

## Transportation Distractions: Texting While Driving

By: Thornton J. Williams, Williams Wilson P.A.



Cell phone use, especially texting behind the wheel is becoming a growing safety issue across the country. These days, it is not uncommon to see drivers sending or reading text messages as they travel from one destination point to the next. According to the National Highway Traffic Safety Administration (NHTSA), driver inattention is a leading cause of traffic crashes, and is responsible for about 80 percent of all collisions.<sup>1</sup> Yet, it is estimated that more than 100 million people use cell phones while driving. (CTIA – The Wireless Association reports 270 million cell phone subscribers. A Nationwide Insurance public opinion poll showed 81 percent of the public admit to talking on a cell phone while driving).<sup>2</sup>

The Harvard Center of Risk Analysis reports that cell phone use contributes to an estimated 6 percent of all crashes, which equates to 636,000 crashes, 330,000 injuries, 12,000 serious injuries and 2,600 deaths each year.<sup>3</sup> Additionally, the American Medical Association, citing a study that found that text messaging while driving causes a 400 percent increase in time spent not concentrating on the road, recently labeled text messaging while driving "a public health risk."

In fact, a new study in the National Safety Council's (NSC) Journal of Safety Research concludes there is little difference between the driving safety risks of hands-free versus hand-held cell phones.<sup>4</sup> The NSC has stated that "using a wireless communications device while driving is one of the most significant distractions that affects driving performance." Considering crashes are the number-one cause of accidental death in the U.S., texting while driving is an important concern.

According to information on the Insurance Institute for Highway Safety Highway Loss Data Institute, currently text messaging is banned for all drivers in 17 states and the District of Columbia. In addition, novice drivers are banned from texting in 9 states (Delaware, Indiana,

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<sup>1</sup> [http://www.nsc.org/resources/issues/distracted\\_driving.aspx](http://www.nsc.org/resources/issues/distracted_driving.aspx)

<sup>2</sup> <http://www.nsc.org/resources/issues/factsheet.aspx>

<sup>3</sup> Id.

<sup>4</sup> [http://nsc.org/News/handsfree\\_vs\\_handheld.aspx](http://nsc.org/News/handsfree_vs_handheld.aspx); The study, by Yoko Ishigami, Dalhousie University, and Raymond Klein, confirms that any type of cell phone use detracts from the brain's ability to focus on safe driving.

Kansas, Maine, Mississippi, Missouri, Nebraska, Texas, and West Virginia) and school bus drivers are banned from text messaging in 1 state (Texas).

Further, even though regulation of the roadways is generally a state regulated act, the federal government has decided to intervene and exert pressure on the states based on the threat of withholding federal highway funds. States that do not ban texting by drivers could potentially forfeit hundreds of millions of dollars in federal highway funds under legislation introduced this year in the Senate.<sup>6</sup> Under the measure, states would have two years to outlaw the sending of text and e-mail messages by drivers or lose 25 percent of their highway money each year until the money was depleted. The transportation secretary would be required to issue guidelines within six months of the measure being signed into law, and states then would have two years to approve the bans on texting and driving. States could recover highway funds by passing the legislation following the two-year period.

It can be anticipated that lawmakers in states around the country are recognizing the hazards of cell phone usage, especially texting while driving on the road and will pass some type of measures to regulate their continued use. Florida has not yet passed any restrictions on texting behind the wheel to date but it would not be a surprise to see legislation concerning texting and driving in the upcoming legislative session.

Lastly, the National Safety Council has launched a new billboard campaign entitled “Death by Cell Phone” in Florida to address cell phone use while driving. The billboards span across 67 markets and 37 states and feature Linda, a 61-year-old wife, mother and grandmother from Oklahoma, and Joe, a 12-year-old boy from Michigan, both of whom were killed in car crashes by drivers using cell phones. The NSC hopes the campaign will convince drivers to think twice before using cellular devices while driving. It is estimated that over 56,000 Floridians per day are expected to see the billboards.



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<sup>5</sup> <http://www.iihs.org/laws/cellphonelaws.aspx>; Please note: The table provided that shows the states that have cell phone laws, whether they specifically ban text messaging, and whether they are enforced as primary or secondary laws. Under secondary laws, an officer must have some other reason to stop a vehicle before citing a driver for using a cell phone. Laws without this restriction are called primary. California and Utah have unusual provisions noted below.

<sup>6</sup> [http://www.nytimes.com/2009/07/30/technology/30distracted.html?\\_r=2&ref=technology](http://www.nytimes.com/2009/07/30/technology/30distracted.html?_r=2&ref=technology); The sponsors of the Senate measure include Senators Charles E. Schumer, Mary L. Landrieu of Louisiana, Robert Menendez of New Jersey and Kay R. Hagan of North Carolina.