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MEMORANDUM

July 25, 2014

TO: Interested Persons

FROM: Mistia Zuckerman, Research Analyst, 303-866-4364

SUBJECT: Cell Phone Use and Distracted Driving Laws

Summary

With the rise in the use of smart phones, distracted driving from the use of these devices has been identified as causing or contributing to automobile crashes. This memorandum provides statistics on automobile crashes that may have been caused by distracted driving and also gives an overview of federal and state regulations on the issue.

Background

The National Highway Traffic Safety Administration (NHTSA) defines distracted driving as any activity that could divert attention away from the primary task of driving. Possible distractions include:

- using a cell phone, including texting or talking;
- using a navigation system;
- eating or drinking;
- talking to passengers;
- grooming;
- reading, including maps;
- watching a video; or
- adjusting a radio, CD player, or MP3 player.¹

¹National Highway Traffic Safety Administration, "Key Facts and Statistics," <<http://www.distraction.gov/content/get-the-facts/facts-and-statistics.html>>, accessed on June 23, 2014.

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According to the Colorado Department of Transportation (CDOT), there were 107,544 crashes on Colorado roads in 2013. Of these crashes:

- 6,795 involved minors under the age of 18;
- 431 were fatal, resulting in a total of 481 fatalities; and
- 10,021 caused injuries, resulting in 12,402 injured people.

When responding to a crash, an officer can indicate on a form his or her opinion about the cause of the crash, even if the driver is not issued a citation for the suspected cause. Of the 107,544 total crashes, officers indicated distracted driving as the cause for 14,003 crashes, or 13 percent. Of this total, the crashes are further divided into four different categories of distraction, as follows:

- 546 crashes were caused by distraction from a radio;
- 1,311 crashes were caused by distraction from a cell phone;
- 1,343 crashes were caused by distraction from passengers; and
- 10,803 crashes were caused by other distractions, such as food, objects, or pets.²

Colorado Law

The Colorado General Assembly adopted legislation in 2009 that added new restrictions on cell phone use and text messaging while driving. Under previous state law, only drivers possessing a temporary instruction permit or a minor's instruction permit were prohibited from using a wireless communications device while behind the wheel. The following sections discuss specific provisions of the law.

Minor drivers. Any driver under 18 years of age is prohibited from using a cell phone while driving. The prohibition includes phone calls, text messaging, or similar forms of manual data entry and transmission.

Adult drivers. Adult drivers are prohibited from using a cell phone to text message, or send similar forms of transmission, while behind the wheel. Regular cell phone use for voice calls is permitted.

Exceptions. Exceptions to the law are provided under specified circumstances. Drivers, regardless of age, may use a wireless device for phone calls or sending or receiving text messages either to contact a public safety entity or during an emergency. An emergency is defined as any situation in which the following may occur:

- a person has reason to fear for his or her life or safety;
- a person believes that a criminal act may be perpetrated against him or her or against another person;
- reporting of a fire;
- reporting of a serious traffic accident;
- reporting of a serious road hazard;
- reporting of a medical or hazardous materials emergency; or
- reporting of a person who is driving in a reckless, careless, or unsafe manner.³

²Colorado Department of Transportation

³Section 42-4-239, C.R.S.

Penalties. Table 1 lists penalties assessed for violating state laws pertaining to cell phone use and text messaging while driving. The table indicates fines for both initial and subsequent offenses. In addition to fines set in statute, offenders are assessed a surcharge credited to the Victims and Witnesses Assistance and Law Enforcement Fund and the Crime Victim Compensation Fund.

Table 1
Penalties for Improper Cell Phone Use While Driving

Category	Violation	Points	Fine	Surcharge
Minor Drivers (all cell phone use) and Adult Drivers (text messaging)	Initial Violation Class A Traffic Infraction	1	\$50	\$7
	Subsequent Violation Class A Traffic Infraction	1	\$100	\$7

Source: Section 42-4-239, C.R.S. and Colorado State Patrol.

Enforcement. These violations are primary offenses. Current law states that a law enforcement officer must observe the violation before a citation may be issued. In 2013, CSP issued citations for initial violations to 16 minor drivers and 354 adult drivers, and issued no citations for subsequent violations.⁴

Other legislation. In 2014, House Bill 14-1225 was introduced. It would have prohibited an adult from using a wireless phone to make or receive a phone call while driving, unless the driver used a hands-free device. The bill was postponed indefinitely by the House Transportation Committee.

Other States' Laws

Currently, no states ban all cell phone use by drivers. Table 2 provides a breakdown of distracted driving laws enacted by state legislatures as of June 2014.⁵ A primary offense is one in which a law enforcement officer can pull a driver over and issue a citation specifically for that offense. If a citation can only be issued after a driver is pulled over for another reason, it is a secondary offense.

⁴Colorado State Patrol

⁵Governors Highway Safety Administration, "Distracted Driving Laws," June 2014, <http://www.ghsa.org/html/stateinfo/laws/cellphone_laws.html>, accessed June 23, 2014.

Table 2
Distracted Driving Laws

Offense	Number of states with bans as primary offenses	Number of states with bans as secondary offenses
Ban any cell phone use by minor or "novice" drivers;	31 states + District of Columbia	6 states
Ban any cell phone use by school bus drivers, all of which are a primary offense;	20 states + District of Columbia	0 states
Prohibit text messaging for all drivers	39 states + District of Columbia	5 states
Ban the use of a cell phone without a hands-free device	13 states + District of Columbia	0 states

Source: Governors Highway Safety Administration

Federal Legislation and Executive Orders

In response to increased occurrences of distracted driving accidents, the federal government has also established restrictions to reduce cell phone use while behind the wheel.

Federal employees. In October 2009, President Obama signed an executive order banning federal employees from text messaging while driving federal government vehicles.⁶ The executive order also prohibits federal employees from text messaging on government-issued phones while driving personal vehicles.

Commercial motor vehicles. In September 2010, the Federal Motor Carrier Safety Administration (FMCSA) created a rule that prohibits commercial motor vehicle (CMV) drivers from texting or holding a mobile phone while operating in interstate commerce and establishes corresponding civil penalties for drivers who fail to comply.⁷ Additionally, motor carriers are now prohibited from requiring or allowing their drivers to engage in texting while driving. A driver, including a school bus driver, could lose his or her commercial driver's license if convicted of texting while operating a CMV under state or local traffic laws.

Hazardous materials. In December 2011, the federal Department of Transportation (DOT) published a final rule that applies to all CMV drivers hauling hazardous materials that require a DOT placard.⁸ The rule bans such drivers from using a hand-held mobile phone or texting while driving, including when the CMV is stationary at traffic lights or stop signs. However, a CMV driver may still use a hand-held mobile phone if the vehicle is pulled to the side of the road and is stationary.

⁶Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving."

⁷75 Fed. Reg. 59118 (Sept. 27, 2010).

⁸76 Fed. Reg. 75470 (Dec. 2, 2011).