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68-West–Statehouse | 300 SW 10th Ave. | Topeka, Kansas 66612-1504  
(785) 296-3181

kslegres@klrd.ks.gov

kslegislature.org/klrd

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## HANDS-FREE AND DISTRACTED DRIVING LAWS IN OTHER STATES

This memorandum summarizes information on definitions, exceptions, and penalties from statutes in the states identified by staff of the National Conference of State Legislatures and the Insurance Institute for Highway Safety as requiring hands-free use of communication devices while driving passenger vehicles. The information below is from primary statutes on the topic; additional statutes may have a bearing on these prohibitions or the penalties for violations. Information on general approaches, exceptions, and enforcement and penalties is provided. The other states' statutes on which this memorandum is based are listed in Appendix A.

The states identified as having hands-free requirements are Arizona, California, Connecticut, Delaware, Georgia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Tennessee, Vermont, Washington, and West Virginia. The District of Columbia also has hands-free requirements. Arkansas, Florida, Louisiana, and Texas were among states with limited hands-free requirements, and Texas authorized localities to require hands-free use. Distracted driving more generally is addressed in statutes of states including Arkansas, Connecticut, Delaware, Georgia, Maine, New Jersey, North Dakota, and Wisconsin, and in the District of Columbia.

### General Approaches in Other States' Laws

#### *Hands-Free Requirements*

Among the ways state laws differ is how they define "hands-free." The statutory excerpts below indicate states' general approaches to prohibiting use of mobile devices while driving and what uses of hands these states specifically allow or disallow. For example, Delaware law prohibits holding a device in a hand or hands, but Nevada and other states prohibit using hands "other than to activate, deactivate or initiate a feature or function on the device." Some states prohibit use of hand-held devices for voice communication and prohibit texting in the same statute, while others that prohibit use of hand-held devices separate statutes into voice- and text-related statutes.

**Arizona.** Unless a motor vehicle is parked or stopped for a red light or a train, a person may not operate a motor vehicle on a street or highway if the person physically holds or supports with any part of the person's body either a portable wireless communication device (defined as a portable telephone, a GPS device, or a substantially similar device used to initiate or receive communication, information, or data) or a stand-alone electronic device (defined as a

portable device other than a portable wireless communication device that stores audio or video files to be retrieved on demand by a user).

**Arkansas.** A driver of a motor vehicle shall not operate a motor vehicle while using a wireless telecommunications device to engage in texting (defined as reading from or manually entering data into a device), or access, read, or post to a social networking site. The definition of “wireless telecommunications device” does not include a hands-free wireless telecommunications device. The driver of a motor vehicle may use a wireless telecommunications device only in an emergency if the vehicle is in a highway work zone or a school zone when children are present and outside the building.

**California.** A person shall not drive a motor vehicle while holding and operating a handheld wireless telephone or an electronic wireless communications device unless the wireless telephone or electronic wireless communications device is specifically designed and configured to allow voice-operated and hands-free operation, and it is used in that manner while driving.

**Connecticut.** [N]o person shall operate a motor vehicle upon a highway . . . while using a hand-held mobile telephone to engage in a call or while using a mobile electronic device. “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.

**Delaware.** No person shall drive a motor vehicle on any highway while using an electronic communication device while such motor vehicle is in motion. [This prohibition shall not apply to] 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. “Using” shall mean holding in a person’s hand or hands an electronic communication device while viewing or transmitting images or data; playing games; composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages, or other electronic data; or engaging in a call. “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.

**District of Columbia.** No person shall use a mobile telephone or other electronic device while operating a moving motor vehicle in the District of Columbia unless the telephone or device is equipped with a hands-free accessory. “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. “Use” means talking, placing, texting, or receiving a call, or attempting to place, text, or receive a call.

**Florida.** A person may not operate a motor vehicle while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone area. This is applicable to work zone areas if construction personnel are present or are operating equipment on the road or immediately adjacent to the work zone area. A person may not operate a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication.

**Georgia.** While operating a motor vehicle, no individual shall physically hold or support, with any part of his or her body, a wireless telecommunications device or stand-alone electronic device; write, send, or read any text-based communication; watch a video or movie on a wireless telecommunications device or stand-alone electronic device; or record or broadcast a video on a wireless telecommunications device or stand-alone electronic device.

**Hawaii.** No person shall operate a motor vehicle while using a mobile electronic device. 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.

**Illinois.** A person may not operate a motor vehicle on a roadway while using an electronic communication device. This section does not apply to . . . a driver using an electronic communication device in hands-free or voice-operated mode, which may include the use of a headset; . . . .

**Louisiana.** No person shall operate any wireless telecommunications device while operating a motor vehicle upon any public road or highway during the posted hours within a school zone on such public road or highway. . . . The provisions of this section shall only apply within a school zone upon a public road or highway during posted hours when signs are located in a visible manner in each direction that indicate the use of a hand-held wireless communications device is prohibited while operating a motor vehicle.

**Maine.** A person may not operate a motor vehicle on a public way while using, manipulating, talking into or otherwise interacting with a handheld electronic device or mobile telephone. . . . A person who has attained 18 years of age and is not operating with an intermediate license issued pursuant to section 1311 or a learner’s permit issued pursuant to section 1304 may use a mobile telephone or handheld electronic device while operating a motor vehicle if the mobile telephone or handheld electronic device is being used in hands-free mode. The operator of a motor vehicle may use a hand to activate or deactivate a feature or function of a mobile telephone or handheld electronic device that is in hands-free mode and mounted or affixed to the vehicle in a location that does not interfere with the operator’s view of the road if the feature or function activated requires only a single swipe, tap or push of the operator’s finger.

**Maryland.** 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.

**Massachusetts.** No operator of a motor vehicle shall hold a mobile electronic device. No operator of a motor vehicle shall use a mobile electronic device unless the device is being used in hands-free mode. No operator of a motor vehicle shall read or view text, images or video displayed on a mobile electronic device.

**Minnesota.** 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 initiate, compose, send, retrieve, or read an electronic message; engage in a cellular phone call, including initiating a call, talking or listening, and participating in video calling; and access the following types of content stored on the device: video content, audio content, images, games, or software applications. The prohibitions . . . do not apply if a person uses a wireless communications device 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. [This

exception] does not apply to accessing nonnavigation video content, engaging in video calling, engaging in live-streaming, accessing gaming data, or reading electronic messages.

**Nevada.** [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 nonvoice 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.

**New Hampshire.** 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.

**New Jersey.** 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. [T]his definition [of a hands-free wireless telephone] shall not preclude the use of either hand to activate, deactivate, or initiate a function of the telephone.

**New York.** [use of mobile telephones]. [N]o 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. “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. “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.

[use of portable electronic devices]. [N]o person shall operate a motor vehicle while using any portable electronic device while such vehicle is in motion. “Using” shall mean holding a portable electronic device while viewing, taking or transmitting images, playing games, or, for the purpose of present or future communication: performing a command or request to access a world wide web page, composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages, instant messages, or other electronic data.

**Oregon.** 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, holds a mobile electronic device in the person’s hand or uses a mobile electronic device for any purpose. This section does not apply to a person who activates or deactivates a mobile electronic device or a function of the device . . . . It is an affirmative defense to a

prosecution . . . that the person was 18 years of age or older and was using a hands-free accessory. “Driving” does not include when the motor vehicle has stopped where it can safely remain stationary and is off a roadway, in a designated parking space, or required to park in the roadway.

**Rhode Island.** 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. “Use” means holding the device to, or in the immediate proximity of, the user’s ear. “Engage in a call” means talking into or listening on the device, but does not include holding the device to activate, deactivate, or initiate a function of the telephone.

**Tennessee.** A person, while operating a motor vehicle on any road or highway in this state, shall not physically hold or support, with any part of the person’s body, a wireless telecommunications device; write, send, or read any text-based communication; reach for a wireless telecommunications device or stand-alone electronic device in a manner that requires the driver to no longer be in a seated driving position or properly restrained by a safety belt; watch a video or movie other than viewing data related to the navigation of the motor vehicle; or record or broadcast video on a wireless telecommunications device or stand-alone electronic device (except a device used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle). A wireless telecommunications device feature or function may be activated or deactivated if the device is mounted in a manner that does not hinder the driver’s view of the road and only one swipe or tap of the driver’s finger is required.

**Texas.** An operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone unless the vehicle is stopped or the wireless communication device is used with a hands-free device. A local authority may by ordinance or rule prohibit use of a wireless communication device while operating a motor vehicle.

**Vermont.** A person shall not use a portable electronic device while operating a moving motor vehicle in a place open temporarily or permanently to the public or general circulation of vehicles. [A] person shall not use a portable electronic device while operating a motor vehicle on a public highway. The prohibitions of this subsection shall not apply to hands-free use [or] to activation or deactivation of hands-free use, as long as any accessory for securely mounting the device is not affixed to the windshield. . . . “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.

**Virginia.** It is unlawful for any person to operate a moving motor vehicle on the highways in the Commonwealth while using any handheld personal communications device to manually enter multiple letters or text in the device as a means of communicating with another person; or read any email or text message transmitted to the device or stored within the device, provided that this prohibition shall not apply to any name or number stored within the device nor to any caller identification information. It is unlawful for any person while driving a moving motor vehicle in a highway work zone to hold in his hand a handheld personal communications device.

**Washington.** 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. . . . “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.

**West Virginia.** [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. "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. "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.

**Wisconsin.** No person may drive any motor vehicle while composing or sending an electronic text message or an electronic mail message. This subsection does not apply to the use of a voice-operated or hands-free device if the driver of the motor vehicle does not use his or her hands to operate the device, except to activate or deactivate a feature or function of the device.

### ***Restrictions Related to the Motion of the Vehicle***

States also differ in how the restrictions are related to motion of the vehicle. All but California (because no definition of "drive" was found) fit into at least one of three categories:

- Defining the violation as being when the vehicle is in motion: Arizona, Arkansas, Delaware, District of Columbia, Florida, Maryland, Massachusetts, New York, Rhode Island, Texas, Virginia, and Wisconsin;
- Prohibiting use while the vehicle is on a highway: Georgia, Hawaii, Illinois, Louisiana, Maine, Nevada, New Jersey, Oregon, Tennessee, and Washington; and
- Prohibiting use in traffic, even while the vehicle is temporarily halted in traffic: Connecticut, Hawaii, Maine, Minnesota, New Hampshire, Oregon, Vermont, Washington, and West Virginia.

### ***Distracted Driving More Generally***

Of the statutes reviewed, only those of Arkansas, Connecticut, Delaware, Georgia, Maine, New Jersey, North Dakota, and Wisconsin have general prohibitions on distracted driving; the District of Columbia also prohibits it. Georgia and Maine do not require all mobile device use to be hands-free. This list does not include prohibitions on distracted driving that may be in statutory sections not directly related to hands-free use.

- **Arkansas.** It shall be unlawful for any person to drive or operate any vehicle in such a careless manner as to evidence a failure to keep a proper lookout for other traffic, vehicular or otherwise, or in such a manner as to evidence a failure to maintain proper control on the public thoroughfares or private property in the State of Arkansas.

- **Connecticut.** Except as provided in subsections [regarding hands-free use of certain devices under certain circumstances] . . . , 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.
- **Delaware.** Whoever operates a vehicle and who fails to give full time and attention to the operation of the vehicle, or whoever fails to maintain a proper lookout while operating the vehicle, shall be guilty of inattentive driving.
- **District of Columbia.** Distracted driving shall be prohibited. “Distracted driving” means inattentive driving while operating a motor vehicle that results in the unsafe operation of the vehicle where such inattention is caused by reading, writing, performing personal grooming, interacting with pets or unsecured cargo, using personal communications technologies, or engaging in any other activity which causes distractions.
- **Georgia.** A driver shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions which shall distract such driver from the safe operation of such vehicle.
- **Maine.** “Operation of a motor vehicle while distracted” means the operation of a motor vehicle by a person who, while operating the vehicle, is engaged in an activity: (1) that is not necessary to the operation of the vehicle; and (2) that actually impairs, or would reasonably be expected to impair, the ability of the person to safely operate the vehicle. A person commits the traffic infraction of failure to maintain control of a motor vehicle while distracted if, during a violation or a reportable accident, the person was engaged in the operation of a motor vehicle while distracted.
- **New Jersey.** Notwithstanding any other provision of law to the contrary, it shall be unlawful for any person to drive or operate a motor vehicle in an unsafe manner likely to endanger a person or property.
- **North Dakota.** An operator of a motor vehicle may not fail to maintain control of that motor vehicle. An individual is in violation of this section if that individual commits an offense under this title or is determined to have been the operator of a motor vehicle involved in a reportable accident which resulted in property damage and, at the time of the offense, the individual was engaged in the operation of a motor vehicle while distracted, . . . [which means] engaged in an activity that is not necessary to the operation of the vehicle and actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle.
- **Wisconsin.** No person while driving a motor vehicle may be engaged or occupied with an activity, other than driving the vehicle, that interferes or reasonably appears to interfere with the person’s ability to drive the vehicle safely.

## Exceptions to the Prohibitions

Most exceptions to the prohibitions on using mobile devices while driving are like those in Kansas law that prohibits texting while driving (KSA 2019 Supp. 8-15,111). All provide exceptions for use of a mobile device to prevent imminent injury to a person or property. The table on the next page indicates which states offer which exceptions. Statutory wording of each exception will be provided upon request.

Exceptions to Hands-Free Use of Mobile Devices, General																									
X indicates similar exception																									
Kansas (texting ban) (KSA 2016 Supp. 8-15,111)	A	A	C	C	D	D	F	G	H	I	L	M	M	M	M	N	N	N	O	R	T	V	W	W	
	R	Z	A	T	C	E	L	A	I	L	A	D	A	E	N	V	H	J	Y	R	I	N	T	A	V
(c) The provisions of subsection (b) [texting ban] shall not apply to:																									
(1) A law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment;	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X		X	X	X	X	X		X	X
(2) A motor vehicle stopped off the regular traveled portion of the roadway;	X	X		X			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
(3) A person who reads, selects or enters a telephone number or name in a wireless communications device for the purpose of making or receiving a phone call;	X				X																	X			
(4) A person who receives an emergency, traffic or weather alert message; or							X	X																	
(5) A person receiving a message related to the operation or navigation of the motor vehicle.	X						X	X				X	X		X	X	X						X		
(d) The provisions of subsection (b) shall not prohibit a person from using a wireless communications device while operating a moving motor vehicle to:																									
(1) Report current or ongoing illegal activity to law enforcement;	X	X		X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X
(2) Prevent imminent injury to a person or property; or	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
(3) Relay information between transit or for-hire operator and the operator's dispatcher, in which the device is permanently affixed to the motor vehicle.	X				X			X	X		X		X	X	X			X		X		X	X	X	
Exceptions below are NOT in Kansas' texting ban																									
Other, specified, workers within the scope of their employment	X	X		X	X	X								X	X			X	X				X		X
Operate amateur radio	X	X		X	X			X	X					X	X	X		X				X		X	X
Operate a two-way or citizens band radio	X						X	X						X	X			X	X		X		X	X	X

[Note: The general prohibition on distracted driving in Wisconsin law includes an exception "to report an emergency."]



The most common exceptions are these (using language from KSA 2019 Supp. 8-15,111 to describe them):

- **Law enforcement or emergency service personnel acting within the scope of their professional employment.** The states reviewed have similar exceptions for law enforcement personnel; however, such exceptions were not present in the specific hands-free laws for Maine, New Hampshire, and Vermont. Arkansas and Iowa exempt a physician or healthcare provider under emergency medical circumstances. Georgia, Nevada, Oregon, and Rhode Island also include exceptions for utility personnel, under certain circumstances. Rhode Island exempts tow vehicle operators. Connecticut exempts military personnel; however, U.S. Department of Defense regulations prohibit all but hands-free use unless the vehicle is stopped.<sup>1</sup>
- **Preventing imminent injury to a person or property.** All of the states have exemptions related to emergencies, but in some details those exemptions vary. California, Maryland, New Hampshire, Rhode Island, and Tennessee also allow calls to certain other providers of emergency assistance, such as healthcare providers. Some states narrow the exemptions: “reporting an emergency or criminal or suspicious activity to law enforcement authorities” (Florida); “circumstances in which there is an immediate threat to the health or well-being of any person” (Maine); “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” (Nevada); “the operator has reason to fear for his life or safety” (New Jersey); and “summoning medical or other emergency help if no other person in the vehicle is capable of summoning help” (Oregon).
- **Relaying information between a transit or for-hire operator and the operator’s dispatcher, in which the device is permanently affixed to the motor vehicle.** Arizona, Delaware, Hawaii, Nevada, New Jersey, Oregon, Washington, and West Virginia specify this two-way communication must be by voice radio. Maine specifies a commercial driver may use a device as permitted by regulations of the Federal Motor Carrier Safety Administration; Maryland, Oregon, and Washington also reference those regulations. Arizona also authorizes use of a permanently or temporarily affixed device for communications between the operator and a digital network or software application service. Illinois allows a driver of a commercial vehicle to read a message displayed on a permanently installed device with a screen not exceeding ten inches tall by ten inches wide and to use a fleet management system or dispatching service for a purpose not otherwise prohibited. Arkansas, Maryland, and West Virginia allow use of “push-to-talk” technology.
- **Operating an amateur radio.** Connecticut and Nevada laws restrict use to emergency situations or drills only, but Arizona, Arkansas, Delaware, Hawaii, Illinois, Maine, Minnesota, New Jersey, Oregon, Tennessee, Washington, and West Virginia do not.

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<sup>1</sup> See Army Regulation 385-10, Section 11-4e. The regulation includes an exemption for emergency responders in the performance of their official duties.

A few states also had unique exemptions:

- **Operating an unregistered farm vehicle.** Delaware exempts a person driving or operating an unregistered farm tractor, farm truck, or farm equipment.
- **Operating an autonomous vehicle.** Florida law exempts a motor vehicle operator who is operating an autonomous vehicle as defined in state law, with the automated driving system engaged.
- **Operating cameras.** Georgia specifically forbids a motor vehicle operator to record or broadcast video, unless the device used is for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle.
- **Operating a medical device.** Oregon offers an affirmative defense to prosecution to a person who was using a medical device.

## Enforcement and Penalties

In Kansas, the fine for unlawful text messaging is \$60. The states reviewed that specify minimum fines have fines for violation of hands-free requirements ranging from \$20 for a first offense in California to \$600 to \$800 for a third or subsequent offense in New Jersey. (A “0” in the “lowest fine” column indicates only a maximum fine is specified.) As also indicated in the table below, some states’ laws allow or require increased penalties under certain circumstances, such as when a crash related to use of a mobile device causes injury. The table does not address the issue of court costs, as that information was present in very few of the statutes reviewed.

Fines in Current Law			
State	Lowest fine	Highest fine	Additional information
Arkansas	\$25	\$500	Fines doubled if the violator is found to have been involved in a crash while using a device.
Arizona	\$75	\$250	
California	\$20	\$50	
Connecticut	\$150	\$500	A person who commits a moving violation while engaged in prohibited activity will be fined for both.
Delaware	\$100	\$300	
District of Columbia	\$100	\$100	
Florida	\$60	\$60	(The prohibition applies only to school and work zones.)
Georgia	\$50	\$150	
Hawaii	\$250	\$250	\$300 if in school zone or construction area
Illinois	\$0	\$150	
Louisiana	\$0	\$1,000	Fine is doubled if the person is involved in a collision at the time of the violation. (The prohibition applies only in a school zone.)

<b>Fines in Current Law</b>			
<b>State</b>	<b>Lowest fine</b>	<b>Highest fine</b>	<b>Additional information</b>
Maine	\$50	(not limited)	At least \$250 for a second or subsequent offense
Maryland	\$0	\$175	
Massachusetts	\$100	\$500	
Minnesota	\$275	\$275	
Nevada	\$50	\$250	Additional fine of not more than \$1,000 if the offense is committed in a work zone or pedestrian safety zone.
New Hampshire	\$100	\$500	
New Jersey	\$200	\$800	
New York	\$50	\$450	
Oregon	\$0	\$1,000	Minimum fine of \$2,000 if a third or subsequent conviction within ten years; presumptive fine of \$265; presumptive fine of \$525 if in a highway work or school zone or a safety corridor
Rhode Island	\$0	\$100	
Tennessee	\$50	\$100	\$200 if in a work zone or a marked school zone when warning flashers are operating
Vermont	\$100	\$500	
Virginia	\$125	\$250	
Washington	\$0	\$250	
West Virginia	\$100	\$300	
Wisconsin	\$20	\$100	(The prohibition applies only in a work zone.)

The state laws reviewed also included these provisions related to enforcement:

- Connecticut, Massachusetts, New York, Rhode Island, and West Virginia laws include this language: The provisions “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”;
- A driver’s license may be suspended for this offense under certain circumstances in Arizona (if the violation results in an accident causing serious physical injury or death to another person), Illinois (if the violation results in great bodily harm, permanent disability, or disfigurement), Louisiana (for a second or subsequent violation in a school zone), and New Jersey (for a third or subsequent violation);
- Imprisonment or community service are among the possible penalties in Nevada if the offense is committed in a work zone or a pedestrian safety zone;
- In Arkansas, an officer investigating a crash must indicate on the written accident form whether the driver was using a wireless telecommunications device at the time of the crash; a District of Columbia officer making a written accident report must include whether a mobile telephone or other electronic device was present

in the motor vehicle, whether the use of such device may have contributed to the cause of the accident, and whether any other distraction may have contributed to the cause of the accident; and in Connecticut, any law enforcement officer who issues a summons for a violation of the distracted driving statute must record on the summons the specific nature of any distracted driving behavior the officer observed;

- In Florida, a law enforcement officer who stops a vehicle for this type of violation must inform the vehicle operator of the operator's right to decline a search of the operator's wireless communication device and may not access or confiscate it without a warrant. Law enforcement officers must record the race and ethnicity of each violator; annual reports of statewide data on this are required;
- Laws of New Hampshire, New York, and Rhode Island state a vehicle operator with a mobile device near the operator's ear is presumed to be engaging in a call. New York adds a person who holds a portable electronic device in a conspicuous manner while operating a vehicle is presumed to be using the device;
- First-time offenders in Florida, Georgia, Maryland, Rhode Island, and the District of Columbia may have their penalties waived if the offender offers proof of acquiring a device to allow hands-free operation; and
- Courses on distracted driving may be required. Oregon law allows a court to suspend a fine for a first conviction of driving while using a mobile electronic device if the person, within 120 days of sentencing, completes at the person's own expense an approved distracted driving avoidance course and provides proof of completion to the court. Massachusetts law requires an operator who commits a subsequent offense to complete a program that encourages a change in driver behavior and attitude about distracted driving. Tennessee law allows a violator, in lieu of paying a fine, to attend and complete a specified driver education course.

Iowa statutes do not require hands-free use of communications devices while driving, but in 2017 the state did raise the severity level of the crime of "unintentionally causing the death of another while driving a motor vehicle in a reckless manner with willful or wanton disregard for the safety of persons or property" to a class C felony. The law further states "a person's use of a hand-held electronic communication device to write, send, or view an electronic message while driving a motor vehicle shall be considered *prima facie* evidence that the person was driving the motor vehicle in a reckless manner with willful or wanton disregard for the safety of persons or property."

### **Public Notice of Bans on Device Use While Driving**

Various states whose statutes were reviewed for this memorandum require public notice of bans on device use and efforts to increase awareness of the dangers of distracted driving.

- Arizona law added in 2019 requires the State to test an applicant for an original driver's license on the applicant's knowledge of the effect of using a portable

wireless communication device or engaging in other actions that could distract a driver on the safe or effective operation of a motor vehicle;<sup>2</sup>

- Arkansas requires each application for an instruction permit or a driver's license by someone younger than age 18 include an acknowledgment signed by the applicant that the applicant is prohibited from using an interactive wireless communication device while operating a motor vehicle;
- Massachusetts law requires the registrar of motor vehicles, in cooperation with the Highway Safety Division, the Department of Elementary and Secondary Education, the Department of Higher Education and Municipal Law Enforcement, to develop and implement an annual public awareness campaign for junior and adult operators;
- Nevada law requires that state's examination for a driver's license to include at least one question testing the applicant's knowledge of that state's ban on certain device uses;
- Oregon requires signs on state highways to notify drivers it is unlawful to drive a motor vehicle on the highways of that state while using a mobile electronic device and violators are subject to criminal penalties;
- Tennessee law directs the Department of Transportation to utilize electronic overhead information displays to provide periodic messages on this topic, and the Department of Safety to include distracted driving as part of the instructional information used in driver education training;<sup>3</sup>
- Texas amended its law in 2017 to require the driver's license examination include "knowledge of the effect of using a wireless communication device, or engaging in other actions that may distract a driver, on the safe or effective operation of a motor vehicle."

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2 Texas Transportation Code Sec. 521.161, as amended by HB 62 (2017). ARS 28-3164 as amended by HB 2318 (2019).

3 Tennessee, T.C.A. § 55-8-199

APPENDIX A - State Law Citations						
State	Citation	Short title of citation	Topic(s) included			
			General approach	Distracted driving	Exceptions	Penalties and enforcement
Arkansas	AR Code §§ 27-51-1503, 51-1504	Definitions; Use of a handheld wireless telecommunications device when driving	X		X	
	AR Code § 27-51-1506	Penalties				X
California	Vehicle Code § 23123	Driving a motor vehicle while using a wireless telephone; penalty; exceptions	X		X	X
	Vehicle Code § 23123.5	Driving motor vehicle while writing, sending or reading text-based communication; exceptions; penalty	X		X	X
Connecticut	CGSA § 14-296aa	Use of hand-held mobile telephones and mobile electronic devices by motor vehicle operators . . .	X	X	X	X
Delaware	21 Del.C. § 4176C	Electronic communication devices; penalties	X		X	X
District of Columbia	§ 50-1731.02	Definitions	X	X		
	§ 50-1731.03	Prohibition on distracted driving		X		
	§ 50-1731.04	Restricted use of mobile telephone and other electronic devices	X		X	
	§ 50-1731.06	Enforcement; fines and penalties				X
Georgia	Ga. Code Ann. § 40-6-241	Driver to exercise due care; proper use of radios and mobile telephones allowed	X	X	X	X
Hawaii	HRS § 291C-137	Mobile electronic devices	X		X	X
Illinois	625 ILCS 5/12-610.1	Wireless telephones			X	X
	625 ILCS 5/12-610.2	Electronic communication devices	X		X	X
Iowa	I.C.A. § 707.6A	Homicide by vehicle – use of electronic communication devices while driving				X
Maine	29-A.M.R.S.A. § 2118	Failure to maintain control of a motor vehicle		X		
Maryland	MD Code, Transportation, § 21-1124.2	Use of handheld telephone while driving prohibited	X		X	X
Nevada	N.R.S. 484B.165	Using handheld wireless communications device . . .	X		X	X

APPENDIX A - State Law Citations						
State	Citation	Short title of citation	Topic(s) included			
			General approach	Distracted driving	Exceptions	Penalties and enforcement
		without use of hands-free device unlawful; exceptions; penalty . . .				
New Hampshire	N.H. Rev. Stat. § 265:79-c	Use of mobile electronic devices while driving; prohibition	X		X	X
New Jersey	N.J.S.A. 39:4-97.2	Driving, operating a motor vehicle in an unsafe manner, offense created; fines; surcharge		X		
	N.J.S.A. 39:4-97.3	Use of hands-free and hand-held wireless communication devices while driving; when permitted; penalty	X		X	X
New York	McKinney's Vehicle and Traffic Law § 1225-c	Use of mobile telephones	X		X	X
	McKinney's Vehicle and Traffic Law § 1225-d	Use of portable electronic devices	X		X	X
North Dakota	N.D.C.C. § 39-08-25	Failure to maintain control		X		
Oregon	O.R.S. § 811.507	Operating a motor vehicle while using a mobile electronic device	X		X	X
Rhode Island	Gen.Laws 1956, § 31-22-31	Mobile telephone usage by motor vehicle operators	X		X	X
Tennessee	T.C.A. § 55-8-199	Prohibited uses of wireless telecommunications devices or stand-alone electronic devices	X		X	X
Texas	V.T.C.A., Transportation Code §§ 545.425, 545.425(b-2), 545.4251	Use of wireless communication device in a school crossing zone . . . ; Use of portable wireless communication device for electronic messaging; offense	X			X
Vermont	23 V.S.A. § 1095b	Handheld use of portable electronic device prohibited	X		X	X
Washington	RCWA 46.61, new section (2017)	Using a personal electronic device while driving	X		X	
	RCWA 46.63.110	Monetary penalties				X
West Virginia	W. Va. Code, § 17C-14-15	Prohibited use of an electronic communications device driving without handheld features; definitions; exceptions; penalties	X		X	X