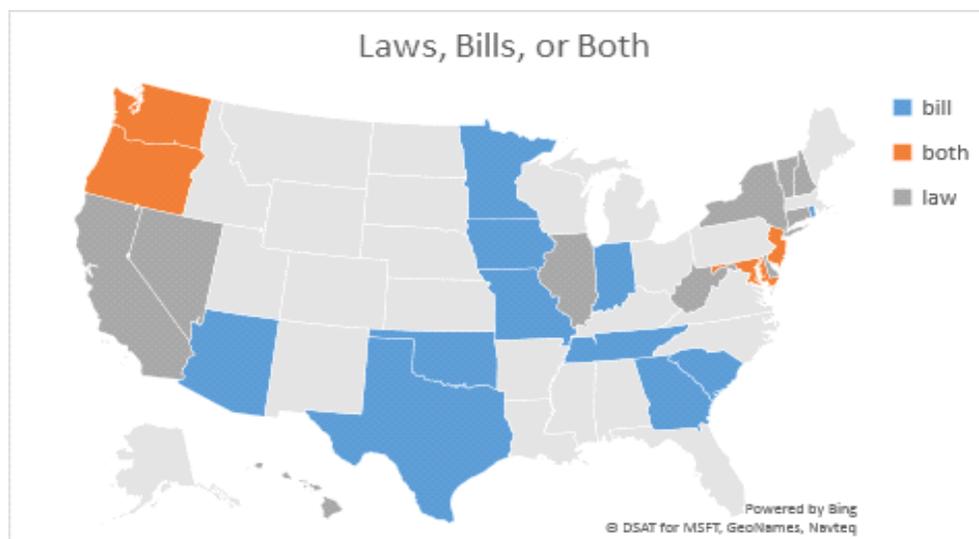
**To:** Senate Committee on Transportation

**From:** Jill Shelley, Principal Research Analyst

**Re:** Hands-free and Distracted Driving Laws in Other States

This memorandum summarizes information on definitions, exceptions, and penalties from statutes in the 14 states and the District of Columbia identified by staff of the National Conference of State Legislatures (NCSL) as requiring hands-free use of communication devices while driving passenger vehicles and from 2017 bills in various states on the topic. The other states' statutes on which this memorandum is based are listed in Appendix A.

The states identified as having hands-free requirements are California, Connecticut, Delaware, Hawaii, Illinois, Maryland, Nevada, New Hampshire, New Jersey, New York, Oregon, Vermont, Washington, and West Virginia. The District of Columbia also has hands-free requirements. The information below is from primary statutes on the topic; additional statutes may have a bearing on these prohibitions or the penalties for violations. Information on general approaches, exceptions, and enforcement and penalties is provided.



As of late February 2017, at least 30 bills on this general topic were introduced in 2017 in 15 states: Arizona (1), Georgia (1), Indiana (1), Iowa (3), Maryland (1), Minnesota (2), Missouri (3), New Jersey (1), Oklahoma (2), Oregon (2), Rhode Island (2), South Carolina (2),

Tennessee (5), Texas (2), and Washington (2). Information on provisions included in these bills also is included in this memorandum. Excerpts from or summaries of the various bills introduced so far in 2017 are included as Appendix B.<sup>1</sup>

## General Approaches in Other States' Laws

Among the ways state laws differ is how they define “hands-free.” The statutory excerpts below indicate states’ general approaches to prohibiting use of mobile devices while driving and what uses of hands these states specifically allow or disallow. For example, Delaware law prohibits holding a device in a hand or hands, but Nevada and other states prohibit using hands “other than to activate, deactivate or initiate a feature or function on the device.” Some states prohibit use of hand-held devices for voice communication and prohibit texting in the same statute, while others that prohibit use of hand-held devices separate statutes into voice- and text-related statutes.

**California.** A person shall not drive a motor vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving.

A person shall not drive a motor vehicle while holding and operating a handheld wireless telephone or an electronic wireless communications device unless the wireless telephone or electronic wireless communications device is specifically designed and configured to allow voice-operated and hands-free operation, and it is used in that manner while driving.

**Connecticut.** [N]o person shall operate a motor vehicle upon a highway . . . while using a hand-held mobile telephone to engage in a call or while using a mobile electronic device. “Engage in a call” means talking into or listening on a hand-held mobile telephone, but does not include holding a hand-held mobile telephone to activate, deactivate, or initiate a function of such telephone.

**Delaware.** No person shall drive a motor vehicle on any highway while using an electronic communication device while such motor vehicle is in motion. “Using” shall mean holding in a person’s hand or hands an electronic communication device while: viewing or transmitting images or data; playing games; composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages or other electronic data; or engaging in a call. “Engages or engaging in a call” shall mean when a person talks into or listens on an electronic communication device, but shall not mean when a person dials or punches a phone number on an electronic communication device.

**District of Columbia,** No person shall use a mobile telephone or other electronic device while operating a moving motor vehicle in the District of Columbia unless the telephone or device is equipped with a hands-free accessory. “Hands-free accessory” means an attachment, add-on, built-in feature, or addition to a mobile telephone, whether or not permanently installed in a motor vehicle, that when used allows the vehicle operator to maintain both hands on the steering wheel.

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<sup>1</sup> The bills were identified using NCSL’s State Traffic Safety Legislation Database (accessed February 23-24, 2017), at <http://www.ncsl.org/research/transportation/state-traffic-safety-legislation-database.aspx>

**Hawaii.** No person shall operate a motor vehicle while using a mobile electronic device. The use of a mobile electronic device for the sole purpose of making a “911” emergency communication shall be an affirmative defense to this law.

**Illinois.** A person may not operate a motor vehicle on a roadway while using an electronic communication device. This section does not apply to . . . a driver using an electronic communication device in hands-free or voice-operated mode, which may include the use of a headset; . . . a driver using an electronic communication device by pressing a single button to initiate or terminate a voice communication . . . .

**Maryland.** A driver of a motor vehicle that is in motion may not use the driver’s hands to use a handheld telephone other than to initiate or terminate a wireless telephone call or to turn on or turn off the handheld telephone.

**Nevada.** [A] person shall not, while operating a motor vehicle on a highway in this State: (a) Manually type or enter text into a cellular telephone or other handheld wireless communications device, or send or read data using any such device to access or search the Internet or to engage in nonvoice communications with another person, including, without limitation, texting, electronic messaging and instant messaging. (b) Use a cellular telephone or other handheld wireless communications device to engage in voice communications with another person, unless the device is used with an accessory which allows the person to communicate without using his or her hands, other than to activate, deactivate or initiate a feature or function on the device.

**New Hampshire.** No person, while driving a moving motor vehicle upon a way or temporarily halted in traffic for a traffic control device or other momentary delay, shall use any hand-held mobile electronic device capable of providing voice or data communication, including but not limited to: reading, composing, viewing, or posting any electronic message; or initiating, receiving, or conducting a conversation; or initiating a command or request to access the Internet; or inputting information into a global positioning system or navigation device; or manually typing data into any other portable electronic device.

**New Jersey.** The use of a wireless telephone or electronic communication device by an operator of a moving motor vehicle on a public road or highway shall be unlawful except when the telephone is a hands-free wireless telephone or the electronic communication device is used hands-free, provided that its placement does not interfere with the operation of federally required safety equipment and the operator exercises a high degree of caution in the operation of the motor vehicle. [T]his definition [of a hands-free wireless telephone] shall not preclude the use of either hand to activate, deactivate, or initiate a function of the telephone.

**New York.** [use of mobile telephones]. [N]o person shall operate a motor vehicle upon a public highway while using a mobile telephone to engage in a call while such vehicle is in motion. “Engage in a call” shall mean talking into or listening on a hand-held mobile telephone, but shall not include holding a mobile telephone to activate, deactivate or initiate a function of such telephone. “Hands-free mobile telephone” shall mean a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a function of such telephone.

[use of portable electronic devices]. [N]o person shall operate a motor vehicle while using any portable electronic device while such vehicle is in motion. “Using” shall mean holding a portable electronic device while viewing, taking or transmitting images, playing games, or, for the purpose of present or future communication: performing a command or request to access a world wide web page, composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages, instant messages, or other electronic data.

**Oregon.** A person commits the offense of operating a motor vehicle while using a mobile communication device if the person, while operating a motor vehicle on a highway, uses a mobile communication device. This section does not apply to a person who activates or deactivates a mobile communication device or a function of the device . . . .

**Vermont.** [A] person shall not use a portable electronic device while operating a motor vehicle on a public highway. The prohibitions of this subsection shall not apply to hands-free use [or] to activation or deactivation of hands-free use, as long as any accessory for securely mounting the device is not affixed to the windshield. . . . “Hand-free use” means the use of a portable electronic device without use of either hand by employing an internal feature of, or an attachment to, the device.

**Washington.** [A] person operating a moving motor vehicle while holding a wireless communications device to his or her ear is guilty of a traffic infraction. [The previous] does not apply to a moving motor vehicle using a wireless communications device in hands-free mode. For purposes of this section, “hands-free mode” means the use of a wireless communications device with a speaker phone, headset, or earpiece.

**West Virginia.** [A] person may not drive or operate a motor vehicle on a public street or highway while: (1) texting; or (2) using a cell phone or other electronic communications device, unless the use is accomplished by hands-free equipment. “Hands-free equipment” means the internal feature or function of a hands-free electronic communication device or the attachment or addition to a hands-free electronic communication device by which a user may engage in a call or text without the use of either hand or both hands. “Using a cell phone or other electronic communication device” means holding in a person’s hand or hands an electronic communication device while: (A) viewing or transmitting images or data; (B) playing games; (C) composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages or other electronic data; or (D) engaging in a call.

### ***Restrictions Related to the Motion of the Vehicle***

States also differ in how the restrictions are related to motion of the vehicle. All but California fit into at least one of three categories:

- Defining the violation as being when the vehicle is in motion: Delaware, District of Columbia, Maryland, and New York;
- Prohibiting use while the vehicle is on a highway: Hawaii, Illinois, Nevada, New Jersey, and Oregon; and
- Prohibiting use in traffic, even while the vehicle is temporarily halted in traffic: Connecticut, Hawaii, New Hampshire, Vermont, Washington, and West Virginia.

## **General Approaches in 2017 Bills**

Of the 2017 bills that would enact bans on drivers using certain communications devices, most would amend law prohibiting texting while driving to also prohibit calls that involve holding a device or using multiple buttons to activate the device. For example, a bill in Minnesota would remove the exception “for making a cellular phone call” from a statute prohibiting use of a wireless communications device when operating a vehicle; another Minnesota bill would allow a hands-free call only. An Indiana bill would add “place or receive a telephone call” to the activities using a telecommunications device that are prohibited while operating a moving vehicle.

Other bills would prohibit voice or text communications except those that are hands-free. For example, a bill in Missouri would prohibit use of either hand except to activate, deactivate, or initiate a function on a hands-free device. A bill in Oklahoma would make it unlawful for any person to operate a motor vehicle while using a hand-held electronic communication device while the vehicle is in motion, with an exception to allow a person to use a hands-free accessory.

Brief excerpts from these bills are included in Appendix B.

## **Distracted Driving More Generally**

Of the statutes reviewed, only those of Connecticut, Georgia, New Jersey, and Maine have general prohibitions on distracted driving; the District of Columbia also prohibits it. Georgia and Maine do not require all mobile device use to be hands-free. This list does not include prohibitions on distracted driving that may be in statute in sections not directly related to hands-free use.

- **Connecticut.** Except as provided in subsections [regarding hands-free use of certain devices under certain circumstances]. . . , no person shall engage in any activity not related to the actual operation of a motor vehicle in a manner that interferes with the safe operation of such vehicle on any highway.
- **District of Columbia.** Distracted driving shall be prohibited. “Distracted driving” means inattentive driving while operating a motor vehicle that results in the unsafe operation of the vehicle where such inattention is caused by reading, writing, performing personal grooming, interacting with pets or unsecured cargo, using personal communications technologies, or engaging in any other activity which causes distractions.
- **Georgia.** A driver shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions which shall distract such driver from the safe operation of such vehicle, provided that, except as prohibited by Code Sections 40-6-241.1 and 40-6-241.2, the proper use of a radio, citizens band radio, mobile telephone, or amateur or ham radio shall not be a violation of this Code section.

- **New Jersey.** Notwithstanding any other provision of law to the contrary, it shall be unlawful for any person to drive or operate a motor vehicle in an unsafe manner likely to endanger a person or property.
- **Maine.** “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. A person commits the separate traffic infraction of operation of a motor vehicle while distracted if, during a violation or a crash, the person was engaged in the operation of a motor vehicle while distracted.

### ***2017 Bills to Prohibit Distracted Driving***

As of February 24, 2017, bills to ban distracted driving more generally have been introduced in the state legislatures of New Jersey, North Dakota, South Carolina, and Washington.

**New Jersey.** AB 1892 would require recording and tracking of crashes in which the driver was inattentive and the causes of that inattentiveness. Current law requires the information be kept regarding cell phone use associated with crashes. The bill states “causes of driver inattention shall include, but not be limited to, use of [various portable devices plus citizens band radios or dispatch radios], fatigue, personal grooming, consuming food and beverages, reading, and attending to unsecured pets.” The bill would require the New Jersey Motor Vehicle Commission to compile and make available to the public that information. It also would prohibit an insurance company from using the information on the accident form concerning driver inattention as the basis for imposing or collecting a surcharge from a policyholder, increasing a policyholder’s insurance premium, or failing to renew a policy.

AB 1908 would add to law, “An operator of a moving motor vehicle shall not engage in any activity unrelated to the actual operation of a motor vehicle in a manner that interferes with the safe operation of the vehicle on a public road or highway.” Fines for violation would be \$200 to \$800. A law enforcement officer would have to note on the citation the specific nature of the distracted driving observed.

**North Dakota.** HB 1430 would prohibit “operation of a motor vehicle while distracted,” defined as operating a motor vehicle by a person who “is engaged in an activity that is not necessary to the operation of the vehicle and actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle.”

**South Carolina.** HB 3246 would make it unlawful to “drive a motor vehicle while engaged in any activity that materially and appreciably impairs a driver’s faculties to drive a motor vehicle.” A law enforcement officer could not charge a driver with a violation “unless the driver is observed violating another motor vehicle offense due to his being distracted by activities performed in the motor vehicle.” The fine would be not more than \$500.

**Washington.** HB 1631 would add 50 percent to the penalty for any moving violation committed “if the driver was dangerously distracted at the time of the violation.” It would define “dangerously distracted” as engaging in any activity not related to the actual operation of a

motor vehicle in a manner that interferes with the safe operation of such motor vehicle on any highway.” The additional fines would be directed to support programs dedicated to reducing distracted driving.

SB 5289 would make “driving dangerously distracted” a traffic infraction. The definition of “dangerously distracted” would be the same as that in HB 1631. This bill also would direct new fines to support programs dedicated to reducing distracted driving.

### **Exceptions to the Prohibitions**

Most exceptions to the prohibitions on using mobile devices while driving are like those in Kansas law that prohibits texting while driving (KSA 2016 Supp. 8-15,111). All provide exception for use of a mobile device to prevent imminent injury to a person or property. The table on the next page indicates which states offer which exceptions. Statutory wording of each exception will be provided upon request. Similar information from 2017 bills in other states is included as Appendix C.

**Exceptions to Hands-Free Use of Mobile Devices, General**

X indicates similar exception

<b>Kansas (texting ban) (KSA 2016 Supp. 8-15,111)</b>	<b>CA</b>	<b>CT</b>	<b>DC</b>	<b>DE</b>	<b>HI</b>	<b>IL, phone</b>	<b>IL</b>	<b>MD</b>	<b>NV</b>	<b>NH</b>	<b>NJ</b>	<b>NY</b>	<b>OR</b>	<b>VT</b>	<b>WA</b>	<b>WV</b>
(c) The provisions of subsection (b) [texting ban] shall not apply to:																
(1) A law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment;	X	X	X	X	X	X	X	X	X		X	X	X		X	X
(2) A motor vehicle stopped off the regular traveled portion of the roadway;		X			X		X			X		X		X		X
(3) A person who reads, selects or enters a telephone number or name in a wireless communications device for the purpose of making or receiving a phone call;			X	X		X	X	X		X				X		X
(4) A person who receives an emergency, traffic or weather alert message; or																
(5) A person receiving a message related to the operation or navigation of the motor vehicle.								X	X	X				X	X	
(d) The provisions of subsection (b) shall not prohibit a person from using a wireless communications device while operating a moving motor vehicle to:																
(1) Report current or ongoing illegal activity to law enforcement;				X					X		X				X	
(2) Prevent imminent injury to a person or property; or	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
(3) Relay information between transit or for-hire operator and the operator's dispatcher, in which the device is permanently affixed to the motor vehicle.				X	X		X	X	X	X	X				X	X
Exceptions below are NOT in Kansas' texting ban																
Other workers within the scope of their employment		X		X					X				X		X	
Operate amateur radio		X		X	X		X		X		X		X		X	X
Operate a two-way or citizens band radio				X			X									
Operating an unregistered farm vehicle				X									X			
Worker within a specified zone						X										

The most common exceptions are these (using language from KSA 2016 Supp. 8-15,111 to describe them):

- **Law enforcement or emergency service personnel acting within the scope of their professional employment.** All of the states reviewed except New Hampshire and Vermont have similar exceptions for law enforcement personnel. Nevada and Oregon also include exceptions for utility personnel, under certain circumstances. Washington law also includes an exception for a tow truck responding to a disabled vehicle. Connecticut exempts military personnel; however, Department of Defense regulations prohibit all but hands-free use unless the vehicle is stopped.<sup>2</sup> Delaware exempts employees, including government employees, using two-way radios.
- **Preventing imminent injury to a person or property.** All of the states have exemptions related to emergencies, but those exemptions vary. The requirement for hands-free operation does not extend to calls made to emergency personnel (*i.e.*, 911 calls) in Connecticut, Delaware, Hawaii, Illinois, New York, Vermont, West Virginia, and the District of Columbia. California, Maryland, New Hampshire, and Washington also allow calls to certain other providers of emergency assistance, such as health care providers. The remaining states offer more narrow exemptions: “responding to a situation requiring immediate action to protect the health, welfare or safety of the driver or another person and stopping the vehicle would be inadvisable, impractical or dangerous” (Nevada); “the operator has reason to fear for his life or safety” (New Jersey); and “summoning medical or other emergency help if no other person in the vehicle is capable of summoning help” (Oregon).
- **Relaying information between a transit or for-hire operator and the operator’s dispatcher, in which the device is permanently affixed to the motor vehicle.** Delaware, Hawaii, Nevada, New Hampshire, New Jersey, and West Virginia specify this two-way communication must be by voice radio. Illinois allows a driver of a commercial vehicle to read a message displayed on a permanently installed device with a screen not exceeding ten inches tall by ten inches wide and to use a fleet management system or dispatching service for a purpose not otherwise prohibited. Maryland allows “use of a hand-held telephone as a communication device utilizing push-to-talk technology.” Washington allows a device permanently affixed to the vehicle to relay time-sensitive information to the vehicle operator’s dispatcher. Delaware also allows use of two-way radios by employees.
- **Operating an amateur radio.** Connecticut law restricts that use to emergency situations only, but Delaware, Hawaii, Illinois, Nevada, New Jersey, Oregon, Washington, and West Virginia do not. All but New Jersey required the operator to be licensed by the Federal Communications Commission.

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2 See Army Regulation 385-10, Section 11-4e.

## Enforcement and Penalties

In Kansas, the fine for unlawful text messaging is \$60. The states reviewed that specify minimum fines have fines for violation of hands-free requirements ranging from \$20 for a first offense in California to \$600 to \$800 for a third or subsequent offense in New Jersey. Bills offered in other states in 2017 include potential fines ranging from \$30 in Iowa to \$2,000 for a third or subsequent offense in Oregon. (A “0” in the “lowest fine” column indicates only a maximum fine is specified.) As also indicated in the table below, some states’ laws allow or require increased penalties under certain circumstances, such as when a crash related to use of a mobile device causes injury. The table does not address the issue of court costs, as that information was present in very few of the statutes or bills reviewed.

Fines in Current Law			
State	Lowest fine	Highest fine	Additional information
California	\$20	\$50	
Connecticut	\$150	\$500	
Delaware	\$100	\$300	
District of Columbia	\$100	\$100	If first offense, waiver of penalty if person provides proof of acquiring a device to allow hands-free operation
Hawaii	\$250	\$250	\$300 if in school zone or construction area
Illinois	\$75	\$175	
Maryland	\$75	\$175	If first offense, waiver of penalty if person provides proof of acquiring a device to allow hands-free operation
Nevada	\$50	\$250	
New Hampshire	\$100	\$500	
New Jersey	\$200	\$800	If third or subsequent, may suspend driver’s license for 90 days
New York	\$50	\$450	
Oregon	\$0	\$500	
Vermont	\$100	\$500	
Washington	\$0	\$250	
West Virginia	\$100	\$300	

Fines in 2017 Bills			
State	Lowest fine	Highest fine	Additional information
Arizona	\$100	\$500	
Georgia	\$150	\$150	
Iowa	\$30	\$100	If violation causes serious injury, add fine of \$500 or \$2,000; if violation causes death, add fine of \$1,000 or \$10,000; suspend driver’s license <sup>3</sup>

<sup>3</sup> Summarizes more than one bill.

Maryland	\$0	\$500	
Missouri	\$25	\$100	Double fines in work zone or marked school zone
Oklahoma	\$0	\$100	If violation in a school or construction zone, fine <=\$5,000 if injuries, <=\$10,000 if a death
Oregon <sup>3</sup>	\$1,000	\$2,000	Fine of <=\$10,000 if a passenger < 18 and driver is >=21; >=48 hours in jail or community service; if first offense, suspend fine if driver takes approved distracted driving course at driver's expense
Rhode Island	\$0	\$100	If first offense, suspension of fine if person provides proof of acquiring a device to allow hands-free operation
South Carolina	\$0	\$500	Or jail <=30 days, or both fine and jail
Tennessee	\$50	\$50	
Washington <sup>4</sup>	\$136	\$272	

The state laws and bills reviewed also included these provisions related to enforcement (information from bills is italicized):

- New York and West Virginia laws include this language: The provisions “shall not be construed as authorizing the seizure or forfeiture of a hand-held mobile telephone or a mobile electronic device, unless otherwise provided by law”; *bills in Indiana, Iowa, and Rhode Island would include similar language*;
- A District of Columbia officer making a written accident report must include whether a mobile telephone or other electronic device was present in the motor vehicle, whether the use of such device may have contributed to the cause of the accident, and whether any other distraction may have contributed to the cause of the accident; in Connecticut, any law enforcement officer who issues a summons for a violation of this section must record on the summons the specific nature of any distracted driving behavior the officer observed;
- Laws of New Hampshire and New York state a vehicle operator with a mobile device near the operator's ear is presumed to be engaging in a call; *bills in New Jersey and Rhode Island would add similar language*. New York adds a person who holds a portable electronic device in a conspicuous manner while operating a vehicle is presumed to be using the device; and
- First-time offenders in Maryland and the District of Columbia may have their penalties waived if the offender offers proof of acquiring a device to allow hands-free operation; *a bill in Rhode Island would offer a similar waiver. A bill in Oregon would allow a first-time violator the option to take an approved distracted driving avoidance course.*

A bill in Maryland would form a task force of legislators, safety advocates, medical professionals, and representatives of the insurance industry, crash victims, and the American Civil Liberties Union to study the adoption of enforcement tools to record video of illegal cell

4 Estimated, based on Washington Supreme Court rules; fines are not in statute.

phone use while driving. Among the topics the task force would address are effects on insurance costs of distracted driving and protecting privacy.

A bill in Tennessee would add to its texting prohibition authority for a law enforcement officer responding to a motor vehicle crash involving serious bodily injury or death to examine a portable electronic device at the scene to determine whether it was in use at the time of, or immediately prior to, the crash; it would not authorize access to message content. Another Tennessee bill would add similar provisions to law but restricted to school bus drivers involved in a crash when children are on the bus; a school bus driver is prohibited from using any hand-held device unless the communication is to school officials or in an emergency.

West Virginia law includes this provision regarding insurance: “No policy providing liability coverage for personal lines insurance shall contain a provision which may be used to deny coverage or exclude payment of any legal damages recoverable by law for injuries proximately caused by a violation of this section, as long as such amounts are within the coverage limits of the insured.”

## **Effectiveness**

Evidence does not appear to be conclusive as to the effectiveness of bans on use of hand-held devices while driving in terms of crash reduction, according to an article reporting a study supported by the Insurance Institute for Highway Safety that evaluated recent research on the topic.

The article “Driver Cellphone and Texting Bans in the United States: Evidence of Effectiveness”<sup>5</sup> includes the following:

- The evidence suggests that all-driver bans on hand-held phone conversations have resulted in long-term reductions in hand-held phone use, and drivers in ban states reported higher rates of hands-free phone use and lower overall phone use compared with drivers in non-ban states.
- Even after coding changes were implemented in 2010 to address some of the reporting problems, anomalies and inconsistencies have persisted. Thus, data on cellphone-related crashes in crash databases do not provide a solid basis for establishing the prevalence of cellphone-related crashes, supporting epidemiological research on the risks of cellphone use, or evaluating the effectiveness of cellphone bans.
- Well-enforced traffic laws have been a highly effective countermeasure for reducing risky driving behaviors and the associated crashes, deaths, and injuries. However, it is not clear at this point that laws limiting drivers’ cellphone use are having the same beneficial effects. A review of the research on the effects of driver cellphone and texting bans found mixed results . . . . [T]here is

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5 Anne T. McCartt, Ph.D., David G. Kidd, Ph.D., and Eric R. Teoh, M.S., “Driver Cellphone and Texting Bans in the United States: Evidence of Effectiveness,” Insurance Institute for Highway Safety, Association for the Advancement of Automotive Medicine, March 2014, 5899-114. Downloaded from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4001674/> in February 2017.

considerable unsettled evidence with regard to the patterns of drivers' phone use or the effects of use on crash risk.

- [P]olice officers are challenged by bans applying only to teenage drivers; secondary enforcement laws that require police to have some other reason to stop a vehicle before citing the driver for violating the cellphone law; and the difficulty of discerning whether a motorist is engaged in an illegal behavior such as texting as compared with a behavior that is permitted such as dialing a phone.
- Future evaluations of cellphone bans should link specific changes in driver behavior to changes in crashes and should examine a fuller range of the effects of bans on behavior.

**APPENDIX A - State Law Citations**

State	Citation	Short title of citation	Topic(s) included			
			General approach	Distracted driving	Exceptions	Penalties and enforcement
California	Vehicle Code § 23123	Driving a motor vehicle while using a wireless telephone; penalty; exceptions	X		X	X
	Vehicle Code § 23123.5	Driving motor vehicle while writing, sending or reading text-based communication; exceptions; penalty	X		X	X
Connecticut	CGSA § 14-296aa	Use of hand-held mobile telephones and mobile electronic devices by motor vehicle operators . . .	X	X	X	X
Delaware	21 Del.C. § 4176C	Electronic communication devices; penalties	X		X	X
District of Columbia	§ 50-1731.02	Definitions	X	X		
	§ 50-1731.03	Prohibition on distracted driving		X		
	§ 50-1731.04	Restricted use of mobile telephone and other electronic devices	X		X	
	§ 50-1731.06	Enforcement; fines and penalties				X
Georgia	Ga. Code Ann. § 40-6-241	Driver to exercise due care; proper use of radios and mobile telephones allowed		X		
Hawaii	HRS § 291C-137	Mobile electronic devices	X		X	X
Illinois	625 ILCS 5/12-610.1	Wireless telephones			X	X
Illinois	625 ILCS 5/12-610.2	Electronic communication devices	X		X	X
Maine	29-A.M.R.S.A. § 2118	Failure to maintain control of a motor vehicle		X		
Maryland	MD Code, Transportation, § 21-1124.2	Use of handheld telephone while driving prohibited	X		X	X
Nevada	N.R.S. 484B.165	Using handheld wireless communications device . . . without use of hands-free device unlawful; exceptions; penalty . . .	X		X	X
New Hampshire	N.H. Rev. Stat. § 265:79-c	Use of mobile electronic devices while driving; prohibition	X		X	X

**APPENDIX A - State Law Citations**

State	Citation	Short title of citation	Topic(s) included			
			General approach	Distracted driving	Exceptions	Penalties and enforcement
New Jersey	N.J.S.A. 39:4-97.2	Driving, operating a motor vehicle in an unsafe manner, offense created; fines; surcharge		X		
	N.J.S.A. 39:4-97.3	Use of hands-free and hand-held wireless communication devices while driving; when permitted; penalty	X		X	X
New York	McKinney's Vehicle and Traffic Law § 1225-c	Use of mobile telephones	X		X	X
	McKinney's Vehicle and Traffic Law § 1225-d	Use of portable electronic devices	X		X	X
Oregon	O.R.S. § 811.507	Operating a motor vehicle while using a mobile communication device	X		X	X
Vermont	23 V.S.A. § 1095b	Handheld use of portable electronic device prohibited	X		X	X
Washington	RCWA 46.61.667	Using a wireless communications device or handheld mobile telephone while driving	X		X	
	RCWA 46.63.110	Monetary penalties				X
West Virginia	W. Va. Code, § 17C-14-15	Prohibited use of an electronic communications device driving without handheld features; definitions; exceptions; penalties	X		X	X

**Appendix B**

**2017 Bills on Hand-free Mobile Device Use While Driving and Related Topics**

State	Bill(s)	General approach	Proposed language (excerpt)
Arizona	S 1135	no text or voice communications except hands-free	While operating a vehicle on a highway in the state, a person may not manually type or enter written or visual messages into a cellular telephone or other handheld wireless communications device or send or read data using any such device to access or search the internet or to engage in nonvoice communications with another person, including texting, electronic messaging and instant messaging OR use a cellular telephone or other handheld wireless communications device to engage in voice communications with another person unless the device is used with an accessory that allows the person to communicate without using the person's hands other than to activate, deactivate or initiate a feature or function on the device.
Georgia	H 7	hands-free call only	Except for a hands-free telephone call, a driver shall not use a wireless telecommunications device to place or conduct a telephone call while operating a motor vehicle on the public roads or highways of this state
Indiana	H 1255	hands-free call only	<p>“Adds “place or receive a telephone call” “to the ban on using a telecommunications device</p> <p>A person may not use a telecommunications device to:</p> <p>(1) type a text message or an electronic mail message;</p> <p>(2) transmit a text message or an electronic mail message; or</p> <p>(3) read a text message or an electronic mail message; or</p> <p>(4) place or receive a telephone call;</p> <p>while operating a moving motor vehicle unless the device is used in conjunction with hands free or voice operated technology, or unless the device is used to call 911 to report a <i>bona fide</i> emergency.</p> <p>[no definition changes]”</p>
Iowa	“HF 85/ SF 100”	“hands-free call only [amending no-texting law]”	A person shall not drive a motor vehicle while using a mobile telephone unless the mobile telephone is specifically designed and configured to allow hands-free listening and talking and is used in that manner while driving.
Iowa	SSB 1079	“hands-free device use only [amending no-texting law]”	<p>“A person does not violate this section by using a global positioning system or navigation system or by using an electronic communication device in a hands-free mode.</p> <p>NOTE: bill is proposed by the Department of Public Safety”</p>
Maryland	SB 635	task force on enforcement tools for illegal use of cell phones while driving	<p>“The Task Force shall:</p> <p>(1) review and determine if State law should enable local jurisdictions to adopt a law enforcement tool that would record video of drivers using a cell phone while driving;</p> <p>(2) research statistics related to accidents known or thought to be caused by the use of cell phones while driving;</p> <p>(3) determine insurance costs and increases in insurance premiums related to distracted driving accidents;</p> <p>(4) investigate the possibility of a county directing its own employees or authorizing a licensed private company to use a vehicle equipped with cameras capable of recording video of individuals talking or texting on cell phones while driving; and</p> <p>(5) make recommendations regarding:</p> <p>(i) how to best regulate an industry that involves local governments and private companies with capability to video record drivers texting or talking on cell phones;</p>

**Appendix B**

**2017 Bills on Hand-free Mobile Device Use While Driving and Related Topics**

State	Bill(s)	General approach	Proposed language (excerpt)
			(ii) whether to establish a civil offense related to the video recording of an individual using a cell phone illegally while driving; (iii) protecting the privacy of individuals; (iv) how to avoid incentivizing private companies that make video recordings of violations to profit by maximizing the number of citations issued; and (v) reducing the number of fatal accidents related to the use of cell phones while driving. (g) On or before December 1, 2017, the Task Force shall report its findings and recommendations to the Secretary of Transportation and, in accordance with § 2-1246 of the State Government Article, the chair of the Senate Judicial Proceedings Committee, the chair of the House Environment and Transportation Committee, and the General Assembly.”
Minnesota	H 340	remove exception for making calls from ban on use of electronic communications device	“No person may operate a motor vehicle while using a wireless communications device to compose, read, or send an electronic message, when the vehicle is in motion or a part of traffic. Exceptions. This section does not apply if a wireless communications device is used: (1) solely in a voice-activated or other hands-free mode; (2) for making a cellular phone call; (3) for obtaining emergency assistance to (i) report a traffic accident, medical emergency, or serious traffic hazard, or (ii) prevent a crime about to be committed; (4) in the reasonable belief that a person’s life or safety is in immediate danger; or (5) in an authorized emergency vehicle while in the performance of official duties.”
Minnesota	S 837	“hands-free call only [amending no-texting law]”	“When a motor vehicle is in motion or a part of traffic, the person operating the vehicle is prohibited from using a wireless communications device to initiate, compose, read, or send an electronic message, or a cellular phone, including but not limited to initiating a cellular phone call and talking or listening on the phone. This section does not apply if a wireless communications device is used solely in a voice-activated or other hands-free mode. . . .”
Missouri	S 253	“hands-free call only [amending no-texting law]”	Except as otherwise provided, no person operating a moving motor vehicle upon the highways of this state shall use an electronic wireless communications device.
Missouri	H 284	“no text or voice communications except hands-free [amending no-texting law]”	Except as otherwise provided, no person operating a moving motor vehicle upon the highways of this state shall use an electronic wireless communications device, make or take part in a phone call, or send, read, or write a text message or electronic message, unless the device is equipped with technology allowing for hands-free operation or equipped for voice-recognition hands-free texting and is being used in such manner.

**Appendix B**

**2017 Bills on Hand-free Mobile Device Use While Driving and Related Topics**

<b>State</b>	<b>Bill(s)</b>	<b>General approach</b>	<b>Proposed language (excerpt)</b>
Missouri	HB 312	no text or voice communications except hands-free	No person operating a motor vehicle upon the highways of this state shall use any hand-held electronic wireless communications device. Prohibited use shall include, but not be limited to: reading, composing, viewing, or posting any electronic message; initiating, receiving, or conducting a conversation; or manually typing data into any electronic wireless communication device.
New Jersey	A 1892	recording driver inattention in a crash report	The Commissioner of Transportation shall annually compile and make available to the public information submitted to the New Jersey Motor Vehicle Commission, pursuant to R.S.39:4-131, concerning cellular telephones and other causes of driver inattention in motor vehicles involved in traffic accidents.
Oklahoma	S 44	“no text or voice communications except hands-free [amending no-texting law]”	It shall be unlawful for any person to operate a motor vehicle on any street or highway within this state while using a hand-held electronic communication device while the motor vehicle is in motion. . . . shall not apply if the person is using a hands free accessory which allows the person to communicate without the use of his or her hands.
Oklahoma	SB 132	“hands-free call only [amending no-texting law]”	“It shall be unlawful for any person to operate a motor vehicle on any street or highway within this state while using a hand-held electronic communication device to: 1. Manually compose, send or read an electronic text message while the motor vehicle is in motion; 2. Manually search the internet or engage in non-voice communications with another person, including texting, electronic messaging and instant messaging; or 3. Using a cellular telephone or other handheld wireless communications device to engage in voice communications with another person, unless the device is used with an accessory which allows the person to communicate without the use of his or her hands, other than to activate, deactivate or initiate a feature or function of the device.”
Oregon	S 2	increase penalties	Operating a motor vehicle while using a mobile electronic device is a Class C felony if the person who committed the offense has, at least three times in the ten years prior to the date of the current offense, been convicted of . . . Operating a motor vehicle while using a mobile electronic device. . . For a person’s first conviction, a minimum of \$1,000; for a person’s second conviction, a minimum of \$1,500; for a person’s third or subsequent conviction, a minimum of \$2,000 if the person is not sentenced to a term of imprisonment.
Oregon	H 2597	increase penalties; offer distracted driving avoidance course in lieu of first fine	Summary: The bill would increase the level of the offense of operating a motor vehicle while using a mobile electronic device from a Class C to a Class B traffic violation and to a Class A for a second or subsequent offense or if the commission of the offense contributes to a crash. The court could suspend a fine if, after a first offense, a person completes (at the defendant’s own expense) within 120 days a distracted driving avoidance course approved by the Department of Transportation.
Rhode Island	“S 0175/ H 5182”	hands-free call only	No person shall operate a motor vehicle, while using a hand-held personal wireless communication device to engage in a call while such vehicle is in motion
South Carolina	H 3246	prohibit distracted driving	It is unlawful to drive a motor vehicle while engaged in any activity that materially and appreciably impairs a driver’s faculties to drive a motor vehicle.

**Appendix B**

**2017 Bills on Hand-free Mobile Device Use While Driving and Related Topics**

State	Bill(s)	General approach	Proposed language (excerpt)
South Carolina	H 3526	no text or voice communications except hands-free	It is unlawful for a person to operate a motor vehicle while using a cellular telephone, pager, personal digital assistant device, or another wireless communications device while the vehicle is in motion. This section does not apply to a cellular telephone, pager, personal digital assistant device, or another wireless communications device that is equipped with and operated with a hands-free mechanism. [no exceptions listed]
Tennessee	S 324	officer may examine device if a serious crash	For any motor vehicle crash involving serious bodily injury or death, a responding law enforcement officer who has probable cause to believe a driver was using a portable electronic device to receive or transmit written messages in violation of § 55-8-199 may, upon meeting the requirements of § 40-6-110, examine the portable electronic device with a scanning device approved by the department of safety. Unless otherwise authorized by court order or search warrant, the portable electronic device may be examined only to determine whether the device was in use at the time of, or immediately prior to, the crash, and substantive content on the device may not be accessed or examined.
Tennessee	H 868/ S 954	hands-free call only	It is an offense for a person to knowingly operate a motor vehicle on any road or highway in this state and talk on a hand-held mobile telephone while the vehicle is in motion. . . . This section does not prohibit a person eighteen (18) years of age or older from operating a motor vehicle on any road or highway in this state and talking on a mobile telephone that is equipped with a hands-free device while the vehicle is in motion.
Tennessee	“S 323/ H 1011”	officer may examine device if a serious school bus crash	For any school bus crash involving serious bodily injury or death, a responding law enforcement officer who has probable cause to believe a driver was using a portable electronic device to receive or transmit written messages in violation of this section or § 55-8-199 may, upon meeting the requirements of § 40-6-110, examine the portable electronic device with a scanning device approved by the department of safety. Unless otherwise authorized by court order or search warrant, the portable electronic device may be examined only to determine whether the device was in use at the time of, or immediately prior to, the crash, and substantive content on the device may not be accessed or examined.
Texas	HB 1748	“no text or voice communications except hands-free [amending no-texting law]”	“An operator may not use a portable electronic device while holding or touching the device and operating a moving motor vehicle. This subsection applies to any use of a portable electronic device, including: (1) dialing or deactivating a telephone call; (2) speaking in or listening to a conversation; (3) viewing, taking, or transmitting electronic images; (4) composing, sending, viewing, accessing, browsing, retrieving, or saving e-mail messages, text messages, or other electronic data; (5) entering or changing information in a global positioning or navigation system or any software or application designed for navigation; (6) accessing or viewing an Internet website or computer application; or (7) playing a game. This section does not preempt local ordinances, rules, or regulations that are consistent with or more stringent than the provisions of this section adopted by a local authority . . . .”

**Appendix B**

**2017 Bills on Hand-free Mobile Device Use While Driving and Related Topics**

State	Bill(s)	General approach	Proposed language (excerpt)
Washington	Sub. for HB 1371/ Sub. for SB 5289	no text or voice communications except hands-free	"A person who uses a personal electronic device while driving a motor vehicle on a public highway is guilty of a traffic infraction and must pay a fine . . . The state preempts the field of regulating the use of personal electronic devices in motor vehicles while driving, and this section supersedes any local laws, ordinances, orders, rules, or regulations enacted by any political subdivision or municipality to regulate the use of a personal electronic device by the operator of a motor vehicle."

**Appendix C**

**Exceptions to hands-free use of mobile devices, in 2017 bills, general**

Kansas (texting ban) (KSA 2016 Supp. 8-15,111)	AZ	GA	IN	IA	IA	MN	MO	MO	OK	OR	RI	TN	TX	WA
(c) The provisions of subsection (b) [texting ban] shall not apply to:														
(1) A law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment;	X	X		X	X		X	X		X	X	X	X	X
(2) a motor vehicle stopped off the regular traveled portion of the roadway;		X		X	X		X							X
(3) a person who reads, selects or enters a telephone number or name in a wireless communications device for the purpose of making or receiving a phone call;				X	X	X	X							
(4) a person who receives an emergency, traffic or weather alert message; or				X	X									
(5) a person receiving a message related to the operation or navigation of the motor vehicle.				X		X	X		X				X	
(d) The provisions of subsection (b) shall not prohibit a person from using a wireless communications device while operating a moving motor vehicle to:														
(1) Report current or ongoing illegal activity to law enforcement;	X	X					X						X	X
(2) prevent imminent injury to a person or property; or	X	X	X				X	X	X	X	X	X	X	
(3) relay information between transit or for-hire operator and the operator's dispatcher, in which the device is permanently affixed to the motor vehicle.		X					X	X					X	X
Exceptions below are NOT in Kansas' texting ban:														
Other workers within the scope of their employment; and	X	X						X			X			X
Operate a two-way or citizens band radio.	X			X			X						X	X