Traffic Safety Review
States Focus on Distracted Driving

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Executive Summary

Distracted driving killed at least 2,841 people in 2018. Women and young drivers are regularly overrepresented in distraction-related fatal crashes as they have the highest rates of holding phones to their ears while driving. However, more data and nationwide harmonization of reporting protocols are needed to better understand the prevalence of driver distraction and its impact on traffic injuries and fatalities. Currently, 48 states ban texting for all drivers and 25 prohibit all drivers from using a hand-held mobile device while driving—Virginia will become the 25th state when its law goes into effect on Jan. 1, 2021. While most direct studies of the effectiveness of state distracted driving laws have mixed conclusions, new data from studies analyzing the impact of these laws on the insurance market suggest that the strongest ones, in particular, are making a difference.

Introduction

The National Highway Safety Administration (NHTSA) defines distracted driving as “any activity that diverts attention from driving,” including talking or texting on the phone, eating or drinking, or manipulating the stereo, entertainment or navigation system. According to the latest available data, 2,841 people died in distraction-related crashes in 2018—7.8% of total fatalities—and an estimated additional 400,000 people were injured. It is estimated that 5% of all drivers in fatal crashes were distracted. Crashes in which at least one driver was identified as being distracted caused $40 billion in economic costs in 2010.

While cellphone use is not the only reason for driver distraction, it poses a significant risk to roadway safety. Texting is especially concerning, according to NHTSA, since it combines visual, manual and cognitive functions. Sending or receiving a text takes a driver’s eyes from the road for an average of 4.6 seconds, the equivalent—at 55 mph—of driving the length of an entire football field. NHTSA concluded in a 2013 study that hand-held mobile device use was associated with an increased crash or near-crash risk. A 2020 report from the University of California Institute of Transportation Studies found that “simulated driving performance drops to dangerous levels after smartphone distraction for all ages and for both voice and texting.” AAA’s 2019 Traffic Safety Culture Index provides insight into Americans’ opinions about the use of personal electronic devices while
driving. The study shows that approximately 95% of respondents view reading or typing on a hand-held mobile device while driving to be very or extremely dangerous. Nearly 80% consider talking on a hand-held mobile device as very or extremely dangerous. In contrast, 22.5% of respondents consider using their phone while driving with the help of hands-free technology to be very or extremely dangerous.

A majority of respondents support distracted driving laws—76% support hand-held bans and 86% support texting bans. Even so, 43.2% reported talking on a hand-held mobile device, 38.6% reported reading on a hand-held device, and 29.3% reported typing a text or email while driving at least once in the past 30 days. Less than half of all drivers believe they are at risk of being caught by police for talking (40.6%), reading (43.7%) or typing (42.7%) on a hand-held device while driving.

This report examines trends in state distracted driving laws and provides a brief overview of the current status of research regarding the impact of these laws. Topics reviewed in this report include:

- Distracted driving background.
- A scan of recent notable state legislative actions on distracted driving.
- The current landscape of state laws addressing cellphone use while driving, along with their enforcement and effectiveness.
- Other state distracted driving countermeasures.
- Federal actions against distracted driving.

**Distracted Driving Background**

**DATA COLLECTION AND REPORTING**

It is difficult to determine the extent of distracted driving and whether it is increasing or declining.

NHTSA recognizes that there are limitations to collecting and reporting driver distraction data. Challenges include difficulty in identifying distraction as a crash factor and the lack of uniformity among police crash reports. Many crashes involving distraction also involve other factors, including fatigue, alcohol impairment, or running a red light or stop sign. In such cases, distraction is not always included in the crash report. Additionally, differences in crash reporting forms make it difficult to collect and compare data nationwide. Harmonization of reporting protocols and more data are needed to better understand the prevalence of driver distraction in vehicle crashes.

For example, a recent study by the Illinois Center for Transportation notes that the “Illinois Department of Transportation (IDOT) has demonstrated interest in addressing the issue of distracted driving. However, the real impact of distracted driving in traffic crashes in Illinois is unclear because of what appears to be a lack of accurate reporting. A need exists to conduct a literature review to better evaluate how IDOT should address this issue.”

In the last few years, states have not introduced notable bills aimed at improving distracted driving data collection and reporting for traffic safety purposes. However, Florida (HB 107) did enact legislation requiring law enforcement officers to record the race and ethnicity of individuals receiving a citation for violating its bans on texting or using a hand-held device in school and work zones.

**DEMOGRAPHICS**

When it comes to understanding distracted driving demographics, studies and data sources mainly focus on age and, to a lesser extent, race, gender and rural-urban classifications.

As in previous years, according to NHTSA, in 2018 drivers younger than 30 were overrepresented in distraction-related fatal crashes and had the highest percentages of mobile device use as the cause of their distraction. Fifteen- to 19-year-old drivers involved in fatal crashes had the highest percentage of reported distraction at the time of the crash compared with other age groups—8% of drivers in fatal crashes in this age range were reported as distracted. Drivers in their 20s were the most likely to be distracted by cellphone use, closely followed by 15- to 19-year-olds.
Teens ages 15 to 19 represented 7% of the people who died in distraction-affected crashes, and 9% of distracted drivers involved in fatal crashes were 15- to 19-year-olds in 2018. Over half (53%) of those killed in distraction-affected crashes involving drivers ages 15 to 19 were teens in the same age range.

According to the latest Centers for Disease Control and Prevention (CDC) survey, 39% of high school students who drove in the past 30 days reported sending a text or email while driving. The CDC notes that “texting while driving among adolescents remains high, increases with age, and is more common among white students than students of other races/ethnicities.”

One study explored the frequency of texting or emailing while driving among high school students in 35 states. It concluded that the five states—Montana, Nebraska, North Dakota, South Dakota and Wyoming—where 50% or more students texted while driving have primarily rural populations of less than 2 million people. In addition, each of these states allows drivers to obtain a learner’s permit at age 15 or younger and has a high proportion of students who report driving. The rural geography in each state may also result in students driving longer distances, thus increasing the likelihood of texting while driving.

NHTSA’s latest data notes that in 2018, 69% of distracted drivers in fatal crashes were male. While female drivers made up 28% of drivers in all fatal crashes, they accounted for 31% of fatal distracted driving crashes in 2018. Between 2009 and 2018, hand-held cellphone use continued to be higher among female drivers than male drivers.

EVOLUTION IN ELECTRONIC DEVICE USE AND NEW FORMS OF DISTRACTION

Results from NHTSA’s annual National Occupant Protection Use Survey—which provides the only nationwide probability-based observed data on drivers’ electronic device use in the United States—paint a mixed picture. The percentage of drivers talking on their hand-held mobile device declined to 3.2% in 2018, compared to 6% in 2008, the first year for which NHTSA data is available. However, the percentage of drivers visibly manipulating hand-held devices increased between 2008 and 2018 from 1% to 2.1%.

One possible explanation for the apparent decrease in the number of drivers talking on their mobile devices is the increased availability of technology that allows hands-free talking in cars. However, technolog-
ical advances could also help explain the rise in drivers who use electronic devices for non-talking functions. Distraction does not result solely from the use of mobile devices. New research from AAA found that drivers who regularly use advanced driver assistance systems (ADAS), such as lane-keeping assistance and adaptive cruise control, were more likely to engage in distracted driving when using these systems. Drivers using ADAS showed an 80% increased engagement in visual-manual secondary tasks, such as texting or dialing a number on a hand-held phone, reaching for an object or adjusting climate control. They also exhibited a 50% increase in performing any secondary tasks, such as interacting or talking with passengers or pets in the vehicle, dancing and singing.

State Legislative Action

With some minor exceptions, states have jurisdiction to regulate driving behavior on their roads, and most laws regarding distracted driving are debated and enacted at the state level. State laws targeting distracted driving vary in several ways, including the behaviors that are prohibited, the drivers to whom the law applies, where the prohibition applies and how the law is enforced.

Hand-Held Texting Bans

States primarily use hand-held and texting bans to combat distracted driving. Hand-held bans are laws that allow the use of mobile devices only while driving in hands-free mode—usually through voice communication or by activating with a single tap or swipe. California’s law (Vehicle Code § 23123.5), for example, provides that “[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.” A growing number of states also include an explicit prohibition to access, view or read non-navigation related content. Some states have laws banning all mobile device use for certain drivers.

Texting bans prohibit drivers from typing or sending text messages while driving but allow talking on a hand-held mobile device. Oklahoma’s texting ban provides that it is unlawful for a driver to use “a hand-held electronic communication device to manually compose, send or read an electronic text message while the motor vehicle is in motion… ‘Text message’ includes a text-based message, instant message, electronic message, photo, video or electronic mail.”

Distracted driving laws can apply to all drivers or only to certain drivers, such as school bus drivers and young or novice drivers. They can also apply to all roads or be limited to specific areas such as school and work zones. Many of these bans provide various exemptions, including use for emergencies and by law enforcement and first responders. Distracted driving laws are either primary or secondary enforcement laws. Primary enforcement laws can be enforced without any other offense taking place. Secondary enforcement laws can be enforced only if the driver also committed a primary violation at the same time.

New York in 2001 was the first state to establish a ban on using hand-held phones while driving. Since then, legislatures have actively debated, enacted and refined distracted driving laws. Between 2018 and 2020, the number of states that enacted hand-held bans increased from 16 to 25. While hand-held bans implicitly include texting, laws in 48 states, the District of Columbia, Puerto Rico, Guam and the Virgin Islands ban text messaging for all drivers.

In addition to hand-held or texting bans, 37 states plus the District of Columbia have laws banning all mobile device use for novice drivers or drivers under a certain age—generally 18, but some states set the maximum age at 19 or 21. At least 18 states and the District of Columbia have laws that prohibit any cellphone use for school bus drivers. NCSL’s chart on distracted driving laws provides a detailed overview of current laws in all 50 states and the District of Columbia.
Fines for hand-held and texting bans range, on average, between $50 and $275, with some states imposing higher monetary penalties, especially for subsequent violations. Other penalties include point assessments or loss of driver’s license, temporary disqualification from receiving a commercial driver’s license and auto insurance surcharges.

In 2019, five states—Arizona (HB 2318), Maine (SB 52), Massachusetts (HB 4203), Minnesota (HB 50) and Tennessee (HB 164)—enacted hand-held bans for all drivers. Arizona’s new law is noteworthy because, in contrast to the bans enacted by the four other states and several existing bans, it does not require activation or deactivation by a single tap or swipe. Additionally, Arizona (HB 2318) and Florida (HB 107) changed their texting ban for all drivers from a secondary to primary enforcement law.

Despite shortened or disrupted legislative sessions due to the COVID-19 pandemic, distracted driving laws were high on several legislature’s agendas this year. So far in 2020, at least nine states have enacted 12 distracted driving bills. Four states—Idaho (HB 614), Indiana (HB 1070), South Dakota (HB 1169) and Virginia (SB 160/HB 874)—enacted hand-held bans for all drivers. South Dakota’s new law explicitly allows the use of a GPS or navigation system but prohibits manually entering information into those systems while driving. It also allows reading, selecting or entering a telephone number when making or receiving a call. Additionally, the law specifically bans drivers from accessing, reading or posting on social media.

Hand-held bans achieved advanced status in two additional states. A hand-held ban in Utah (HB 101) passed the House and was tentatively approved by the Senate until funding could be secured for the increased court costs the bill would create. Colorado’s hands-free bill (SB 65) passed the Senate but was not considered by the House. Pending legislation in Ohio would impose a hand-held ban if enacted.

In a noteworthy enactment this year, Vermont (SB 339) significantly enhanced penalties for violating some of its distracted driving laws. The state established a civil penalty of $200 to $400 for a first violation of its hand-held and texting bans in a school or work zone. The penalty is $500 to $1,000 for subsequent violations in any two-year period. Previously, violating the hand-held ban carried only a one-point assessment against the offender’s driver’s license, and the prohibition to text in a designated school or work zone did not carry enhanced penalties.
LAWS ADDRESSING CELLPHONE USE WHILE DRIVING

Current laws addressing cellphone use while driving can be grouped into five categories:

- **Primary enforcement laws that ban hand-held electronic personal device use for all drivers (including primary enforcement texting bans for all drivers):** 25 states—Arizona, California, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Maryland, Massachusetts, Maine, Minnesota, New Hampshire, New Jersey, New York, Nevada, Oregon, Rhode Island, South Dakota, Tennessee, Vermont, Virginia, Washington and West Virginia—plus the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands.

- **Primary enforcement texting bans for all drivers:** 21 states—Alabama, Alaska, Arkansas, Colorado, Florida, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, New Mexico, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, Texas, Utah, Wisconsin and Wyoming.

- **Secondary enforcement texting bans for all drivers:** two states—Ohio and Nebraska.

- **Primary enforcement texting ban for novice/beginner drivers:** Missouri (for drivers 21 and younger).

- **Montana is the only state without a law limiting cellphone use while driving.**

![Laws Addressing Cellphone Use While Driving](image)

**EFFECTIVENESS OF LEGISLATION**

Experts have not reached a consensus on the efficacy of distracted driving laws such as hand-held and texting bans, and NHTSA has not adopted an official position regarding this issue. Most studies seem to agree that hand-held bans have been somewhat effective in reducing hand-held phone use, but the evidence does not point to a reduction in crashes.

California’s Office of Traffic Safety released a report in 2018 that examined the state’s hand-held phone use since 2012. California enacted a hand-held ban in 2006 that became operative on July 1, 2008. The ban
was toughened in 2016 by allowing an electronic device to be used only if it is mounted on the windshield, dashboard or center console and is activated by a single swipe or tap. The annual observational study conducted in 17 counties found that California’s hand-held usage rate fluctuated between 2012 and 2018. It reached a high of 7.6% in 2016 before dropping to 3.6% in 2017, the year the toughened law became effective, and slightly increased again to 4.5% in 2018.

In its 2014 report, “Driver cellphone and texting bans in the United States: evidence of effectiveness,” the Insurance Institute for Highway Safety (IIHS) points out that all-driver hand-held bans have resulted in long-term reductions in hand-held phone use. However, regarding the effect of bans on crashes, IIHS concluded after reviewing 11 peer-reviewed papers on the issue that the results are unclear. Furthermore, the report points out that bans on all phone use by teenage drivers have not resulted in decreased use among teens, and the effect of texting bans was unknown. In a document entitled “Handheld Bans on Cellphone Use—Effectiveness” (available from NCSL), AAA concurs with these findings. It states that bans have reduced hand-held phone use among drivers, but that at this time, the weight of the evidence does not clearly show they have a lasting effect on reducing crashes.

A recent study by the University of California’s Institute of Transportation Studies suggests that using hands-free mobile devices is safer than using hand-held devices. The study found, for example, that it takes less time to recover from hands-free distractions than texting distractions. However, the authors pointed out that they did not measure any differences in driving measures such as speed, weaving across lanes, and crossing the center or shoulder lane markers.

In contrast, a new study by the American Academy of Pediatrics that analyzed fatal motor vehicle crash rates in 16- to 19-year-old drivers and passengers from 2007 to 2017 concluded that distracted driving laws were effective in reducing crash deaths among teens. The study found that states with primary enforcement texting bans and hand-held cellphone bans for all drivers were associated with the greatest mortality reductions among teen drivers. Secondary texting bans were also associated with reductions. Additionally, primary and secondary texting bans, and to a lesser degree, hand-held bans, were associated with a reduction in teenage passenger deaths.

While the conclusions from the above-mentioned studies are mixed, some recent studies that analyzed the impact of distracted driving laws on insurance metrics suggest they have previously undocumented safety and economic consequences.

Two studies examined the effects of laws restricting cellphone use, positing that if distracted driving laws lead to reductions in the frequency and/or severity of automobile crashes, the effects of such bans should also spill over into the insurance market.
The first study, from the Journal of Risk and Insurance, found that insurers’ physical damage losses from motor vehicle crashes decreased by 3.1% in states with hand-held cellphone bans. Additionally, while auto insurance premiums do not decrease in the year immediately following a hand-held cellphone ban enactment, they do typically decrease a couple of years after.

The second study, from the North American Actuarial Journal, estimated that primary hand-held bans for all drivers lead to a reduction in injury liability claims of approximately 9.2% in any given year during the post-ban period. This reduction in claims leads to a 7.7% savings to the insurance industry per year. The study further found that “distracted driving laws—whether applying to cellphone conversations or texting and regardless of strength—have a significant effect on reducing the frequency of injury liability insurance claims. However, only the strongest distracted driving laws have a statistically meaningful impact on injury liability loss costs.” Finally, this second study calculated that, on average, 4.7% of insurance premium savings are attributable to distracted driving laws.

ENFORCEMENT

Enforceability of distracted driving laws has also been an important topic of discussion, but research lacks in this area. A 2017 study conducted by NHTSA on the enforceability of texting laws in Connecticut and Massachusetts concluded that texting laws can be enforced whether the state has a hand-held ban or not. However, the evaluation suggested that having a strong set of distracted driving laws helps with enforcement of texting laws. For example, in circumstances when law enforcement cannot prove that a driver violated a texting statute, they can turn to other laws, such as hand-held bans.

Additionally, a 2014 study conducted by NHTSA in California and Delaware pointed out that high-visibility enforcement (HVE) over statewide or large multi-jurisdiction areas is feasible and may be effective in modifying behavior. NHTSA also conducted distracted driving demonstration programs over the course of one year in Hartford, Conn., and Syracuse, N.Y. The program tested whether HVE could reduce observed driver use of hand-held phones to talk or text. It found that hand-held cellphone use by drivers dropped from 6.8% to 2.9% in Hartford and from 3.7% to 2.5% in Syracuse. Manipulation of cellphones to dial or text dropped from 3.9% to 1.1% in Hartford and from 2.8% to 1.9% in Syracuse. However, such types of enforcement are costly and require additional labor and other resources to achieve the best results.

OTHER COUNTERMEASURES TO DISTRACTED DRIVING

Colorado lawmakers in 2020 introduced but did not enact a bill (HB 1227) that would have required providers of commercial mobile communications services to make network-level distraction-control technology available to their customers and inform them of its availability. At the customer’s request, this technology would limit distracting content on a mobile device while the customer is driving. Emergency mobile communications use and non-distracted driving functions would still be possible. A similar bill (HB 1272) had been introduced in Colorado in 2018.

A recent CDC survey of youth risk behavior notes that awareness campaigns, education and changes in policy related to texting while driving have had mixed effects among teens. Because of this, interventions such as in-vehicle cellphone-blocking technologies can serve as potential solutions, but their effectiveness and acceptability require more research.

Environmental measures—which don’t seek to influence driver behavior but rather change the environment in which they operate—can also reduce the risk of distracted driving. One example is installation of rumble strips along roads. Rumble strips produce a rumbling noise to alert drivers when they depart the roadway. NHTSA points out that shoulder and center-line rumble strips can prevent crashes associated with inattention or drowsiness. A recent study by the Minnesota DOT concluded that fewer total crashes, including fewer fatal or serious injury crashes, occur on rural two-lane undivided and rural four-lane divid-
ed roadways with rumble strips than on roadways without the strips.

In 2020, at least five states introduced 14 bills (including carry-over bills) addressing installation requirements for rumble strips or mandating the study of their potential advantages. West Virginia’s bill (HB 4806), which could not be considered before the House adjourned this year—would have required all new construction projects involving two-lane secondary roads to have rumble strips in the center of the road. Such a requirement would have been a first-of-its-kind in the U.S. Iowa passed a bill (HB 2644) requiring its department of transportation to study the effectiveness of rumble strips in preventing crashes at certain stop-controlled intersections.

### Nudging Behavior Change with Economic Incentive

Insurance companies have tried to modify driver behavior by introducing usage-based insurance (UBI). To benefit from UBI, insurance customers need to install a telematics device in their vehicle or use an application on their smartphone that collects and transmits driving information to the insurance company. This includes the number of miles driven, where and when the user drove, how the user drives, and whether the user used a cellphone while driving. The company uses this information to underwrite and price auto insurance coverage. Participation in these programs is usually optional and benefits include immediate premium credit and the possibility of future reductions.

The Insurance Research Council conducted an online consumer survey in March 2020 among drivers ages 18 and older on auto insurance telematics and smartphone use. The survey found that 30% of respondents who reported making changes in their driving behavior after or while participating in a telematics program use their cellphone less often while driving. However, 15% of respondents said the changes were permanent, 43% stated they rarely or occasionally revert to their old driving habits, and 42% said they now drive the same as before.

### Federal Action

Distracted driving laws fall mainly under the jurisdiction of individual states. However, Federal Motor Carrier Safety Administration (FMCSA) rules restrict drivers operating a commercial motor vehicle (CMV) from texting and using hand-held cellphones except in emergencies. Federal civil penalties can reach up to $2,750 for drivers and $11,000 for employers who allow or request drivers to text or use hand-held mobile phone while driving. Additionally, FMCSA can disqualify CMV drivers if they commit multiple violations of these rules. CMV drivers can use cellphones while driving but must use voice-activated dialing and be able to initiate, answer or terminate a call or other communication by touching a single button.

Additionally, the Fixing America’s Surface Transportation (FAST) Act contains incentive grant provisions for states if they pass distracted driving laws that meet certain criteria. Grants are administered by NHTSA at the federal level and state highway safety offices at the state level. To receive a distracted driving incentive grant, states must meet a number of requirements, including enacting and enforcing texting bans for all drivers and banning all cellphone use for drivers ages 18 and younger. In 2020, 17 states applied for the Comprehensive Distracted Driving Grant (23 U.S.C. 405e), and seven of these states qualified to receive the grant.

### Additional NCSL Resource

NCSL’s Distracted Driving Webpage