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### Distracted Driving in the United States

Jess Trombley

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**Distracted Driving in the United States**

by

Jessica Toni Trombley

A Thesis

Submitted to the Graduate Faculty of

St. Cloud State University

in Partial Fulfillment of the Requirements

for the Degree of

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## Abstract

Distracted driving is a popular topic throughout the world, especially within the United States. Although, distracted driving is not the most deadly problem in the United States, all of these deaths are preventable if the distractions are put down. Most states in the United States have laws in place to try to deter drivers from having distractions behind the wheel. Are these laws enough? Is there enough deterrence within the laws to stop drivers from being distracted? In this study, I analyzed the laws that are in place for the following states: California, Connecticut, Delaware, Georgia, Hawaii, Illinois, Maine, Maryland, Minnesota, Nevada, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Tennessee, Vermont, Washington, and West Virginia. I analyzed the total amount of automobile crashes, injuries, and deaths the year before and the year after the law went into effect (specific to the state). I found that the states that have the laws in place do not have enough deterrence within them to stop drivers from being distracted. I also came to the conclusion that the earlier the laws were put into effect, the least amount of success of drivers are rarely deterred.

*Keywords:* Distracted Driving, Hands-free, Cellphones, Distractions

### **Acknowledgement**

I would like to dedicated this work to my family. I couldn't have completed it without them. To my husband, thank you for supporting me throughout my school years. Thank you for pushing me to do my best and work my hardest at anything I set my mind to. Thank you for the unconditional love and support in all my crazy ideas. To my children, thank you for letting mommy slip away and have some "me" time working on homework. Use this as a reminder that if you work hard and believe in yourself, you can do anything. To my mother, thank you for all the support you have given me in school since I was in kindergarten. Thank you for all the babysitting so I could get to class. Thank you for being my listening ear and my support when I needed it the most. I love you all very much.

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## Chapter I: Introduction

### Distracted Driving

Distracted driving has been on the rise over the years. The more technology advances the more distracted driving there is. In the United States alone, there are approximately 9 people that are killed each day due to distracted driving. Not only that, the injuries due to a distracted driver are greater than 1000 (U.S. Department of Health & Human Services, 2019, p. 1). Although distracted driving is not the biggest contributor to death in the United States, it is still a death that is completely preventable.

“Over the last five years (2013-2017) in Minnesota, distracted or inattentive driving was a contributing factor in one in five crashes, resulting in an average of 53 deaths and 216 serious injuries each year” (Minnesota Department of Public Safety, 2019a, p. 1). There have been laws put in place in many states that address this issue; Minnesota being one of the many. On April 12, 2019, Governor Tim Walz signed the Minnesota Hands Free Law that went into effect on August 1, 2019. The purpose of this study is to determine if the average adult driver in the United States has been affected by the new law and if their habits have changed. If this is the case, then the roads of the United States should be safer due to the changes in the laws. In 12 of 15 states with hands-free laws in affect, traffic fatalities have decreased by an average of 15 percent (Minnesota Department of Public Safety, 2019c, p. 1, para. 19).

On August 8, 2013, Linda L. Gullickson, 68, of Albertville, Minnesota, was driving when her phone began to ring causing “extreme” distraction. Levi LaVallee, 19, of Otsego, Minnesota, was struck from behind and killed by Gullickson’s northbound van, which allegedly crossed two lanes of County Road 19 and onto the southbound shoulder, where the would-be college sophomore track and cross-country athlete was running. Distracted driving is a problem in

Minnesota and the United States, for both younger drivers and older drivers. A distraction can be anything; a cell phone, a passenger, a cup of coffee, or even a spider. There are laws in place in many states on distracted driving, but is it enough? Something needs to be done about it before the statistics continue to rise.

### **Research Statements & Objectives**

In this descriptive research, I set out to identify whether a relationship exists between the establishment of distracted driving laws and changes in drivers' behaviors. I started with the thought that positive changes in the drivers' behavior would be reflected in changes in perceived negative outcomes (i.e., the number of traffic crashes, injuries, and deaths). This study involved a quasi-experimental research design to examine the data associated with these negative outcomes before the distracted driving laws were put into effect or enforced (pre-test measure) and after they were put into effect and enforced (post-test measure). I did not examine the number of tickets or traffic citations issued since (a) they relate more to enforcement of the new law rather than actual changes in drivers' behaviors and (b) some drivers may have been ticketed for other offenses (e.g., speeding, crossing the center line, failure to signal, etc.) rather than for their distracted that originally attracted the police officer.

I answered three research questions in this study. 1) In those states that passed distracted driving laws, what were the statistics for traffic crashes, injuries and deaths, before and after the passage of those laws? 2) Did the data show a statistical increase or decrease in the negative outcomes after the passing of a distracted driving law? 3) Which States' data demonstrated the greatest increases and/or decreases in the number of crashes, injuries and deaths after passing their distracted driving laws? It was appropriate to begin my study by review the research literature to identify who is involved in distracted driving as victims and offenders.

## Chapter II: Literature Review

Distracted driving in the State of Minnesota needs to be addressed, the laws alone in affect may not be enough. “According to the National Highway Transportation Safety Administration (NHTSA), at any given moment during daylight in the U.S., 660,000 people are using handheld cell phones while they drive” (Hawai'i Free Press, 2016, para. 1). For this chapter, I examined empirical research regarding the etiology of distracted driving relative to the United States today. This review presents research findings and theories that help to explain and understand the origin (i.e., associated and contributing factors) as well as the qualitative and quantitative characteristics of distracted driving. In this chapter, I answer the question, “What does the existing literature say about the nature and extent distractive driving in the following states: California, Connecticut, Delaware, Georgia, Hawaii, Illinois, Maine, Maryland, Minnesota, Nevada, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Tennessee, Vermont, Washington, and West Virginia ?”

### Historical Background

There are four types of distracted driving; visual, auditory, manual, cognitive (Kidd, 2019, para, 1-5.). Visual can be described as looking at something other than the road. This could be looking in the backseat at a child or looking at the side of the road at an accident. Auditory would be listening or hearing something not related to the road or the vehicle. This could be listening to someone talk, whether it be in the vehicle or not. Manual can be described as touching or moving anything other than the steering wheel. This could be holding your cell phone, texting, or changing the dial on the radio. Lastly, cognitive can be described as thinking about something other than driving. This could be thinking about something at work that happened or thinking about your child's baseball game that you are late for. I think that every

person that has ever got behind the wheel of a vehicle is guilty of being a distracted driver at some point; this does not make it right.

With the increase in technology and the newer things in vehicles, the list of distractions continues to rise. Most of the distracted driving campaigns and commercials on television target younger people; teenagers and early twenties. In the United States, drivers between 16 and 24 years of age use their cell phones the most when they are behind the wheel. Drivers aged between 25 and 69 years of age are slightly lower than drivers aged 16 to 24 years of age (See Appendix D). Minnesota follows those trends. Often times, the fatality in an accident is not the driver who was distracted, it is a passenger or an occupant of a different vehicle. (The Zebra, 2019 ; Federal Communications Commission, 2019; National Highway Traffic Safety Administration, 2018b).

## **States and Their Laws**

### ***California***

California's current version of their hands free law came into effect in the State of California on July 1, 2011. California had their first version of a hands free law in California was signed in 2006; but was not put into effect until 2008. Preliminary data from 2017 show that nearly 22,000 drivers were involved in collisions due to distracted drivers that year. Though this may not seem like a major concern based on the number of collisions that happen every year in the state of California, it was a decrease from a collision number of roughly 33,000 collisions in 2007 (McAllister, 2018, para, 8.).

### ***Connecticut***

Connecticut's hands free law went into effect August 1, 2018. In the year of 2017 alone, there were 3,166 deaths due to distracted driving in the state of Connecticut. Connecticut had the

population of 3.5 million people in the year of 2017. Although, 3,166 deaths due to distracted driving is not the leading cause of death, heart disease actually is, but it is still a large number of preventable deaths. Connecticut conducted a poll of 500 adult drivers in their state, 36% said they had either been in a crash or had a near-miss due to distracted driving (Huneck, 2020, para. 10.). This statistic results in an alarming number of drivers being distracted behind the wheel. Many people were or could have been killed in these situations.

### ***Delaware***

In the state of Delaware, statistics show that the number of distracted driving related crashes have doubled from the years of 2013 to 2017. The law for hands free driving in Delaware went into effect in the year of 2011. Even with the law in effect, the numbers continue to rise. The highway safety officials believe that the increase is due to the dependency and popularity of cell phones. The Delaware state police are conducting investigations of their own. For every serious crash or a fatal crash, the officers always look for evidence of cell phone use; if there is suspicion or if the driving is unconscious the officers get a court order to see if a cell phone was being used during the crash. Even though the state of Delaware have increased education material and classes to their residents about distracted driving and have increase patrol, the numbers still continue to rise (Tyson, 2018. P.1. ; Delaware Office of Highway Safety, 2018).

### ***Georgia***

Georgia was added to the hands free list of states in July of 2018. This was after the state noticed a large increase over the years of distracted driving. The state also kept an eye on the trends that coincided with distracted driving and the increase of technology.

...police and traffic safety advocates say it's too soon to declare the Hands-Free Georgia Act a success. They say it may be years before a clear picture of the law's impact

emerges. And it will take a sustained campaign of education and enforcement to pry our phones from our hands while we're driving. "It's a habit that people have a real hard time breaking," said Sgt. 1st Class Stephanie Stallings of the Georgia State Patrol. (Wickert & Dixon, 2019. para, 4-5.).

Although the hands free law in Georgia is fairly new, analyst's believe that the fines should be increased for deterrence (Gore, 2018).

### ***Hawaii***

Hawaii is one of the worst states in the United States when it comes to distracted driving. The state of Hawaii even bans pedestrians from using handheld devices as they cross the streets. Amongst the states that have hands free laws in effect, Hawaii is the worst state in regards to the amount of traffic fatalities due to distracted driving. In the years of 2015 to 2018, Hawaii showed a 41 percent increase in driving fatalities due to distracted driving. "The nationwide average is 9.2 deaths per million people, but Hawaii's rate was 16.9 deaths." (Let's Talk, 2019, p. 1.). With Hawaii being one of the states that started the hands free movement years ago, it's unusual to see such a high increase.

### ***Illinois***

Illinois has issued 14,268 tickets for using a cell phone without a hands free device in the year of 2018. This is a 700% increase from the year of 2017 in Illinois when the officers wrote 1,729 tickets (Wisniewski, 2019. p.1). This is after the hands free law came into effect in Illinois in August of 2018. The state of Illinois as a whole is trying to prevent distracted driving, but they are having an issue with officers in Chicago enforcing the laws. Even though the state of Illinois has had such a high uptick in the amount of tickets being issued for cell phone use without a hands free device, the city of Chicago has not benefited that number. In 2017 the police officers

in the city of Chicago wrote a total of 531 cell phone use tickets. In 2018, the number decreased to 291 tickets. These numbers are both significantly lower than the year of 2014 when nearly 45,000 tickets were issued. “Safety advocates say distracted driving is likely under reported as a factor in crashes, and that it poses a similar or greater risk than drunk driving.” (Wisniewski, 2019, para. 4.).

### ***Maine***

Maine has been a hands free state since 2011, but strengthened the law in 2019. Maine drivers are required to be hands free and are required to pull to the side of the road or off the road in order to hold their phone in their hands; this does not include being stopped at a stop light. It is illegal to hold your phone in your hand while driving a vehicle in the state of Maine. Even with the law in effect, Maine has been consistent in the number of distracted driving crashes from 2012 to 2017. The strengthening of the law is in hopes to lower those numbers (BDN Editorials, 2019; Board, 2019; Buttarazzi, 2019; Maine Department of Public Safety, 2020).

### ***Maryland***

Maryland has been a hands free state since 2013. In Maryland, they call the hands free law Jake’s Law. Jake’s Law can be defined as a driver that causes serious injury or death while talking on a cell phone or texting could receive a prison time of up to three years and a fine up to \$5,000. Like many of the other states, the amount of ticketing and the punishment for distracted driving is minimal. In 2017, the police officers in the state of Maryland issued 31, 286 tickets for having cell phones in the drivers hands. Though that number seems large, Maryland has an average of 52,473 accidents per year due to distracted driving. This means that even in those accidents, the police are not issuing a citation at every distracted driving accident (Maryland Department of Transportation, 2018; Jones, 2013).

### ***Minnesota***

In 2013, the state of Minnesota put a law into effect to ban texting and driving. Numbers from Minnesota Courts show a disturbing upward trend in texting citations since passage of that law: 2,177 (2013), 3,498 (2014), 4,115 (2015), 5,988 (2016), 7,357 (2017), 9,545 (2018) (Minnesota Department of Public Safety, 2019b, p. 1).

Minnesota just recently joined the hands-free movement. In 2019, the law went into effect that all drivers must use a hands-free device, while using a cell phone, while driving a vehicle; this includes sitting at a stop light. One of the features of the new law in Minnesota is that if a driver causes a serious crash or death due to being distracted by a cell phone, they can be charged with something more serious like careless/reckless driving or manslaughter. It is clear that Minnesota police officers are writing citations for texting and driving, but we are still waiting on data results on if the new law is getting the distractions off the road (VerHelst, 2019).

### ***Nevada***

Nevada joined the hands free movement in January of 2012. Similar to other states that are hands free, Nevada has campaigns and programs to help keep distracted driving to a minimum. In 2017, Nevada conducted a program that analyzed college students and their knowledge and feelings about distracted driving. The study showed, regardless of the information learned and the consequences, that more than 50% of the participants still continue to talk, text, and groom themselves while driving (Nevada Department of Public Safety, 2017; Nevada Department of Transportation, 2020)

### ***New Hampshire***

New Hampshire law officials put the hands free driving law into effect in 2015. As of 2017, the state has already seen a decrease in traffic fatalities due to distracted driving. In 2014,



the state has 16 fatal crashes due to distracted driving. In 2016, just one year after the law was put into effect, there was a total of 2 fatal crashes due to distracted driving. New Hampshire's total number of crashes is consistent with other years, fatal distracted driving is down (Exchange, 2017 ; Hage Hodes,2019).

### *New Jersey*

For the sixth straight year, 2012-2018, distracted driving has been the leading cause of fatal crashes in the state of New Jersey. This does not necessarily mean that all of the fatal crashes are due to cell phones, but just like the other states, New Jersey is seeing an increase in cell phone use behind the wheel, even though they have the hands free law in effect.

Distraction is a growing issue and in-vehicle systems often give drivers the false sense that they are safer, when in fact studies show the cognitive distraction is the same or greater, Lewis said. We need to stop focusing on what sort of device it is, and focus on the driver behavior. You should not drive distracted. (Higgs, 2018, para. 14).

Not only is New Jersey focusing on the cell phone as a distraction, but they are aware that there are more distractions than just that. The state of New Jersey focus on the three "e's"; education, engineering, and enforcement. The hands free law went into effect in July 2014; the year with the most written tickets for violating the hands free law in New Jersey was 2014 with 89,747 tickets. Although the results are similar, New Jersey is taking a different approach than most states for enforcing the hands free law and educating its residents (Higgs, 2018, para. 24; State of New Jersey, 2020).

### *New York*

In 2018, the state of New York issued 3,639,413 tickets for cell phones while driving. Even though New York's hands-free law went into effect in 2001, and has been modified a few

times, they still have a problem with distracted driving. That seven-digit number is very large, but very minor in comparison to the 3,553,070 other tickets that were issued in 2018. Although New York police officers write many tickets for distracted driving, they are the most relaxed when it comes to insurance penalties. In New York, if a driver were to get cited for distracted driving, their insurance would increase a mere 5 percent (Barnhart, 2019; Governors Highway Safety Association, 2020; New York State Police, 2020).

### ***Oregon***

Oregon put their hands-free law into effect on October 1st, 2017. This law replaced the law that Oregon had in place that was specifically banning talking and texting while driving. Before this, drivers were using their phones for social media and games while driving, thus being legal. As of 2017, all use of cell phones is illegal while driving. As well as other states, enforcing such behaviors is an uphill battle. Convictions for using a mobile electronic device in Oregon: 21,520 (2013), 17,723 (2014), 15,264 (2015), 10,317 (2016), 8,748 (2017), 13,086 (2018) (Oregon Department of Transportation, 2019, p. 2). As we can see, police officers are writing tickets and convicting the drivers of distracted driving and using electronic devices, but is it enough to deter drivers? Another observation is that the lowest number of citations that were handed out was the same year the law went into effect.

### ***Rhode Island***

Rhode Island police has gradually increased their number of citations that have been written each year. Since the law went into effect in 2018, in April 2019 to the Rhode Island State Patrol troopers did a hands free sting for 12 days. During those days, the state troopers stopped 813 cars for cell phone use. Of those, only 65 vehicles were written tickets or warnings for using a hand held electronic device. This sting was in hopes that they would send a message to the

motorists, as they did not see a significant change when the law went into effect (Amaral, 2019; Rhode Island Department of Transportation, 2020).

### ***Tennessee***

Tennessee is ranked number one in the death toll due to distracted driving. Between the years of 2015 and 2017, there were 166 fatalities due to cell phones in the state of Tennessee. This is double the next state on the list, which happened to be Delaware. 166 fatalities is five times the national average of fatalities in the United States. Tennessee hopes to extend the law, in hopes that the new law will be passes in January 2020. The new changes to the law will make the use of an electronic hand-held device a class c misdemeanor (State of Tennessee, 2019a).

### ***Vermont***

Like many of the other states, Vermont is trying its best to deter motorists from being distracted while driving. Vermont's hands free law went into effect on June 1, 2010; one of the earlier states to implement a hands free law. One of the other things that the state is doing to deter drivers from being distracted is increasing their insurance. If a driver gets a distracted driving citation, Vermont insurance companies have the highest premium increase. The insurance increase for distracted driving in Vermont is an average of 56 percent, nearly \$600 a year (State of Vermont, 2020).

### ***Washington***

In Washington state alone, in the years of 2014-2015, distracted driving increased by 32 percent. Washington has a way, other than writing tickets or giving them fines, of trying to deter the drivers on their roads from being distracted; They have E-DUI's. An E-DUI is a driving under the influence of electronics. The cost of the violation will be increased by each offense. Washington also implements a "dangerously distracted" violation. This is when someone does

not violate a traffic law, or admit to it, but they are not operating the vehicle safely. This violation will earn drivers a \$99 fine. “A separate study, completed by WalletHub, found that Washington is among the worst, and most stringent, states in the nation to get a traffic violation.” (Washington Traffic Safety Commission, 2019, p. 1; State of Washington, 2017; Washington Traffic Safety Commission, 2018; Clarridge, 2019; Lindblom, 2018).

### ***West Virginia***

West Virginia’s hands-free law went into effect on July 1, 2013. In 2015, in West Virginia, then number of citations for cell phone citations was 6,924. The West Virginia police also wrote 1,426 warnings for cell phone use without hands free devices. West Virginia police also wrote 613 citations for texting while driving and 108 warnings for the same offense. “In the 2014 Biannual Driver Attitudes and Awareness Survey, only 2.1% of respondents reported having received a ticket for texting while driving” (Wtov, 2017, p. 1, para. 4; West Virginia Legislature, 2020)

## **Chapter III: Research Design**

### **Research Method & Delimiters**

For this thesis, I collected data from the United States that currently have a hands-free law to address distracted driving. I looked for data sets and statistical reports that were generated by their Departments of Motor Vehicles and state-level criminal justice agencies. All in all, this topic is very new in most of the states that I examined. This made it very difficult to get the desired information and difficult to compare the states. When I could not find the data that I needed for this study, then I reached out to the appropriate government officials.

During this study, I did not collect and examine the data from the outside the United States. Also, I did not collect or examine data from states that do not have a hands-free law in place; though, it is strongly encouraged in many states to put down their distractions. I did not select certain age groups to examine; I examined all drivers as a whole.

### **Research Populations & Sampling**

The target population for this study consisted of all data specific to the perceived negative outcomes of distracted driving (i.e., the number of traffic crashes, injuries, and deaths) in the United States today. A sampling frame (a.k.a., survey population) for this study was established using search engines online to identify those data sets available to researchers in digital formats. The sample population was selected using a nonrandom, purposive sampling technique. According to Maxfield and Babbie (2007), purposive sampling is based on a researcher's knowledge of the subject and research needs relative to information and data. For this study, the sample population consisted of only those data sets for states that had passed, and put into effect, a "hands free" or distracted driving law ( $n = 19$ ). These states are as follows: California, Connecticut, Delaware, Georgia, Hawaii, Illinois, Maine, Maryland, Minnesota, Nevada, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Tennessee, Vermont, Washington, and West Virginia.

### **Conceptualization & Operationalization**

I attempted to collect the following data for each and every state listed above: total number of crashes due to automobiles the year before the law went into effect, more specifically the number of injuries and the deaths in that same year, the year the law went into effect, the penalties for distracted driving, the number of crashes after the law went into effect (looking at a couple of years after) and the number of injuries and deaths after the law was in effect. As stated

above, I attempted to collect all of this data for all of the examined states, but was not successful in collecting it all due to the data not being publicly available or the data not being complete.

I analyzed the data collected based on whether the law that was in effect had an effect on human behavior. Would the law that is telling the driver to put their cell phones down, actually make them put their cell phones down? The Classical School of Thought defines deterrence in two dimensions: specific and general. Specific deterrence would be directed at the offender; in this case, it would be the distracted driver. If the driver gets caught distracted driving, then they would be apprehended and punished. Ideally, the punishment would deter them from intentionally driving distracted again in the future. General deterrence would be directed at the general public. In this case it would be all drivers in the United States. The general public would see their neighbors, friends, coworkers, and others get punished for distracted driving; and then they do not drive distracted for fear that they would be caught and punished (i.e., vicarious learning or vicarious reinforcement) (Beccaria, 1963; Bentham, 1948). Deterrence would only work in this situation with certainty, celerity, and severity. Certainty that the driver would be caught distracted driving. Celerity that the system would process the citation or punishment in a timely manner. Severity in the punishment; the punishment must be known to the distracted driver and must be severe enough to make the driver not want to be punished.

When looking at the data collected and the numbers calculated to determine if a relationship occurred, I examined the number of crashes, injuries, and deaths in auto accidents to identify whether they decreased after the law was put into effect. If they did, then I believe that there is a positive relationship between the law that went into effect and distracted driving. If the crashes, injuries, and deaths in auto accidents increased after the law was put into effect, then there is no relationship of the law that went into effect and distracted driving. I felt that looking

into the laws that are put into place was relevant because that data was taken into consideration when looking at the number of crashes, injuries, and deaths in relation to deterrence.

### **Data Collection, Processing & Analysis**

The data were collected using internet search engines. I collected the out of state information from secure, correct websites, such as Department of Transportation. The information was then placed into a spread sheet and organized by states. The spread sheet was used mostly as notes and a reference. If I would come across some important information while researching, then it would be moved to the spread sheet for easier and quicker access. I would then use this as a guide and used the information to compare the other states.

First, I searched for the current laws that were in place. Once I was able to find the laws, I was able to compare the types of fines and jail time. I, then, began my search for the total amount of accidents in each state; beginning with the year before the law went into effect. I collected the data of the total number of accidents due to automobiles in the analyzed states for the year before and the year after the law went into effect beginning January 1 and ending December 31. I followed the collection of data by collecting the total number of injuries and deaths due to auto accidents in the states examined before and after the law went into effect.

Once I had sufficient information, even though it may not have been as much as I wanted, I analyzed the data. I analyzed the data by looking at the spread sheet, looking at all the information collected on the examined states, and then compared them. I was most interested in how the states were trying to deter the drivers on their roads from being distracted. This was the one constant piece of information that I was able to find on all of the states. Below (Appendix B) will be an easy spread sheet for the readers to follow, based on the deterrence of the different states.

## Chapter IV: Findings & Conclusions

### Data & Analysis

Three research questions were addressed in this study. 1) In those States that passed distracted driving laws, what were the statistics for traffic crashes, injuries and deaths, before and after the passage of those laws? 2) Did the data show a statistical increase or decrease in the negative outcomes after the passing of a distracted driving law? 3) Which States' data demonstrated the greatest increases and/or decreases in the number of crashes, injuries and deaths after passing their distracted driving laws?

The tables on the next two pages show the data for negative outcomes (i.e., traffic crashes, injuries and deaths) in the States that made up the sample population ( $n = 19$ ): California, Connecticut, Delaware, Georgia, Hawaii, Illinois, Maine, Maryland, Minnesota, Nevada, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Tennessee, Vermont, Washington, and West Virginia. Table 1 addresses research question 1 and shows the numbers of negative outcomes for before (Pre-Law Year) and after (Post-Law Year) the passage and enforcement of a "hands free" or distracted driving law. Table 2 displays the calculated amount of change for negative outcomes in absolute number and percent. This data addresses and answers research questions 2 and 3. As previously mentioned, data were not available for each State in all years. **Table 1**

#### *Numbers of Negative Outcomes*

	Pre Law Year			Post Law Year		
	Crashes	Injuries	Deaths	Crashes	Injuries	Deaths
California	199,184	13,017	3,837	206,551 *	13,975 *	4,150
Connecticut	8,608	1,302	281	2019 data not available		
Delaware	20,697	8,001	103	21,202	7,705	116
Georgia	385,221	19,405	1,540	2019 data not available		



Hawaii	No records	488	102	No records	458	93
Illinois	311,679	66,889	998	2019 data not available		
Maine	32,713	8,203	137	2020 data not available		
Maryland	89,655	44,027	511	97,951	30,369	442
Minnesota	79,215	27,877	381	2020 data not available		
Nevada	14,827	1,219	246	15,516	1,189	266
New Hampshire	28,395	308	95	29,862	477	136
New Jersey	248,902	85,882	542	264,540	84,063	561
New York	392,245	188,770	1,358	253,710	179,132	1,390
Oregon	60,053	30,284	498	2018 Data Unavailable		506
Rhode Island	1,739	322	84	2019 data not available		
Tennessee	5,725	1,768	1,041	2020 data not available		
Vermont	12,640	3,144	74	12,651	2,036	55
Washington	120,993	34,311	563	2019 data not available		
West Virginia	41,099	17,684	338	38,095	15,404	332

\*Predicted Numbers for Post-Law Year.

Note. This table provides the answer to Research Question 1 (In those States that passed distracted driving laws, what were the statistics for traffic crashes, injuries and deaths, before and after the passage of those laws?). **Table 2**

*Amount of Change for Negative Outcomes*

	Amount of change					
	Crashes		Injuries		Deaths	
	Numbers	Percent	Numbers	Percent	Numbers	Percent
California	7,367*	3.70%*	958*	7.36%*	313	8.16%
Connecticut	Change Data Unavailable					
Delaware	505	2.44%	-296	-3.70%	13	12.62%
Georgia	Change Data Unavailable					
Hawaii			-30	-6.15%	-9	-8.82%
Illinois	Change Data Unavailable					
Maine	Change Data Unavailable					

Maryland	8,296	9.25%	-13,658	-31.02%	-69	-13.50%
Minnesota	Change Data Unavailable					
Nevada	689	4.65%	30	2.46%	20	8.13%
New Hampshire	1,467	5.17%	169	54.87%	41	43.16%
New Jersey	15,638	6.28%	-1,819	-1.12%	19	3.51%
New York	-138,535	-35.32%	-9,638	-5.11%	32	2.36%
Oregon	Change Data Unavailable				8	1.61%
Rhode Island	Change Data Unavailable					
Tennessee	Change Data Unavailable					
Vermont	11	0.09%	-1,108	-35.24%	-19	-25.68%
Washington	Change Data Unavailable					
West Virginia	-3,004	-7.31%	-2,280	-12.89%	-6	-1.76%

\* Based on Predicted Numbers for Post-Law Year.

*Note.* This table provides the basis for an answer to Research Question 2 (Did the data show a statistical increase or decrease in the negative outcomes after the passing of a distracted driving law?) and Research Question 3 (Which States' data demonstrated the greatest increases and/or decreases in the number of crashes, injuries and deaths after passing their distracted driving laws?).

My analysis of Table 2 disclosed a surprising finding. Generally speaking, crashes and deaths across the board for the amount of change between pre-law and post-law years demonstrated an increase. Whereas the number and percent for injuries generally decreased. With the exception of 2 states (New York and West Virginia), the statistics for crashes increased in the other 7 states (I had data for only 9 states in the sample population). I had data for 10 states on injuries. Statistics decreased in 7 of those 10 states. Regarding deaths, I did not have data to calculate statistics for all states; data for 8 States were unavailable. Of the remaining 11 states, only 4 showed a decrease in the percent of deaths. Those states were Hawaii, Maryland, Vermont, and West Virginia.

After analyzing all the data, I found which states have had the greatest decrease in crashes, injuries, and deaths. The state with the biggest decrease in crashes in the year before the hands-free law went into place and the year after the law went into place was New York. Based on my analysis, New York's crashes decreased by 35.32%. The state that had the biggest decrease in motor vehicle injuries was Vermont. According to the data, Vermont decreased its motor vehicle crash injuries by 35.24%. Vermont also decreased the amount of deaths due to a motor vehicle crash the most. According to the data, Vermont decreased the total number of deaths due to motor vehicles by 25.68%. Overall, the average amount of change for crashes in the states analyzed decreased by 1.19%. This was calculated with an outlier of -35.32% in New York. The average amount of change for injuries due to distracted driving for the states analyzed decreased by 3.39%. The average amount of change for deaths due to distracted driving for the states analyzed increased by 3.31%. This also being calculated with outliers of 43.16% in New Hampshire and -25.68 for Vermont.

### **Interpretation & Discussion**

In conclusion, I found that the difference in the number of crashes, injuries, and deaths is not related to the law put into effect. It seems as though the numbers do not follow a trend and are random. I found that the laws that are in place in the analyzed states have little to no relationship with decreased distracted driving. I also found that police officers are not actively investigating and recording distracted driving violations, which is making data harder to analyze and organize. Lastly, I found that the older laws have the lessor punishments for distracted driving. All in all, I wanted to discover more and find potential solutions to the preventable

deaths, but fell short due to lack of information. Sadly, there seems to be no deterrent effect in these laws.

## **Chapter V: Recommendations & Implication**

Distracted driving in the United States is not the leading cause of death, but it is a major cause of death that could be prevented. During this study, I studied the states that have a hands-free law in effect in order to gather information about the relationship of distracted driving and the current laws in effect. Although the information was scarce in some of the states because of the amount of time the law has been in effect, I was able to analyze the fines and punishments for distracted driving in those states in comparison to the other states. I was also able to examine the states with the data available in crashes, injuries, and deaths in relation to the year the law was put into effect. The goal for this study was to answer the questions, 1) In those States that passed distracted driving laws, what were the statistics for traffic crashes, injuries and deaths, before and after the passage of those laws? 2) Did the data show a statistical increase or decrease in the negative outcomes after the passing of a distracted driving law? 3) Which States' data demonstrated the greatest increases and/or decreases in the number of crashes, injuries and deaths after passing their distracted driving laws?

I found in many of the states that were analyzed, non-significant changes occurred from having the law in place. Many of the states increased in the number of accidents, injuries, and deaths. This could be from many variables not discussed or analyzed in this study. I also found that the difference of the fines and the punishments in the 20 states that were analyzed were not

much different at all. The punishment and fines were very similar across the board. In most of the states, the distracted driving numbers have stayed steady or have increased over the years. Many researchers have found that the interest and popularity in cell phones and other electronic devices have increased causing distracted driving to increase.

Deterrence will only be successful in any situation with certainty, celerity, and severity. Certainty is when the person who is wrongdoing knows that they will be caught. Celerity is that the wrongdoer believes that they will have a timely case. Severity is when the punishment is severe enough that it will stop the wrongdoer from committing the crime again. The Classical School of Thought defines deterrence in two dimensions: specific and general. Specific being directed at the wrongdoer. General being directed at the general public in hopes they will learn from seeing others be punished. The penalties for the laws that are in place are intended to deter the drivers from having distractions, such as cell phone use while driving a vehicle on the roadways. I found in many of the states that the deterrence level is low based on the hands-free laws that are in place for distracted driving. Many of the residents in the states analyzed feel that they will not get pulled over specifically for using their cell phone. If the drivers do get pulled over, they do not believe they will be ticketed. Many of the states analyzed have used stings in order to try to get the point across. During these stings, the state's police will specifically be on the lookout for people using their phones without a hands-free device. Stings such as these affect the total numbers in the end, but they may make people become more aware of what they are doing behind the wheel.

I also recommend that the laws that are in place for distracted driving should be analyzed and rewritten, if found necessary. I think that this should be done because the older laws that are

in effect were written when cell phones were not as popular. I feel as though there are many distractions on the road, but cell phones seem to be the biggest distraction.

### **Proposed Answers & Actions**

This topic is very broad and has a lot of different ways that other research can be conducted. I think that greater knowledge is needed in the actual ticketing process of the police officers. I think that there needs to be a specific question about cell phones and noted on the citation in order to know what the distraction was. Unfortunately, there are more distractions in vehicles other than their cell phones; having a general “distracted driving” citation, does not give the researchers what they need as far as type of distraction. If a specific distracted was listed, then the researchers would be able to pin down what is the biggest distraction behind the wheel and how to prevent it. There could still be error in the research as the driver could lie about what was distracting them.

An additional study to be conducted with this research would be to research why there was non-significant changes to the crashes, injuries, and deaths due to automobile accidents. I think that this would be interesting because I did not find significant changes in the relationship between the change in the law and the total number of accidents, injuries, and deaths; Why? Are there more people on the roads? Do people not care about the laws that are put in place?

Another study that I would be interested in would be looking into the police officers and why they did or did not write the ticket. I understand that this would be tough because most often you would need probable cause or permission to gain access to their phone, but I think that if we found out the truth, we would get a better understanding about what can be done. Should a law be placed to give the police officer permission to gain access to the driver’s cell phone at every traffic stop? Would this cause issues with constitutional rights?

In addition to that study, I think that another study based on deterrence would be beneficial. I think that if a survey were to be done about the laws that are in effect in relation to the fines and punishments, then the laws will become stricter and more deterring. Unfortunately, I found that a lot of drivers do not think that they will be caught if they use their cell phones while driving.

One thing that I suggest is to find a way to monitor the use of cell phones behind the wheel. I think that this would be difficult to do because of passengers in the vehicle. Although, if there was a way for cell phone companies to monitor the use of cell phones behind the wheel, I think that it would be beneficial. I know that there are some privacy issues that would have to be worked out, but even if there was something that monitors the radioactivity waves as a car drives by, maybe that would help determine cell phone use. I am not a science, math, or engineering expert, but I am sure there is a way for a scanner to be able to pick up if a cell phone is/was being used in a vehicle as it passes. Just a thought as cell phones are in the hands of so many drivers behind the wheel.

### **Social & Policy Impact**

DISTRACTED DRIVING AS A WHOLE IMPACTS THE SOCIETY. UNFORTUNATELY, EVERYONE KNOWS SOMEONE OR KNOWS OF SOMEONE THAT DISTRACTED DRIVING HAS AFFECTED. IN THIS STUDY, I FOUND THAT MOST DRIVERS THINK THAT CELL PHONE USE IS A PROBLEM AND PEOPLE SHOULD NOT BE USING THEIR PHONES BEHIND THE WHEEL, BUT THOSE SAME PEOPLE ALSO SAY THAT THEY USE THEIR PHONES BEHIND THE WHEEL. ALL IN ALL, DRIVERS IN THE UNITED STATES SEE DISTRACTED DRIVING AS A PROBLEM, BUT DO NOT DO ANYTHING TO PREVENT IT OR STOP IT. I BELIEVE THAT THERE IS A

LOT MORE THAT CAN BE DONE, AS FAR AS THE POLICY STANDPOINT OF DISTRACTED DRIVING. I THINK THAT THE PUNISHMENTS AND THE FINES SHOULD BE INCREASED TO BECOME MORE OF A DETERRENT FOR DRIVERS ALL OVER THE UNITED STATES. ALONG WITH THE PUNISHMENTS AND FINES, I BELIEVE THAT POLICE OFFICERS NEED TO BE STRONGER ON PREVENTING DISTRACTED DRIVING FROM REOCCURRENCE. THEY COULD DO THIS BY WRITING CITATIONS MORE OFTEN IN ORDER TO DETER DRIVERS FROM GETTING BEHIND THE WHEEL DISTRACTED AGAIN. UNFORTUNATELY, SOME OF THE DEATHS ACCOUNTED FROM DISTRACTED DRIVING ARE NOT THE DRIVER'S LIFE, IT IS AN INNOCENT LIFE OF SOMEONE ELSE WHO COULD HAVE BEEN FOLLOWING THE LAWS. KEEP OUR ROADS SAFE, PUT DOWN THE

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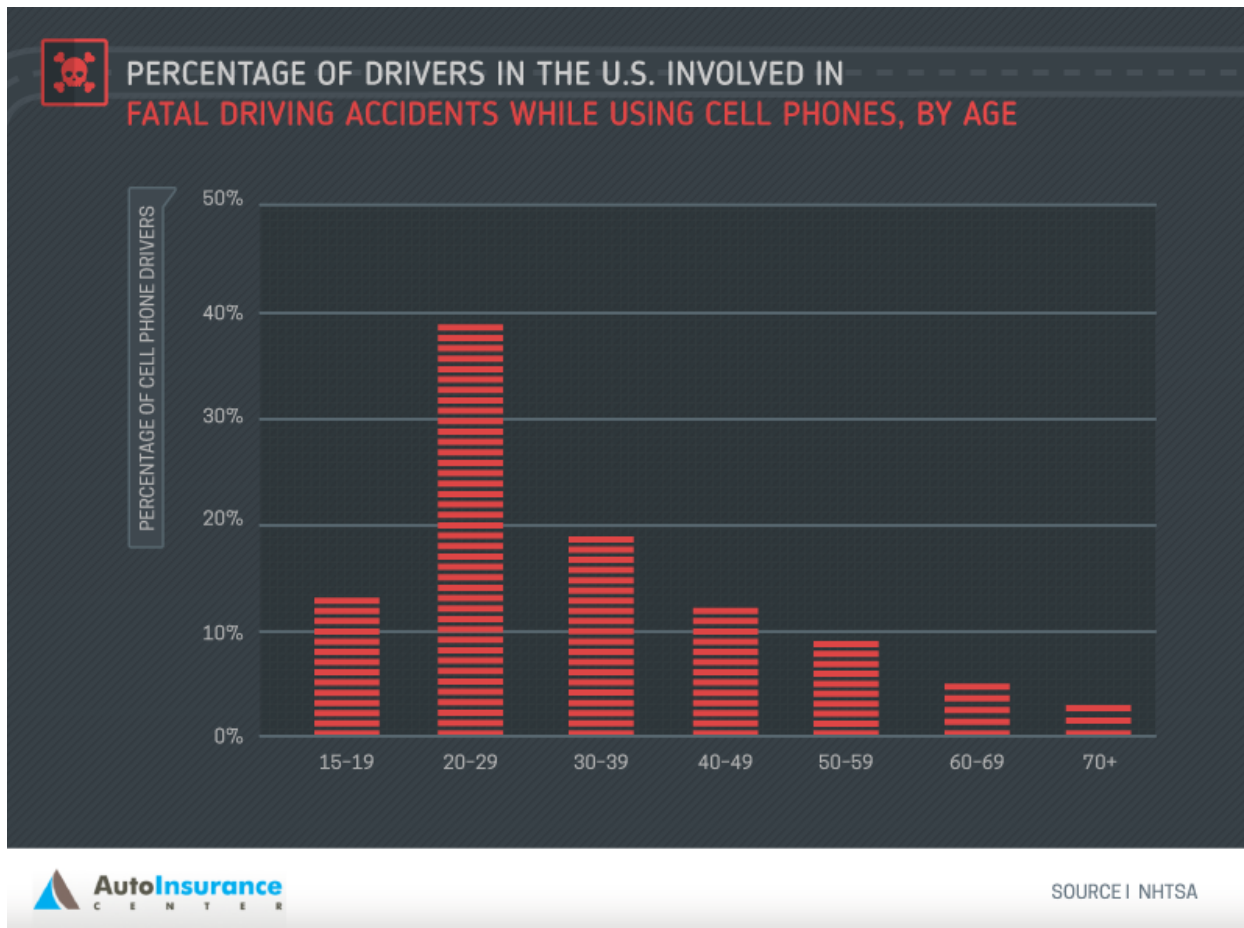
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# Appendix A

## Hawaii by Age



(Hawai'i Free Press, 2016)

## Appendix B

### Distracted Driving Fines

States	Year of Law	First offense	2+ offenses
California	2017	\$20 fine	\$50 fine
Connecticut	2018	\$150 fine	\$300 fine , then \$500 fine after
Delaware	2011	\$100 fine	\$300 fine
Georgia	2018	\$50 fine	\$100 fine, then \$150 fine after
Hawaii	2014	\$250 fine	
Illinois	2018	\$75 fine	\$100 fine, \$125 fine , then \$150 fine
Maine	2019	\$50 fine	\$250 fine
Maryland	2013	\$83 fine	\$140 fine, then \$160 fine
Minnesota	2019	\$120 fine	\$300 fine
Nevada	2012	\$250 fine	
New Hampshire	2015	\$100 fine	\$250 fine, then \$500 fine
New Jersey	2014	\$200-\$400 fine	\$400-600 fine, 90 day suspension
New York	2001	Up to \$150 fine	
Oregon	2017	\$260 fine	\$435 fine, then \$2500 fine & 6 mo jail
Rhode Island	2018	\$100 fine and/or suspended license 30 days	\$150 fine , and/or a license suspension for up to (3) months; then \$250 fine, or a license suspension for up to six (6)months,
Tennessee	2019	\$50 fine	\$100 fine
Vermont	2010	\$100-\$200 fine	\$250-\$500 fine
Washington	2018	\$136 fine	\$235 fine
West Virginia	2012	\$100 fine	\$200 fine, then \$300 fine

## Appendix C

### Current Hands Free Laws

#### California

In California, it is unlawful for a driver to use a mobile device for calling or texting (reading or writing) on public roads. The drivers in California may use mobile devices if they have a hands free system. Although hands free is allowed, drivers under the age of 18 are not allowed cell phone use of any kind.

The California Vehicle Code, Section 23123, is based on distracted driving in the state of California. The statute reads as follows: 23123.

(a) 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.

(b) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense.

(c) This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

(d) This section does not apply to an emergency services professional using a wireless telephone while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties.

(e) This section does not apply to a person driving a school bus or transit vehicle that is subject to Section 23125.

(f) This section does not apply to a person while driving a motor vehicle on private property.

(g) This section shall become operative on July 1, 2011. (State of California, 2011).

### **Connecticut**

Connecticut's hands-free law reads as follows; Section 14-296aa - Use of hand-held mobile telephones and mobile electronic devices by motor vehicle operators and school bus drivers prohibited or restricted. Exceptions. Penalties. Amounts remitted to municipality. Record of violation.

(a) For purposes of this section, the following terms have the following meanings:

(1) "Mobile telephone" means a cellular, analog, wireless or digital telephone capable of sending or receiving telephone communications without an access line for service. (Justia, 2019a)

(2) "Using" or "use" means holding a hand-held mobile telephone to, or in the immediate proximity of, the user's ear. (Justia, 2019a)

(3) "Hand-held mobile telephone" means a mobile telephone with which a user engages in a call using at least one hand. (Justia, 2019a)

(4) "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. (Justia, 2019a)

(5) "Hands-free mobile telephone" means a hand-held 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 hand-held 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. (Justia, 2019a)

(6) “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. (Justia, 2019a)

(7) “Immediate proximity” means the distance that permits the operator of a hand-held mobile telephone to hear telecommunications transmitted over such hand-held mobile telephone, but does not require physical contact with such operator’s ear. (Justia, 2019a)

(8) “Mobile electronic device” means any hand-held or other portable electronic equipment capable of providing data communication between two or more persons, including a text messaging device, a paging device, a personal digital assistant, a laptop computer, equipment that is capable of playing a video game or a digital video disk, or equipment on which digital photographs are taken or transmitted, or any combination thereof, but does not include any audio equipment or any equipment installed in a motor vehicle for the purpose of providing navigation, emergency assistance to the operator of such motor vehicle or video entertainment to the passengers in the rear seats of such motor vehicle. (Justia, 2019a)

(9) “Operating a motor vehicle” means operating a motor vehicle on any highway, as defined in section 14-1, including being temporarily stationary due to traffic, road conditions or a traffic control sign or signal, but not including being parked on the side or shoulder of any highway where such vehicle is safely able to remain stationary. (Justia, 2019a)

(b) (1) Except as otherwise provided in this subsection and subsections (c) and (d) of this section, no person shall operate a motor vehicle upon a highway, as defined in section 14-1, while using a hand-held mobile telephone to engage in a call or while using a mobile electronic device. An operator of a motor vehicle who types, sends or reads a text message with a hand-held mobile telephone or mobile electronic device while operating a motor vehicle shall be in violation of this

section, except that if such operator is driving a commercial motor vehicle, as defined in section 14-1, such operator shall be charged with a violation of subsection (e) of this section.

(2) An operator of a motor vehicle who holds a hand-held mobile telephone to, or in the immediate proximity of, his or her ear while operating a motor vehicle is presumed to be engaging in a call within the meaning of this section. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not engaged in a call.

(3) The provisions of this subsection 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.

(4) Subdivision (1) of this subsection shall not apply to:

(A) The use of a hand-held mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation: An emergency response operator; a hospital, physician's office or health clinic; an ambulance company; a fire department; or a police department, or

(B) any of the following persons while in the performance of their official duties and within the scope of their employment: A peace officer, as defined in subdivision (9) of section 53a-3, a firefighter or an operator of an ambulance or authorized emergency vehicle, as defined in section 14-1, or a member of the armed forces of the United States, as defined in section 27-103, while operating a military vehicle, or

(C) the use of a hand-held radio by a person with an amateur radio station license issued by the Federal Communications Commission in emergency situations for emergency purposes only, or (D) the use of a hands-free mobile telephone.

(c) No person shall use a hand-held mobile telephone or other electronic device, including those with hands-free accessories, or a mobile electronic device while operating a school bus that is carrying passengers, except that this subsection shall not apply to

(1) a school bus driver who places an emergency call to school officials, or

(2) the use of a hand-held mobile telephone as provided in subparagraph (A) of subdivision (4) of subsection (b) of this section.

(d) No person under eighteen years of age shall use any hand-held mobile telephone, including one with a hands-free accessory, or a mobile electronic device while operating a motor vehicle on a public highway, except as provided in subparagraph (A) of subdivision (4) of subsection (b) of this section.

(e) No person shall use a hand-held mobile telephone or other electronic device or type, read or send text or a text message with or from a mobile telephone or mobile electronic device while operating a commercial motor vehicle, as defined in section 14-1, except for the purpose of communicating with any of the following regarding an emergency situation: An emergency response operator; a hospital; physician's office or health clinic; an ambulance company; a fire department or a police department.

(f) Except as provided in subsections (b) to (e), inclusive, of this section, 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, as defined in section 14-1.

(g) Any law enforcement officer who issues a summons for a violation of this section shall record on such summons the specific nature of any distracted driving behavior observed by such officer.

(h) Any person who violates this section shall be fined one hundred fifty dollars for a first violation, three hundred dollars for a second violation and five hundred dollars for a third or subsequent violation.

(i) An operator of a motor vehicle who commits a moving violation, as defined in subsection (a) of section 14-111g, while engaged in any activity prohibited by this section shall be fined in accordance with subsection (h) of this section, in addition to any penalty or fine imposed for the moving violation.

(j) The state shall remit to a municipality twenty-five per cent of the fine amount received for a violation of this section with respect to each summons issued by such municipality. Each clerk of the Superior Court or the Chief Court Administrator, or any other official of the Superior Court designated by the Chief Court Administrator, shall, on or before the thirtieth day of January, April, July and October in each year, certify to the Comptroller the amount due for the previous quarter under this subsection to each municipality served by the office of the clerk or official.

(k) A record of any violation of this section shall appear on the driving history record or motor vehicle record, as defined in section 14-10, of any person who commits such violation, and the record of such violation shall be available to any motor vehicle insurer in accordance with the provisions of section 14-10. (Justia, 2019a)

### **Delaware**

Delaware statute reads as follows: “(a) No person shall drive a motor vehicle on any highway while using an electronic communication device while such motor vehicle is in motion.

(b) For the purposes of this section, the following terms shall mean: (1) “Cell telephone” shall mean a cellular, analog, wireless or digital telephone. (2) “Electronic communication device” shall mean a cell telephone, personal digital assistant, electronic device with mobile data access,



laptop computer, pager, broadband personal communication device, 2-way messaging device, electronic game, or portable computing device. (3) “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. (4) “Hands-free electronic communication device” shall mean an electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such electronic communication device, by which a user engages in a call without the use of either hand or both hands. (5) “Hands-free equipment” shall mean 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 without the use of either hand or both hands.

(6) “Using” shall mean 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.

(c) Subsection (a) of this section shall not apply to:

- (1) A law-enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;

- (2) A person using an electronic communication device to report to appropriate authorities a fire, a traffic accident, a serious road hazard, or medical or hazardous materials emergency, or to report the operator of another motor vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs, or to report any crime;
- (3) A person using a cell telephone who is operating a school bus and covered under § 4176B of this title;
- (4) A person engaging in a call with a hands-free electronic communication device while utilizing hands-free equipment and such person does not hold the hands-free electronic communication device in such person's hand or hands;
- (5) The activation or deactivation of hands-free equipment or a function of hands-free equipment;
- (6) A person driving or operating an unregistered farm tractor, farm truck or farm equipment;
- (7) Use of an amateur radio by an FCC-licensed amateur radio operator; and
- (8) A person who during their course of employment with a business or government entity uses a 2-way radio mounted or attached to a motor vehicle to communicate with a central dispatch, base of operation, or with other employees of such business or government entity.

(d) Whoever violates this section shall for the first offense be subject to a civil penalty of \$100. For each subsequent like offense occurring within 2 years of the former offense the person shall be subject to a civil penalty of not less than \$200 nor more than \$300. For each civil penalty of \$100 that is assessed under this subsection, \$20 shall be paid over to the State Treasury to be

deposited into the Volunteer Ambulance Company Fund, in addition to the \$10 penalty assessed pursuant to § 4101(j) of Title 11. For each civil penalty between \$200 and \$300 that is assessed under this subsection, 20% shall be paid over to the State Treasury to be deposited into the Volunteer Ambulance Company Fund, in addition to the \$10 penalty assessed pursuant to § 4101(j) of Title 11. (e) No motor vehicle points shall be assessed for a violation of this section.”

(State of Delaware, 2011)

### **Georgia**

Georgia code 40-6-241.1 reads as follows: Definitions; prohibition on certain persons operating motor vehicle while engaging in wireless communications; exceptions; penalties

(a) As used in the Code section, the term:

(1) *Engage in a wireless communication* means talking, writing, sending, or reading a text-based communication, or listening on a wireless telecommunications device.

(2) *Wireless telecommunications device* means a cellular telephone, a text-messaging device, a personal digital assistant, a standalone computer, or any other substantially similar wireless device that is used to initiate or receive a wireless communication with another person. It does not include citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, subscription-based emergency communications, in-vehicle security, navigation, and remote diagnostics systems or amateur or ham radio devices.

(b) Except in a driver emergency and as provided in subsection (c) of this Code section, no person who has an instruction permit or a Class D license and is under 18 years of age shall operate a motor vehicle on any public road or highway of this state while engaging in a wireless communication using a wireless telecommunications device.

(c) The provisions of this Code section shall not apply to a person who has an instruction permit or a Class D license and is under 18 years of age who engages in a wireless communication using a wireless telecommunications device to do any of the following:

- (1) Report a traffic accident, medical emergency, or serious road hazard;
- (2) Report a situation in which the person believes his or her personal safety is in jeopardy;
- (3) Report or avert the perpetration or potential perpetration of a criminal act against the driver or another person; or
- (4) Engage in a wireless communication while the motor vehicle is lawfully parked.

(d) (1) Any conviction for a violation of the provisions of this Code section shall be punishable by a fine of \$150.00. The provisions of Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against a person for conviction thereof. The court imposing such fine shall forward a record of the disposition of the case of unlawfully operating a motor vehicle while using a wireless telecommunications device to the Department of Driver Services.

(2) If the operator of the moving motor vehicle is involved in an accident at the time of a violation of this Code section, then the fine shall be equal to double the amount of the fine imposed in paragraph (1) of this subsection. The law enforcement officer investigating the accident shall indicate on the written accident form whether such operator was engaging in a wireless communication at the time of the accident.

(e) Each violation of this Code section shall constitute a separate offense. (Justia, 2019b)

**Hawaii**

Hawaii's hands-free law reads as follows: (a) No person shall operate a motor vehicle while using a mobile electronic device. (b) 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. (c) No person under eighteen years of age shall operate a motor vehicle while utilizing a hands-free mobile electronic device, except for the sole purpose of making a "911" emergency communication. (d) The following persons shall be exempt from subsection (a):

- (1) Emergency responders using a mobile electronic device while in the performance and scope of their official duties;
- (2) Drivers using a two-way radio or a private Land Mobile Radio System, within the meaning of title 47 Code of Federal Regulations part 90, while in the performance and scope of their work-related duties and who are operating fleet vehicles or who possess a commercial vehicle license;
- (3) Drivers holding a valid amateur radio operator license issued by the Federal Communications Commission and using a half-duplex two-way radio; or
- (4) Drivers of vehicles that are at a complete stop, while the engine is turned off, in a safe location by the side of the road out of the way of traffic. (Justia, 2019c)

## **Illinois**

Illinois hands free law reads as follows: 12-610.2. Electronic communication devices.

(a) As used in this Section: "Electronic communication device" means an electronic device, including but not limited to a hand-held wireless telephone, hand-held personal digital assistant, or a portable or mobile computer, but does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle. (b) A person may not operate a motor vehicle on a roadway while using an electronic communication

device. (b-5) A person commits aggravated use of an electronic communication device when he or she violates subsection (b) and in committing the violation he or she was involved in a motor vehicle accident that results in great bodily harm, permanent disability, disfigurement, or death to another and the violation was a proximate cause of the injury or death. (c) A violation of this Section is an offense against traffic regulations governing the movement of vehicles. A person who violates this Section shall be fined a maximum of \$75 for a first offense, \$100 for a second offense, \$125 for a third offense, and \$150 for a fourth or subsequent offense. (d) This Section does not apply to:

- (1) a law enforcement officer or operator of an emergency vehicle while performing his or her official duties;
- (1.5) a first responder, including volunteer first responders, while operating his or her own personal motor vehicle using an electronic communication device for the sole purpose of receiving information about an emergency situation while en route to performing his or her official duties;
- (2) a driver using an electronic communication device for the sole purpose of reporting an emergency situation and continued communication with emergency personnel during the emergency situation;
- (3) a driver using an electronic communication device in hands-free or voice-operated mode, which may include the use of a headset;
- (4) a driver of a commercial motor vehicle reading a message displayed on a permanently installed communication device designed for a commercial motor vehicle with a screen that does not exceed 10 inches tall by 10 inches wide in size;

- (5) a driver using an electronic communication device while parked on the shoulder of a roadway;
  - (6) a driver using an electronic communication device when the vehicle is stopped due to normal traffic being obstructed and the driver has the motor vehicle transmission in neutral or park;
  - (7) a driver using two-way or citizens band radio services;
  - (8) a driver using two-way mobile radio transmitters or receivers for licensees of the Federal Communications Commission in the amateur radio service;
  - (9) a driver using an electronic communication device by pressing a single button to initiate or terminate a voice communication; or
  - (10) a driver using an electronic communication device capable of performing multiple functions, other than a hand-held wireless telephone or hand-held personal digital assistant (for example, a fleet management system, dispatching device, citizens band radio, or music player) for a purpose that is not otherwise prohibited by this Section.
- (e) A person convicted of violating subsection (b-5) commits a Class A misdemeanor if the violation resulted in great bodily harm, permanent disability, or disfigurement to another. A person convicted of violating subsection (b-5) commits a Class 4 felony if the violation resulted in the death of another person. (Thomson Reuters, 2019; DDT Law Group LLC, 2020; Illinois General Assembly, 2020).

## **Maine**

Maine has two statutes that describe the hands-free laws. They read as follows: 2119. Text messaging while operating motor vehicle; prohibition. 1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Cellular telephone" means a device used to access wireless telephone service. [2011, c. 207, §1 (NEW).]
- B. "Portable electronic device" means any portable electronic device that is not part of the operating equipment of a motor vehicle, including but not limited to an electronic game, device for sending or receiving e-mail, text messaging device, cellular telephone and computer. [2011, c. 207, §1 (NEW).]
- C. "Text messaging" means reading or manually composing electronic communications, including text messages, instant messages and e-mails, using a portable electronic device. "Text messaging" does not include using a global positioning or navigation system. [2011, c. 207, §1 (NEW).]
- D. "Operate" means driving a motor vehicle on a public way with the motor running, including while temporarily stationary because of traffic, a traffic light or a stop sign or otherwise stationary. "Operate" does not include operating a motor vehicle with or without the motor running when the operator has pulled the motor vehicle over to the side of, or off, a public way and has halted in a location where the motor vehicle can safely remain stationary. [2013, c. 381, Pt. B, §28 (NEW).]

[2013, c. 381, Pt. B, §28 (AMD).]

2. Prohibition. A person may not operate a motor vehicle while engaging in text messaging.

[2011, c. 207, §1 (NEW)].

3. Penalties. The following penalties apply to a violation of this section.

- A. A person who violates this section commits a traffic infraction for which a fine of not less than \$250 may be adjudged. [2013, c. 188, §1 (NEW).]



B. A person who violates this section after previously having been adjudicated as violating this section within a 3-year period commits a traffic infraction for which a fine of not less than \$500 may be adjudged, and the Secretary of State shall suspend the license of that person without right to hearing. The minimum periods of license suspension are: (1) Thirty days, if the person has 2 adjudications for a violation of this section within a 3-year period; (2) Sixty days, if the person has 3 adjudications for a violation of this section within a 3-year period; and (3) Ninety days, if the person has 4 or more adjudications for a violation of this section within a 3-year period.

For the purposes of this paragraph, an adjudication has occurred within a 3-year period if the date of the new conduct is within 3 years of the date of a docket entry of adjudication of a violation of this section. (State of Maine, 2018)

The second statute that describes the hands-free law for Maine reads as follows: 2116. Use of electronic devices by minors while operating motor vehicles 1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Handheld electronic device" means any handheld electronic device that is not part of the operating equipment of the motor vehicle, including but not limited to an electronic game, device for sending or receiving electronic mail, text messaging device or computer. [2007, c. 272, §1 (NEW).]

B. "Mobile telephone" means a device used to access a wireless telephone service. [2007, c. 272, §1 (NEW).]

B-1. "Operate" means driving a motor vehicle on a public way with the motor running, including while temporarily stationary because of traffic, a traffic light or a stop sign or otherwise stationary. "Operate" does not include operating a motor

vehicle with or without the motor running when the operator has pulled the motor vehicle over to the side of, or off, a public way and has halted in a location where the motor vehicle can safely remain stationary. [2015, c. 113, §4 (NEW).]

C. "Using" means manipulating, talking into or otherwise interacting with a mobile telephone or handheld electronic device. [2015, c. 113, §5 (AMD).]

[2015, c. 113, §§4, 5 (AMD).]

2. Prohibition. A person who has not attained 18 years of age may not operate a motor vehicle while using a mobile telephone or handheld electronic device.

[2007, c. 272, §1 (NEW).]

3. Penalty. A person who violates this section commits a traffic infraction for which a fine of not less than \$50 for the first offense and not less than \$250 for a 2nd or subsequent offense may be adjudged. (State of Maine, 2018; Maine Legislature, 2020)

## **Maryland**

Maryland's hands-free law reads as follows: 21-1124.2. (a)(1) In this section the following words have the meanings indicated. (2) "Handheld telephone" means a handheld device used to access wireless telephone service. (3) "9-1-1 system" has the meaning stated in § 1-301 of the Public Safety Article.

(b) This section does not apply to:

(1) Emergency use of a handheld telephone, including calls to:

- (i) A 9-1-1 system;
- (ii) A hospital;
- (iii) An ambulance service provider;
- (iv) A fire department;

- (v) A law enforcement agency; or
  - (vi) A first aid squad;
- (2) Use of a handheld telephone by the following individuals when acting within the scope of official duty:
- (i) Law enforcement personnel; and
  - (ii) Emergency personnel;
- (3) Use of a handheld telephone as a text messaging device as defined in § 21–1124.1 of this subtitle; and
- (4) Use of a handheld telephone as a communication device utilizing push-to-talk technology by an individual operating a commercial motor vehicle, as defined in 49 C.F.R. Part 390.5 of the Federal Motor Carrier Safety Regulations.
- (c) The following individuals may not use a handheld telephone while operating a motor vehicle:
- (1) A driver of a Class H (school) vehicle that is carrying passengers and in motion; and
  - (2) A holder of a learner’s instructional permit or a provisional driver’s license who is 18 years of age or older.
- (d) (1) This subsection does not apply to an individual specified in subsection (c) of this section.
- (2) 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.
- (e) (1) A person convicted of a violation of this section is subject to the following penalties:
- (i) For a first offense, a fine of not more than \$75;
  - (ii) For a second offense, a fine of not more than \$125; and
  - (iii) For a third or subsequent offense, a fine of not more than \$175.

(2) Points may not be assessed against the individual under § 16–402 of this article unless the offense contributes to an accident.

(f) The court may waive a penalty under subsection (e) of this section for a person who:

(1) Is convicted of a first offense under this section; and

(2) Provides proof that the person has acquired a hands–free accessory, an attachment or add–on, a built–in feature, or an addition for the person’s handheld telephone that will allow the person to operate a motor vehicle in accordance with this section. (Justia US Law, 2019)

### **Minnesota**

The Minnesota hands free law reads as follows: 169.475 USE OF WIRELESS COMMUNICATIONS DEVICE.

1. Definitions. (a) For purposes of this section, the following terms have the meanings given.

(b) "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. An electronic message includes, but is not limited to: e-mail; a text message; an instant message; a command or request to access a web page; a voice mail message; a transmitted image; transmitted video content, including through video calling; transmitted gaming data; and other data transmitted using a commonly recognized electronic communications protocol. An electronic message does not include: voice or audio data transmitted as a result of making a phone call; data transmitted between a motor vehicle and a wireless communications device located in the vehicle; data transmitted by a two-way radio, citizens band radio, or amateur radio used in accordance with Federal Communications Commission rules and regulations; or data transmitted automatically without direct initiation by a person.

(c) "Voice-activated or hands-free mode" means an attachment, accessory, wirelessly paired or tethered capability, application, wireless connection, or built-in feature of a wireless communications device or a motor vehicle that allows the person to use verbal or single touch commands to:

- (1) activate or deactivate the device; and
- (2) activate or deactivate a function or software application of the device. Voice-activated or hands-free mode does not include typing or scrolling on a device.

(d) For purposes of this section, a motor vehicle is not in motion or a part of traffic if the vehicle is lawfully stopped, is in a location that is not designed or ordinarily used for vehicular travel, and is not obstructing traffic.

Prohibition on use; penalty. (a) Except as provided in subdivision 3, when a motor vehicle is in motion or a part of traffic, the person operating the vehicle upon a street or highway is prohibited from using a wireless communications device to:

- (1) initiate, compose, send, retrieve, or read an electronic message;
- (2) engage in a cellular phone call, including initiating a call, talking or listening, and participating in video calling; and
- (3) access the following types of content stored on the device: video content, audio content, images, games, or software applications.

(b) A person who violates paragraph (a) a second or subsequent time must pay a fine of \$275.

3. Exceptions. (a) The prohibitions in subdivision 2 do not apply if a person uses a wireless communications device:

- (1) solely in a voice-activated or hands-free mode to initiate or participate in a cellular phone call or to initiate, compose, send, or listen to an electronic message;

- (2) to view or operate a global positioning system or navigation system in a manner that does not require the driver to type while the vehicle is in motion or a part of traffic, provided that the person does not hold the device with one or both hands;
  - (3) to listen to audio-based content in a manner that does not require the driver to scroll or type while the vehicle is in motion or a part of traffic, provided that the person does not hold the device with one or both hands;
  - (4) to obtain emergency assistance to (i) report a traffic accident, medical emergency, or serious traffic hazard, or (ii) prevent a crime about to be committed;
  - (5) in the reasonable belief that a person's life or safety is in immediate danger; or
  - (6) in an authorized emergency vehicle while in the performance of official duties.
- (b) The exception in paragraph (a), clause (1), does not apply to accessing non navigation video content, engaging in video calling, engaging in live-streaming, accessing gaming data, or reading electronic messages (State of Minnesota, 2019).

### **Nevada**

The Nevada hands free law reads as follows: 1. Except as otherwise provided in this section, 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 non-voice 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.

2. The provisions of this section do not apply to: (a) A paid or volunteer firefighter, emergency medical technician, ambulance attendant or other person trained to provide emergency medical services who is acting within the course and scope of his or her employment.

(b) A law enforcement officer or any person designated by a sheriff or chief of police or the Director of the Department of Public Safety who is acting within the course and scope of his or her employment. (c) A person who is reporting a medical emergency, a safety hazard or criminal activity or who is requesting assistance relating to a medical emergency, a safety hazard or criminal activity. (d) A person who is 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. (e) A person who is licensed by the Federal Communications Commission as an amateur radio operator and who is providing a communication service in connection with an actual or impending disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information. (f) An employee or contractor of a public utility who uses a handheld wireless communications device:

(1) That has been provided by the public utility; and

(2) While responding to a dispatch by the public utility to respond to an emergency, including, without limitation, a response to a power outage or an interruption in utility service.

3. The provisions of this section do not prohibit the use of a voice-operated global positioning or navigation system that is affixed to the vehicle.

4. A person who violates any provision of subsection 1 is guilty of a misdemeanor and:
  - (a) For the first offense within the immediately preceding 7 years, shall pay a fine of \$50.
  - (b) For the second offense within the immediately preceding 7 years, shall pay a fine of \$100.
  - (c) For the third or subsequent offense within the immediately preceding 7 years, shall pay a fine of \$250.
5. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484B.130.
6. The Department of Motor Vehicles shall not treat a first violation of this section in the manner statutorily required for a moving traffic violation.
7. For the purposes of this section, a person shall be deemed not to be operating a motor vehicle if the motor vehicle is driven autonomously through the use of artificial-intelligence software and the autonomous operation of the motor vehicle is authorized by law.
8. As used in this section:
  - (a) Handheld wireless communications device means a handheld device for the transfer of information without the use of electrical conductors or wires and includes, without limitation, a cellular telephone, a personal digital assistant, a pager and a text messaging device. The term does not include a device used for two-way radio communications if:
    - (1) The person using the device has a license to operate the device, if required; and
    - (2) All the controls for operating the device, other than the microphone and a control to speak into the microphone, are located on a unit which is used to transmit and receive communications and which is separate from the microphone and is not intended to be held.



(b) Public utility means a supplier of electricity or natural gas or a provider of telecommunications service for public use who is subject to regulation by the Public Utilities Commission of Nevada.

(Added to NRS by 2011, 3647)

NRS 484B.165 Using handheld wireless communications device to type or enter text, send or read data, engage in non-voice communication or engage in voice communications without use of hands-free device unlawful; exceptions; penalty. [Effective January 1, 2014.]

1. Except as otherwise provided in this section, 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 non-voice 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.

2. The provisions of this section do not apply to:

(a) A paid or volunteer firefighter, emergency medical technician, advanced emergency medical technician, paramedic, ambulance attendant or other person trained to provide emergency medical services who is acting within the course and scope of his or her employment.

(b) A law enforcement officer or any person designated by a sheriff or chief of police or the Director of the Department of Public Safety who is acting within the course and scope of his or her employment.

(c) A person who is reporting a medical emergency, a safety hazard or criminal activity or who is requesting assistance relating to a medical emergency, a safety hazard or criminal activity.

(d) A person who is 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.

(e) A person who is licensed by the Federal Communications Commission as an amateur radio operator and who is providing a communication service in connection with an actual or impending disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information.

(f) An employee or contractor of a public utility who uses a handheld wireless communications device:

(1) That has been provided by the public utility; and

(2) While responding to a dispatch by the public utility to respond to an emergency, including, without limitation, a response to a power outage or an interruption in utility service.

3. The provisions of this section do not prohibit the use of a voice-operated global positioning or navigation system that is affixed to the vehicle.

4. A person who violates any provision of subsection 1 is guilty of a misdemeanor and:

(a) For the first offense within the immediately preceding 7 years, shall pay a fine of \$50.

(b) For the second offense within the immediately preceding 7 years, shall pay a fine of \$100.

(c) For the third or subsequent offense within the immediately preceding 7 years, shall pay a fine of \$250.

5. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484B.130.

6. The Department of Motor Vehicles shall not treat a first violation of this section in the manner statutorily required for a moving traffic violation.

7. For the purposes of this section, a person shall be deemed not to be operating a motor vehicle if the motor vehicle is driven autonomously through the use of artificial-intelligence software and the autonomous operation of the motor vehicle is authorized by law.

8. As used in this section:

(a) Handheld wireless communications device means a handheld device for the transfer of information without the use of electrical conductors or wires and includes, without limitation, a cellular telephone, a personal digital assistant, a pager and a text messaging device. The term does not include a device used for two-way radio communications if:

(1) The person using the device has a license to operate the device, if required; and

(2) All the controls for operating the device, other than the microphone and a control to speak into the microphone, are located on a unit which is used to transmit and receive communications, and which is separate from the microphone and is not intended to be held.

(b) Public utility means a supplier of electricity or natural gas or a provider of telecommunications service for public use who is subject to regulation by the Public Utilities Commission of Nevada. (Justia, 2019d)

## **New Hampshire**

New Hampshire hands free law reads as follows: 265:79-c Use of Mobile Electronic Devices While Driving; Prohibition. – I. (a) 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. An operator of a motor vehicle who holds a cellular telephone or other electronic device capable of voice communication in the immediate proximity of his or her ear while such vehicle is in motion is presumed to be engaging in a call within the meaning of this section.

(b) "Driving," for the purposes of this section, shall not include when a person is behind the controls of a vehicle that has pulled to the side of or off the road at a location where it is legal to do so and where the vehicle remains stationary.

II. It shall not be an offense under this section for any person driving a motor vehicle upon a way:

(a) To make use of a cellular telephone or other electronic device capable of voice communication to report an emergency to the enhanced 911 system or directly to a law enforcement agency, fire department, or emergency medical provider.

(b) To use one hand to transmit or receive messages on any non-cellular 2-way radio.

(c) To use a Bluetooth enabled or other hands-free electronic device, or a similar device that is physically or electronically integrated into a motor vehicle, for such a purpose to send or receive information provided the driver does not have to divert his or her attention from the road ahead. As used in this section, "hands-free electronic device" means a mobile electronic device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile electronic device, by which a user engages in conversation without the use of either hand; provided, however, this definition shall not preclude the use of either hand merely to activate, deactivate, or initiate a function of the telephone.

(d) To perform any action required by an ignition interlock device.

III. Any person who violates this section shall be guilty of a violation and shall be fined \$100 plus penalty assessment for a first offense, \$250 plus penalty assessment for a second offense, and \$500 plus penalty assessment for any subsequent offense within a 24-month period.

IV. No person less than 18 years of age shall use a cellular or mobile telephone or other mobile electronic device, whether hands-free or not, while driving a motor vehicle in motion or temporarily stopped in traffic upon any way, except to report an emergency to the enhanced 911 system or any public safety agency. A person violating this paragraph shall be subject to the fines in paragraph III and license suspension or revocation under RSA 263:14, III.

V. Nothing in this section shall prohibit a driver, regardless of age, from receiving aural routing information from a hands-free global positioning device or navigation service through a mobile electronic device; or receiving turn-by-turn routing information from the screen of a global positioning device or navigation service through a mobile electronic device that is

integrated into the vehicle or mounted on the dashboard, windshield, or visor of the vehicle.

(State of New Hampshire, 2015)

### **New Jersey**

New Jersey's hands free law reads as follows: Section 39:4-97.3 - Use of wireless telephone, electronic communication device in moving vehicles; definitions; enforcement.

39:4-97.3 Use of wireless telephone, electronic communication device in moving vehicles; definitions; enforcement.

1. a. 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. For the purposes of this section, an "electronic communication device" shall not include an amateur radio.

Nothing in P.L.2003, c.310 (C.39:4-97.3 et seq.) shall apply to the use of a citizen's band radio or two-way radio by an operator of a moving commercial motor vehicle or authorized emergency vehicle on a public road or highway.

b. The operator of a motor vehicle may use a hand-held wireless telephone while driving with one hand on the steering wheel only if:

(1)The operator has reason to fear for his life or safety, or believes that a criminal act may be perpetrated against himself or another person; or

(2) The operator is using the telephone to report to appropriate authorities a fire, a traffic accident, a serious road hazard or medical or hazardous materials emergency, or to report the operator of another motor vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs. A hand-held wireless telephone user's telephone records or the testimony or written statements from appropriate authorities receiving such calls shall be deemed sufficient evidence of the existence of all lawful calls made under this paragraph.

As used in this act:

"Citizen's band radio" means a mobile communication device designed to allow for the transmission and receipt of radio communications on frequencies allocated for citizen's band radio service use.

"Hands-free wireless telephone" means 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 conversation without the use of either hand; provided, however, this definition shall not preclude the use of either hand to activate, deactivate, or initiate a function of the telephone.

"Two-way radio" means two-way communications equipment that uses VHF frequencies approved by the Federal Communications Commission.

"Use" of a wireless telephone or electronic communication device shall include, but not be limited to, talking or listening to another person on the telephone, text messaging, or sending an electronic message via the wireless telephone or electronic communication device.

(c.) A person who violates this section shall be fined as follows:

(1) for a first offense, not less than \$200 or more than \$400;

(2) for a second offense, not less than \$400 or more than \$600; and

(3) for a third or subsequent offense, not less than \$600 or more than \$800 .

For a third or subsequent violation, the court, in its discretion, may order the person to forfeit the right to operate a motor vehicle over the highways of this State for a period of 90 days. In addition, a person convicted of a third or subsequent violation shall be assessed three motor vehicle penalty points pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5).

A person who has been convicted of a previous violation of this section need not be charged as a second or subsequent offender in the complaint made against him in order to render him liable to the punishment imposed by this section on a second or subsequent offender, but if the second offense occurs more than 10 years after the first offense, the court shall treat the second conviction as a first offense for sentencing purposes and if a third offense occurs more than 10 years after the second offense, the court shall treat the third conviction as a second offense for sentencing purposes.

e. Except as provided in subsection d. of this section, no motor vehicle penalty points or automobile insurance eligibility points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall be assessed for this offense.

(f.) The Chief Administrator of the New Jersey Motor Vehicle Commission shall develop and undertake a program to notify and inform the public as to the provisions of this act.

Notwithstanding the provisions of R.S.39:5-41, the fines assessed pursuant to subsection d. of this section shall be collected by the court and distributed as follows: 50 percent of the fine imposed shall be paid to the county and municipality wherein the violation occurred, to be divided equally, and 50 percent of the fine imposed shall be paid to the State Treasurer, who



shall allocate the fine monies to the chief administrator to be used for this public education program, which shall include informing motorists of the dangers of texting while driving.

(g.)Whenever this section is used as an alternative offense in a plea agreement to any other offense in Title 39 of the Revised Statutes that would result in the assessment of motor vehicle points, the penalty shall be the same as the penalty for a violation of section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge imposed pursuant to subsection f. of that section, and a conviction under this section shall be considered a conviction under section 1 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining subsequent enhanced penalties under that section. (Justia, 2019e)

### **New York**

New York began the hands-free movement in 2001, being the first state in the United States to put a law into effect. New York's hands-free law reads as follows: 1225-c. Use of mobile telephones. For purposes of this section, the following terms shall mean: (a) "Mobile telephone" shall mean the device used by subscribers and other users of wireless telephone service to access such service. (b) "Wireless telephone service" shall mean two-way real time voice telecommunications service that is interconnected to a public switched telephone network and is provided by a commercial mobile radio service, as such term is defined by 47 C.F.R. § 20.3. (c) "Using" shall mean holding a mobile telephone to, or in the immediate proximity of, the user's ear. (d) "Hand-held mobile telephone" shall mean a mobile telephone with which a user engages in a call using at least one hand. (e) "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. (f) "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. (g) "Immediate proximity" shall mean that distance as permits the operator of a mobile telephone to hear telecommunications transmitted over such mobile telephone, but shall not require physical contact with such operator's ear.

2. (a) Except as otherwise provided in this section, no 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. (b) An operator of a motor vehicle who holds a mobile telephone to, or in the immediate proximity of his or her ear while such vehicle is in motion is presumed to be engaging in a call within the meaning of this section. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not engaged in a call (c) The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a mobile telephone, unless otherwise provided by law.

3. Subdivision two of this section shall not apply to (a) the use of a mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office or health clinic; an ambulance company or corps; a fire department, district or company; or a police department, (b) any of the following persons while in the performance of their official duties: a police officer or peace officer; a member of a fire department, district or company; or the operator of an authorized emergency vehicle as defined in section one hundred one of this chapter, or (c) the use of a hands-free mobile telephone. 4. A violation of subdivision two of this section shall be a traffic infraction and shall be punishable by a fine of not more than one hundred dollars (Justia, 2019f)

## Oregon

The Oregon hands free law reads as follows: 811.507 Operating motor vehicle while using mobile electronic device; exceptions; penalty.

(1) As used in this section: (a) (A) “Driving” means operating a motor vehicle on a highway or premises open to the public, and while temporarily stationary because of traffic, a traffic control device or other momentary delays.

(B) “Driving” does not include when the motor vehicle has stopped in a location where it can safely remain stationary and:

(i) Is pulled over on the side of, or is pulled off, a roadway;

(ii) Is in a designated parking space; or

(iii) Is required to park in the roadway to conduct necessary utility maintenance work.

(b) “Hands-free accessory” means an attachment or built-in feature for or an addition to a mobile electronic device that when used gives a person the ability to keep both hands on the steering wheel.

(c)(A) “Mobile electronic device” means an electronic device that is not permanently installed in a motor vehicle.

(B) “Mobile electronic device” includes but is not limited to a device capable of text messaging, voice communication, entertainment, navigation, accessing the Internet or producing electronic mail.

(d) “Using a mobile electronic device” includes but is not limited to using a mobile electronic device for text messaging, voice communication, entertainment, navigation, accessing the Internet or producing electronic mail.

(2) A person commits the offense of driving a motor vehicle while using a mobile electronic device if the person, while driving a motor vehicle on a highway or premises open to the public:

(a) Holds a mobile electronic device in the person's hand; or

(b) Uses a mobile electronic device for any purpose.

(3) This section does not apply to a person:

(a) Who activates or deactivates a mobile electronic device or a function of the device;

(b) Who is employed as a commercial motor vehicle driver, or as a school bus driver, and is using a mobile electronic device within the scope of the person's employment if the use is permitted under regulations promulgated pursuant to 49 U.S.C. 31136;

(c) Who is operating a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the citizens' or family radio service bands in accordance with rules of the Federal Communications Commission while transporting forest products, or while operating a vehicle to assist in logging operations, within the scope of the person's employment;

(d) Who is using a two-way radio device while operating a school bus or school activity vehicle within the scope of the person's employment; or

(e) Who is using a two-way radio device or operating a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the citizens' or family radio service bands in accordance with rules of the Federal Communications Commission while operating a vehicle owned or contracted by a utility for the purpose of installing, repairing, maintaining, operating or upgrading utility service, including but not limited to natural gas, electricity, water or telecommunications, within the scope of the person's employment.

(4) It is an affirmative defense to a prosecution of a person under this section that the person:

(a) Used the mobile electronic device to communicate if the person was summoning or providing medical or other emergency help if no other person in the vehicle was capable of summoning help;

(b) Was 18 years of age or older and was using a hands-free accessory;

(c) Was driving an ambulance or emergency vehicle while acting within the scope of the person's employment;

(d) Was a police officer, firefighter or emergency medical services provider and was acting within the scope of the person's employment;

(e) Was 18 years of age or older, held a valid amateur radio operator license issued or any other license issued by the Federal Communications Commission and was operating an amateur radio;

(f) Was operating a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the citizens' or family radio service bands in accordance with rules of the Federal Communications Commission to summon medical or other emergency help; or

(g) Was using a medical device.

(5) The offense described in this section, driving a motor vehicle while using a mobile electronic device, is:

(a) Except as provided in paragraph (b) of this subsection, for a person's first conviction, a Class B traffic violation.

(b) For a person's first conviction, if commission of the offense contributes to an accident described in ORS 811.720, a Class A traffic violation.

- (c) For a person's second conviction within a 10-year period following the date of the person's first conviction, a Class A traffic violation.
  - (d) For a person's third or subsequent conviction within a 10-year period preceding the date of the person's current conviction, a Class B misdemeanor.
- (6) In addition to any other sentence that may be imposed, the court shall impose a minimum fine of \$2,000 on a person convicted of a Class B misdemeanor under subsection (5)(d) of this section.
- (7) For purposes of this section, sentences for two or more convictions that are imposed in the same sentencing proceeding are considered to be one sentence.
- (8)(a) For a person's first conviction of driving a motor vehicle while using a mobile electronic device, the court may suspend the fine to be imposed under subsection (5)(a) of this section on the condition that the person, within 120 days of sentencing:
- (A) Complete at the person's own expense a distracted driving avoidance course approved by the Department of Transportation under ORS 811.508; and
  - (B) Provide proof of completion to the court.
- (b) The court may schedule a hearing to determine whether the person successfully completed the distracted driving avoidance course.
- (c) If the person has successfully completed the requirements described in paragraph (a) of this subsection, the court shall enter a sentence of discharge.
- (d) If the person has not successfully completed the requirements described in paragraph (a) of this subsection, the court shall:
- (A) Grant the person an extension based on good cause shown; or
  - (B) Impose the fine under subsection (5)(a) of this section.

(9) The department shall place signs on state highways to notify drivers that it is unlawful to drive a motor vehicle on the highways of this state while using a mobile electronic device and violators are subject to criminal penalties. [2007 c.870 §2; 2009 c.834 §1; 2011 c.530 §1; 2013 c.757 §1; 2017 c.629 §§1,2] (State of Oregon, 2017)

### **Rhode Island**

Rhode Island's hands-free law reads as follows: 31-22-31. Mobile telephone usage by motor vehicle operators. (a) For purposes of this section, the following terms shall have the following meanings:

- (1) "Engage in a call" means talking into or listening on a hand-held personal wireless communication device, but does not include holding a hand-held personal wireless communication device to activate, deactivate, or initiate a function of such telephone.
- (2) "Hands-free accessory" means an attachment, add-on, built-in feature, or addition to a personal wireless communication device, whether or not permanently installed in a motor vehicle, that, when used, allows the vehicle operator to maintain both hands on the steering wheel.
- (3) "Hands-free personal wireless communication device" means a hand-held personal wireless communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such hand-held personal wireless communication device, 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.
- (4) "Hand-held personal wireless communication device" means a personal wireless communication device with which a user engages in a call using at least one hand.

- (5) "Immediate proximity" means the distance that permits the operator of a hand-held personal wireless communication device to hear telecommunications transmitted over such hand-held personal wireless communication device, but does not require physical contact with such operator's ear.
- (6) "Mobile telephone" means a personal wireless communication device, analog, wireless, or digital telephone capable of sending or receiving telephone communication without an access line for service.
- (7) "Public utility" means a business that provides electricity, natural gas, water, and communications and other information services to residential and commercial customers.
- (8) "Using" or "use" means holding a hand-held personal wireless communication device to, or in the immediate proximity of, the user's ear.

(b) (1) Except as otherwise provided in this section, 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.

(2) An operator of a motor vehicle who holds a hand-held personal wireless communication device to, or in the immediate proximity of, the operator's ear while such vehicle is in motion is presumed to be engaging in a call within the meaning of this section. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not engaged in a call.

(3) The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a hand-held personal wireless communication device, unless otherwise provided by law.

(4) Subsection (b) (1) of this section shall not apply to:



- (i) The use of a hand-held personal wireless communication device for the sole purpose
  - (ii) of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office or health clinic; an ambulance company; a fire department; a police department; or a public utility; or
  - (iii) Any of the following persons while in the performance of their official duties and
  - (iv) within the scope of their employment: a peace officer, as defined in §12-7-21, a firefighter or an operator of an ambulance or authorized emergency vehicle, or the operator of a taxi cab, tow truck, or bus without passengers; or employees or agents of a public utility; or
  - (v) The use of a hands-free personal wireless communication device.
- (c) Any person who violates the provisions of subsection (b)(1) of this section shall be
- (ci) fined not more than one hundred dollars (\$100) except that the fine shall be suspended for a first- time violator, who provides proof of acquisition of a hands-free accessory subsequent to the violation, but prior to the imposition of a fine.

SECTION 2. This act shall take effect on June 1, 2018. (State of Rhode Island, 2017; Rhode Island State, 2020).

### **Tennessee**

Tennessee's hands free law reads as follows; 55-8-199. Prohibited uses of wireless telecommunications devices or stand-alone electronic devices.

- (a) As used in this section:
  - (1) "Stand-alone electronic device" means a portable device other than a wireless telecommunications device that stores audio or video data files to be retrieved on demand by a user;

(2) "Utility services" means electric, natural gas, water, waste-water, cable, telephone, or telecommunications services or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, rights of way, or associated infrastructure; and

(3) "Wireless telecommunications device" means a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a global positioning system receiver, or substantially similar portable wireless device that is used to initiate or receive communication, information, or data. "Wireless telecommunications device" does not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, autonomous technology, or remote diagnostics system.

(b) (1) A person, while operating a motor vehicle on any road or highway in this state, shall not:

(A) Physically hold or support, with any part of the person's body, a:

(i) Wireless telecommunications device. This subdivision (b)(1)(A)(i) does not prohibit a person eighteen (18) years of age or older from:

(a) Using an earpiece, headphone device, or device worn on a wrist to conduct a voice-based communication; or

(b) Using only one (1) button on a wireless telecommunications device to initiate or terminate a voice communication; or

(ii) Stand-alone electronic device;

(B) Write, send, or read any text-based communication, including, but not limited to, a text message, instant message, email, or internet data on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1)(B) does not apply to any person eighteen (18) years of age or older who uses such devices:

(i) To automatically convert a voice-based communication to be sent as a message in a written form; or

(ii) For navigation of the motor vehicle through use of a device's global positioning system;

(C) Reach for a wireless telecommunications device or stand-alone electronic device in a manner that requires the driver to no longer be:

(i) In a seated driving position; or

(ii) Properly restrained by a safety belt;

(D) Watch a video or movie on a wireless telecommunications device or stand-alone electronic device other than viewing data related to the navigation of the motor vehicle; or

(E) Record or broadcast video on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1) does not apply to electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle.

(2) Notwithstanding subdivisions (b)(1)(A) and (B), and in addition to the exceptions described in those subdivisions, a function or feature of a wireless telecommunications device or stand-alone electronic device may be activated or deactivated in a manner requiring the physical use of the driver's hand while the driver is operating a motor vehicle if:

(A) The wireless telecommunications device or stand-alone electronic device is mounted on the vehicle's windshield, dashboard, or center console in a manner that does not hinder the driver's view of the road; and

(B) The driver's hand is used to activate or deactivate a feature or function of the wireless telecommunications device or stand-alone electronic device with the motion of one (1) swipe or tap of the driver's finger, and does not activate camera, video, or gaming features or functions for viewing, recording, amusement, or other non-navigational functions, other than features or functions related to the transportation of persons or property for compensation or payment of a fee.

(c)

(1) A violation of this section is a Class C misdemeanor, subject only to imposition of a fine not to exceed fifty dollars (\$50.00). However, if the violation is the person's third or subsequent offense or if the violation results in an accident, the fine is one hundred dollars (\$100); or if the violation occurs in a work zone when employees of the department of transportation or construction workers are present or in a marked school zone when a warning flasher or flashers are in operation, the fine is two hundred dollars (\$200). Any person violating this section is subject to the imposition of court costs not to exceed ten dollars (\$10.00), including, but not limited to, any statutory fees of officers. State and local litigation taxes are not applicable to a case prosecuted under this section.

(2) In lieu of any fine imposed under subdivision (c)(1), a person who violates this section as a first offense may attend and complete a driver education course pursuant to § 55-10-301.

(3) Each violation of this section constitutes a separate offense.

(d) This section does not apply to the following persons:

- (1) Officers of this state or of any county, city, or town charged with the enforcement of the laws of this state, or federal law enforcement officers when in the actual discharge of their official duties;
  - (2) Campus police officers and public safety officers, as defined by § 49-7-118, when in the actual discharge of their official duties;
  - (3) Emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and career, when in the actual discharge of their official duties;
  - (4) Emergency management agency officers of this state or of any county, city, or town, when in the actual discharge of their official duties;
  - (5) Persons using a wireless telecommunications device to communicate with law enforcement agencies, medical providers, fire departments, or other emergency service agencies while driving a motor vehicle, if the use is necessitated by a bona fide emergency, including a natural or human occurrence that threatens human health, life, or property;
  - (6) Employees or contractors of utility services providers acting within the scope of their employment; and
  - (7) Persons who are lawfully stopped or parked in their motor vehicles or who lawfully leave standing their motor vehicles.
- (e) A traffic citation that is based solely upon a violation of this section is considered a moving traffic violation.

(f) The department of transportation is directed to utilize the department's permanent electronic overhead informational displays located throughout this state to provide periodic messages to the motoring public as to this section.

(g) The department of safety is directed to include distracted driving as part of the instructional information used in driver education training (State of Tennessee, 2019b; Tennessee Highway Safety Office, 2020).

### **Vermont**

Vermont hands free law reads as follows; 1095b. Handheld use of portable electronic device prohibited.

(a) Definition. As used in this section, "hands-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.

(b) Use of handheld portable electronic device prohibited.

(1) A person shall not use a portable electronic device while operating a moving motor vehicle in a place open temporarily or permanently to public or general circulation of vehicles.

(2) In addition, a person shall not use a portable electronic device while operating a motor vehicle on a public highway in Vermont, including while the vehicle is stationary, unless otherwise provided in this section. As used in this subdivision (b) (2):

(A) "Public highway" means a State or municipal highway as defined in 19 V.S.A. § 1(12).

(B) "Operating" means operating a motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other

temporary delays. "Operating" does not include operating a motor vehicle with or without the motor running when the operator has moved the vehicle to the side of or off the public highway and has halted in a location where the vehicle can safely and lawfully remain stationary.

(3) The prohibitions of this subsection shall not apply:

(A) To hands-free use.

(B) To activation or deactivation of hands-free use, as long as any accessory for securely mounting the device is not affixed to the windshield in violation of section 1125 of this title.

(C) When use of a portable electronic device is necessary for a person to communicate with law enforcement or emergency service personnel under emergency circumstances.

(D) To use of an ignition interlock device, as defined in section 1200 of this title.

(E) To use of a global positioning or navigation system if it is installed by the manufacturer or securely mounted in the vehicle in a manner that does not violate section 1125 of this title. As used in this subdivision (b)(3)(E), "securely mounted" means the device is placed in an accessory or location in the vehicle, other than the operator's hands, where the device will remain stationary under typical driving conditions.

(c) Penalties.

(1) A person who violates this section commits a traffic violation and shall be subject to a fine of not less than \$100.00 and not more than \$200.00 for a first violation, and of not

less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period.

(2) A person convicted of violating this section while operating within the following areas shall have four points assessed against his or her driving record for a first conviction and five points assessed for a second or subsequent conviction:

(A) a properly designated work zone in which construction, maintenance, or utility personnel are present; or

(B) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.

(3) A person convicted of violating this section outside the areas designated in subdivision (2) of this subsection shall have two points assessed against his or her driving record.

(d)(1) Operators of commercial motor vehicles shall be governed by the provisions of chapter 39 of this title (Commercial Driver License Act) instead of the provisions of this chapter with respect to the handheld use of mobile telephones and texting while operating a commercial motor vehicle.

(2) A person shall not be issued more than one complaint for any violation of this section, section 1095a of this title (junior operator use of portable electronic devices), or section 1099 of this title (texting prohibited) that arises from the same incident. (Added 2013, No. 57, § 26, eff. Jan. 1, 2014; amended 2013, No. 189 (Adj. Sess.), § 40, eff. Oct. 1, 2014; 2015, No. 50, § 12; 2017, No. 71, § 12.) (State of Vermont, 2019)

## **Washington**



Washington state's hands-free law reads as follows; RCW 46.61.672 Using a personal electronic device while driving.

(1) 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 as provided in RCW 46.63.110 (3).

(2) Subsection (1) of this section does not apply to:

(a) A driver who is using a personal electronic device to contact emergency services;

(b) The use of a system by a transit system employee for time-sensitive relay communication between the transit system employee and the transit system's dispatch services;

(c) An individual employed as a commercial motor vehicle driver who uses a personal electronic device within the scope of such individual's employment if such use is permitted under 49 U.S.C. Sec. 31136 as it existed on July 23, 2017; and

(d) A person operating an authorized emergency vehicle.

(3) 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.

(4) A second or subsequent offense under this section is subject to two times the penalty amount under RCW 46.63.110.

(5) For purposes of this section:

(a) "Driving" means to operate a motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary

delays. "Driving" does not include when the vehicle has pulled over to the side of, or off of, an active roadway and has stopped in a location where it can safely remain stationary.

(b) "Personal electronic device" means any portable electronic device that is capable of wireless communication or electronic data retrieval and is not manufactured primarily for hands-free use in a motor vehicle. "Personal electronic device" includes, but is not limited to, a cell phone, tablet, laptop, two-way messaging device, or electronic game. "Personal electronic device" does not include two-way radio, citizens band radio, or amateur radio equipment.

(c) "Use" or "uses" means:

- (i) Holding a personal electronic device in either hand or both hands;
- (ii) Using your hand or finger to compose, send, read, view, access, browse, transmit, save, or retrieve email, text messages, instant messages, photographs, or other electronic data; however, this does not preclude the minimal use of a finger to activate, deactivate, or initiate a function of the device;
- (iii) Watching video on a personal electronic device (Justia, 2019g).

## **West Virginia**

West Virginia's hands free law reads as follows; 17C-14-15. Prohibited use of an electronic communications device driving without handheld features; definitions; exceptions; penalties.

(a) Except as provided in subsection (c) of this section, 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.

(b) For purposes of this section, the following terms shall mean:

(1) "Cell phone" shall mean a cellular, analog, wireless or digital telephone.

(2) "Driving" or "operating a motor vehicle" means operating a motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, but does not include operating a motor vehicle after the driver has moved the vehicle to the side of, or off, a highway and halted in a location where the vehicle can safely remain stationary.

(3) "Electronic communication device" means a cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device. For the purposes of this section, an "electronic communication device" does not include:

(A) Voice radios, mobile radios, land mobile radios, commercial mobile radios or two way radios with the capability to transmit and receive voice transmissions utilizing a push-to-talk or press-to-transmit function; or

(B) Other voice radios used by a law-enforcement officer, an emergency services provider, an employee or agent of public safety organizations, first responders, Amateur Radio Operators (HAM) licensed by the Federal Communications Commission and school bus operators.

(4) "Engaging in a call" means when a person talks into or listens on an electronic communication device, but shall not include when a person dials or enters a phone number on a pushpad or screen to initiate the call.

(5) "Hands-free electronic communication device" means an electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such electronic communication device, by which a user engages in a call without the use of either hand or both hands.

(6) "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.

(7) "Texting" means manually entering alphanumeric text into, or reading text from, an electronic communication device, and includes, but is not limited to, short message service, e-mailing, instant messaging, a command or request to access a World Wide Web page or engaging in any other form of electronic text retrieval or entry, for present or future communication. For purposes of this section, "texting" does not include the following actions:

(A) Reading, selecting or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device by the pressing the device in order to initiate or receive a phone call or using voice commands to initiate or receive a telephone call;

(B) Inputting, selecting or reading information on a global positioning system or navigation system; or

- (C) Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smart phones, citizens band radios or music players, for a purpose that is not otherwise prohibited in this section.
- (8) "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.
- (c) Subsection (a) of this section shall not apply to:
- (1) A law-enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;
  - (2) A person using an electronic communication device to report to appropriate authorities a fire, a traffic accident, a serious road hazard, or a medical or hazardous materials emergencies.
  - (3) The activation or deactivation of hands-free equipment or a function of hands-free equipment.
- (d) This section does not supersede the provisions of section three-a, article two, chapter seventeen-b of this code or any more restrictive provisions for drivers of commercial motor vehicles prescribed by the provisions of chapter seventeen-e of this code or federal law or rule.
- (e) Any person who violates the provisions of subsection (a) of this section is guilty of a traffic offense and, upon conviction thereof, shall for a first offense be fined \$100; for a second offense

be fined \$200; and for a third or subsequent offense be fined \$300. No court costs or other fees shall be assessed for a violation of subsection (a) of this section.

(f) Notwithstanding any other provision of this code to the contrary, points may not be entered on any driver's record maintained by the Division of Motor Vehicles as a result of a violation of this section, except for the third and subsequent convictions of the offense, for which three points shall be entered on any driver's record maintained by the Division of Motor Vehicles.

(g) Driving or operating a motor vehicle on a public street or highway while texting shall be enforced as a primary offense. Driving or operating a motor vehicle on a public street or highway while using a cell phone or other electronic communication device without hands-free equipment shall be enforced as a secondary offense until July 1, 2013, when it shall be enforced as a primary offense for purposes of citation.

(h) Within ninety days of the effective date of this section, the Department of Transportation shall cause to be erected signs upon any highway entering the state of West Virginia on which a welcome to West Virginia sign is posted, and any other highway where the Division of Highways deems appropriate, posted at a distance of not more than one mile from each border crossing, each sign to bear an inscription clearly communicating to motorists entering the state that texting, or the use of a wireless communication device without hands-free equipment, is illegal within this state.

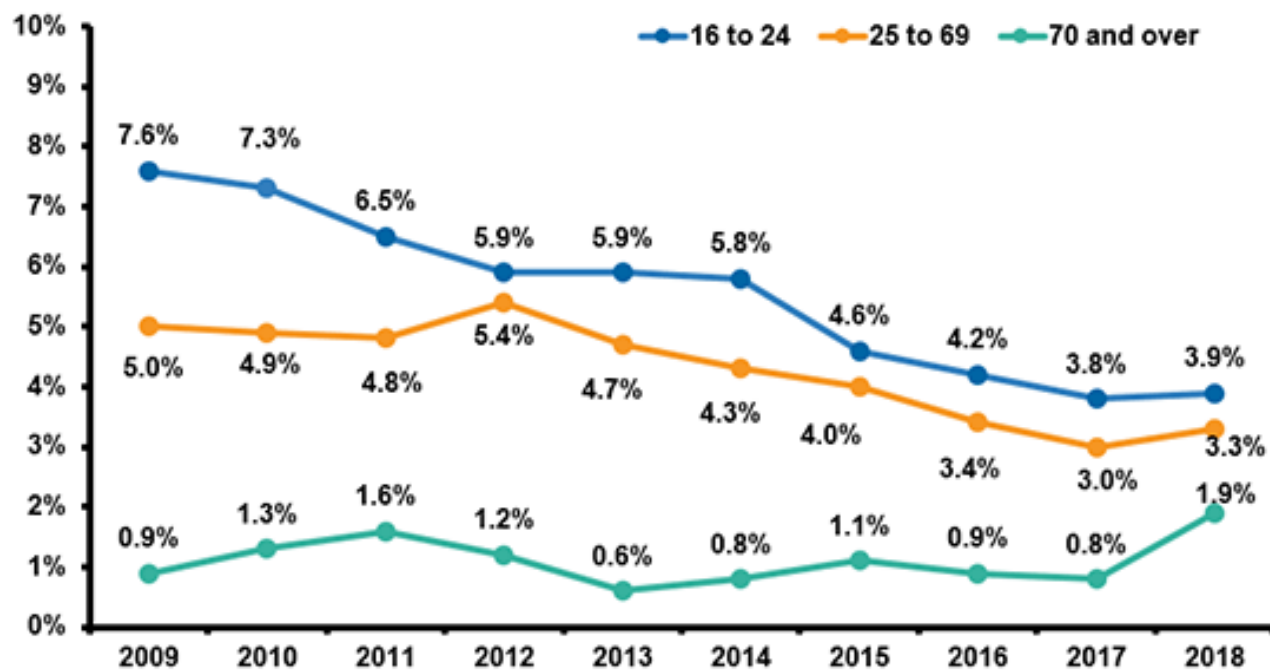
(i) Nothing contained in this section shall be construed to authorize seizure of a cell phone or electronic device by any law-enforcement agency.

(j) 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. (West Virginia Legislature's Office of Reference & Information, 2019)

## Appendix D

## Driver Handheld Cellphone Use by Age, 2009-2018



(U.S. Department of Transportation, National Highway Traffic Safety Administration, 2018a)  
 (Insurance Information Institute, 2020)