

Date: April 03, 2017	POLICY SUMMARY PREPARED FOR THE BOARD OF DIRECTORS	
Staff: Dan Sapienza		

SB17-027 – INCREASE PENALTIES FOR TEXTING WHILE DRIVING

Concerning an increase in the penalty for text messaging while operating a motor vehicle.

Details

Bill Sponsors:	House – Melton (D) Senate – Court (D)
Committee:	Senate Finance Senate State, Veterans, and Military Affairs Senate Appropriations House Finance House Appropriations
Bill History:	04/03/2017 - House Committee on Finance Refer Unamended to Appropriations
Next Action:	House Appropriations Committee – Not Yet Scheduled.

Bill Summary

This bill increases the penalties for texting while driving by making the offense a class 2 misdemeanor traffic offense, which carries a fine of \$300, a jail sentence of 10 to 90 days, or both. While texting while driving is considered a primary offense, allowing a law enforcement officer to cite a driver without another offense, this bill requires that for a person to be pulled over, the officer must see the driver driving in a careless or imprudent manner while texting. This is still a primary offense, but this requirement would decrease the likelihood of an individual being cited.

Note that this legislation does not change the penalties or laws regarding minors, who are banned from any use of cell phones while driving, including texting. This summary does not include information regarding minors' texting and driving.

Issue Summary

Under current law, texting while driving is a class A traffic infraction, carrying a fine of \$50 and up to 1 point assessed against a violator's license. Second and subsequent convictions have a higher fine of \$100. Between January 2014 and January 2017, 311 people per year on average were cited for texting while driving statewide.¹ Though citations for this offense were not common, phone use (and texting) while driving is thought to be relatively common. According to the 2013 Health District of Northern Larimer County Community Health Survey, 46% of Larimer County residents reported sometimes, usually, or always using a cell phone while driving.² In that survey, 36% of respondents reported sometimes texting while driving.

According to a 2014 review of 28 experiments on texting while driving, texting while driving was found to adversely affect nearly all measures of safe driving – attention to the road, response to traffic events, and

¹ Colorado Legislative Council Staff, Revised Fiscal Note SB17-027. February 15, 2017. Available at: http://leg.colorado.gov/sites/default/files/documents/2017A/bills/fn/2017A_SB027_r1.pdf

² Health District of Northern Larimer County, 2013 Community Health Survey. Cited in <http://www.healthdistrict.org/sites/default/files/legislative-analyses/hb14-1225summary.pdf>

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control the vehicle in a lane on the roadway.³ Annually, the National Highway Traffic Safety Administration (NHTSA) conducts the National Occupant Protection Use Survey (NOPUS), an observation-based survey of driver use of electronic devices. In the 2015 survey, based on daylight observations of 45,916 vehicles, it was estimated that at any given time, 3.8 percent of all drivers are using a cell phone and approximately 2.2 percent were visibly manipulating a handheld device (texting or otherwise manually manipulating the device).⁴ While the observed use of cell phones had reduced from the 4.3% visible in 2014, this rate of phone use was estimated to mean that at any given moment 542,000 phones were in use by drivers nationwide.

Distracted driving is a significant cause of accidents in the U.S. Data compiled in 2014 by NHTSA showed that 10% of all fatal crashes involved a distracted driver and 13% of all distracted driver fatal crashes involved cell phone use of some sort.⁵ Of all auto crashes (fatal, injury, and property damage only) estimated in 2014 (totaling more than 6 million crashes), 16% (967,000) were caused by distraction, and 7% (69,000) of those distracted-driving crashes included cell phone use. NHTSA research pointed to the heavy emphasis on phone-related distracted driving in many discussions, but that the majority of distracted driving was non-phone related: "...distracted driving also includes other activities such as eating, talking to other passengers, or adjusting the radio or climate controls..." The Colorado Department of Transportation estimates that distracted driving contributes to 40 crashes per day in the state.⁶

The National Safety Council (NSC), in a paper sponsored by Nationwide Insurance, disputes the reliability of NHTSA statistics on cell phone use while driving. According to the NSC, data collection is unreliable across the country due to problems at the crash scene, witness reliability, report errors, state coding, and a lack of national data standardization.⁷ The NSC estimates that cell phone use caused as many as 1.1 million crashes in 2013 (compared to NHTSA's estimate of 71,000 phone-involved crashes in 2013).⁸ That NSC report estimates an additional 341,000 crashes in 2013 involved text messaging.

A 2014 review by researchers at the National Institute for Highway Safety found that while there was some evidence laws banning cell phone use while driving were effective at changing some driver behavior, the effect of these laws on rates of related crashes was unclear. According to the study, "the evidence suggests that all-driver bans on handheld 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. The effects of texting bans on the rates of drivers' texting are unknown." The researchers highlighted both the limitations of the research and state-reported limitations on enforcement.⁹ In the studies specifically looking at texting bans, there was conflicting evidence on rates of texting (even self-reported rates of texting increased after some bans) and on the impact on traffic safety.

³ Caird, et al. A meta-analysis of the effects of texting on driving. Accident Analysis & Prevention October 2014. Available at: <http://www.sciencedirect.com/science/article/pii/S000145751400178X>

⁴ NHTSA, Driver Electronic Device Use in 2015. September 2016. Available at: https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/driver_electronic_device_use_in_2015_0.pdf

⁵ NHTSA, Distracted Driving 2014, April 2016. Available at: <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812260>

⁶ Denver Post, Bill would increase penalties for texting while driving in Colorado to \$500 from \$50 for first-timers, January 27, 2017. Available at: <http://www.denverpost.com/2017/01/25/texting-while-driving-penalties-bill/>

⁷ National Safety Council, Crashes Involving Cell Phones: Challenges of Collecting and Reporting Reliable Crash Data. 2013. Available at: <http://www.nsc.org/DistractedDrivingDocuments/NSC-Under-Reporting-White-Paper.pdf>

⁸ NSC, Annual Estimate of Cell Phone Crashes 2013. Available at: <http://www.nsc.org/DistractedDrivingDocuments/Attributable-Risk-Estimate.pdf>

⁹ McCartt AT, Kidd DG, Teoh ER. Driver Cellphone and Texting Bans in the United States: Evidence of Effectiveness. Annals of Advances in Automotive Medicine. 2014;58:99-114. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4001674/>

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This legislation

This bill assumes that the current penalty for texting while driving is insufficient to stop the practice. Currently, the fine for texting while driving is \$50 (\$100 for repeat offenses) with 1 point on the offender's license. As noted previously, in the three year period ending January 1, 2017, there were 934 drivers cited for texting while driving, averaging 311 per year. The bill increases the fine for a first-time offense to \$300 and 4 points on a license.

To counter this higher penalty, the bill was amended in the Senate to require that the driver be seen by a law enforcement officer texting and driving in a careless or imprudent manner. Because the standard for a citation is increased, it's likely that the number of citations for texting while driving would decrease under this legislation. In the review by the National Institute for Highway Safety noted above, while the overall impact of texting bans was unclear, at least one study showed a decline in observed texting while driving following high-intensity enforcement campaigns, which would not be as effective under this bill's additional requirements.

Reasons to Support

- Texting while driving is well-established as increasing the risk of accident and injury. National, state, and local statistics indicate that this practice is increasingly common.

Supporters

- Fraternal Order of Police
- Colorado Public Health Association
- Bicycle Colorado
- Colorado District Attorneys 'Council
- State Farm Insurance Companies
- Colorado Association of Chiefs of Police

Concerns

- In the past three years, at the lower fine amount and the lower standard for law enforcement, there were only 311 tickets written per year on average across the state of Colorado. This bill requires that in addition to texting, to be cited the driver must be seen driving in a careless or imprudent manner, essentially making this a non-primary offense. This could decrease the number of citations issued and in effect reduce the legal risk of texting while driving, counteracting the deterrent effect of the larger fine and penalty.

For Consideration

Since texting while driving impacts safety and contributes to motor vehicle accidents, it is important to consider increased penalties for texting and driving. However, requiring that the driver be seen by a law enforcement officer texting and driving in a careless or imprudent manner would likely lower rather than increase the number of people cited. Similar to the concept that driving while intoxicated itself is dangerous and against the law, it seems appropriate to pursue increasing penalties without requiring the observation of careless or imprudent driving.

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About this Summary

This summary was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. For more information about this summary or the Health District, please contact Dan Sapienza, Policy Coordinator, at (970) 224-5209, or e-mail at dsapienza@healthdistrict.org.