



## **“Hands-Free” Position Statement**

### **Position**

This bill is for an act concerning the use of a mobile telephone while driving and providing penalties. This bill prohibits a person from driving 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 only in that manner. The bill does not apply to the driver off the roadway. In addition, the bill exempts the following persons from the prohibition: a member of a public safety agency performing official duties; a health care professional in the course of an emergency situation; and a person receiving safety-related information including emergency, traffic, or weather alerts. These are the same exemptions that are currently applied under Iowa law prohibiting text messaging while driving.

### **Current Situation**

The bill defines “mobile telephone” to mean the same as defined in federal carrier safety administration regulations. Under that definition, “mobile telephone” means a mobile communication device that falls under or uses and commercial mobile radio service, as defined in regulations of the federal communications commission. The federal definition explicitly excludes two-way or citizens band radio services.

We now know that mobile communications are linked to a significant increase in distracted driving, resulting in injury and loss of life. In California, the maximum penalty for a first-time offender is just \$20. However, in Alaska you will get a \$10,000 fine and a year in prison. The National Highway Traffic Safety Administration reported that in 2010 driver distraction was the cause of 18 percent of all fatal crashes – with 3,092 people killed – and crashes resulting in an injury – with 416,000 people wounded. Forty percent of all American teens say they have been in a car when the driver used a cell phone in a way that put people in danger, according to a Pew survey. The Virginia Tech Transportation Institute found that text messaging creates a crash risk 23 times worse than driving while not distracted. Eleven percent of driver’s aged 18 to 20 who were involved in an automobile accident and survived admitted they were sending or receiving texts when they crashed.

### **Rationale**

Distracted driving endangers life and property and the current levels of injury and loss are unacceptable. With all the distractions constantly vying for our attention, it is very easy to become complacent, overconfident or "Zone-out" when we get behind the wheel. Sadly it

is very easy for drivers to get caught in that dangerous area between "I can type in this address" (while driving at freeway speeds) and rear ending stopped traffic. When the things going on inside the vehicle become more important than what's happening outside; it's time to reconsider priorities. So, while it is legal, be cautious. If your use of the GPS device looks like you are texting or using a hand-held cellphone, you could potentially be pulled over. Also, if your use of a hand-held GPS is such a significant distraction to your driving that it jeopardizes your safety or the safety of those around you, you could be issued a citation for a moving violation or worse, be the cause of a collision.

### **Action Steps**

The bill amends current provisions prohibiting text messaging while driving to specify that a person does not violate the text-messaging provisions by using a fixed unit GPS or navigation device. "GPS and navigation device" is defined as an electronic device mounted inside a motor vehicle and capable of providing navigation directions to a driver based on data entered into the device prior to operating the motor vehicle. The bill also strikes a current exception to the prohibition on text messaging while driving which applies to a person selecting a telephone number or name in a hand-held mobile telephone or activating, deactivating, or initiating a function of a hand-held mobile telephone.

The penalties established in the bill mirror the penalties currently applicable for text messaging while driving. A person who uses a mobile telephone while driving in violation of the bill commits a simple misdemeanor punishable by a scheduled fine of \$30. The offense is not a moving violation and therefore cannot be considered for purposes of administrative suspension of a driver's license or to establish habitual offender status. However, if the violation causes a serious injury, a court could impose an additional fine of \$500 or suspend the person's driver's license for not more than 90 days, or both. If the violation causes a death, a court could impose an additional fine of \$1,000 or suspend the person's driver's license for not more than 180 days, or both.

The ban on the use of a hand-held mobile telephone while driving is enforceable only as a secondary action when a driver has been stopped or detained for a suspected violation of another law. The bill does not authorize a peace officer to confiscate a mobile telephone from a driver or occupant of a motor vehicle.

It is illegal to send or read a text while stopped at a stop sign or stoplight. It is also illegal to use a hand-held cellphone while stopped at the same. Using your cellphone as a hand-held GPS device is illegal. It constitutes using your phone in a hand-held manner. The whether or not the user is talking on the phone is not addressed in the law. Currently this is legal. There are no regulations for "hand-held GPS" devices. Although, it is probably a good idea that both hands are kept available for the most important part of driving-driving. If you were to pull out of the roadway and park (with the car running or not), it is not illegal to talk with your cellphone in a hand-held manner. However, be mindful of where the traffic lanes are. If you are impeding traffic, you could be endangering yourself and the public and open yourself up to being cited. Also, this does not mean you can pull over on the side of the freeway, park and take a phone call. The only legal reason to stop

on a freeway, outside of stop and go traffic, is for emergencies, i.e. disabled vehicle, traffic collision, medical issue, etc.

**Further Reading**

<http://www.vtnews.vt.edu/articles/2009/07/2009-571.html>

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Regards,

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