March 27, 2012

Hang Up and Drive: Developing Policies on Cell Phone Use in Automobiles
by Kara Glaubitz, CPPA

The dangers of cell phone use while driving have been well documented and widely discussed. A number of academic studies have been conducted testing the effects of cell phone use on driving ability, clearly demonstrating that cell phone use impairs some aspects of driving performance1. Concern over the issue has spread to popular culture, with Oprah’s “No Phone Zone Pledge” gaining over 400,000 fans committed to limiting or altogether refraining from cell phone use in the car. Policies to address the issue vary widely between states, and thus far no nationwide restrictions on cell phone use in automobiles have been established.

A number of states have enacted legislation restricting the use of cell phones while driving, but the specific restrictions, as well as the penalties for violating these restrictions, differ between the states. To date, nine states have banned the use of hand-held cell phones by all drivers and many more prohibit the use of hand-held cell phones by some drivers, such as novice drivers or school bus drivers. Thirty-five states, including Utah, prohibit drivers from text messaging2.

Utah legislators first addressed drivers’ cell phone use in 2009, with the passage of H.B. 290, “Prohibition of Wireless Communication Device Use in a Motor Vehicle.” The law prohibits drivers from texting or emailing through any wireless device and the penalties for violating the ban are considerably heavier than in most states. Texting drivers who cause accidents that involve fatalities can be charged with automobile homicide, a second degree felony that can carry up to a 15 year prison sentence. However, the law has been difficult to enforce, as police officers cannot immediately differentiate between a driver dialing a phone number or sending a text message. Additionally, the language of this legislation only restricts drivers from specifically sending a text, not from reading or composing messages. In the 2012 General Session, Senator Lyle Hillyard (R) attempted to address this loophole, clarifying that the prohibition on texting passed in 2009 was intended to restrict cell phones on a wider basis. Senate Bill 98 expands the restrictions to include not only sending text messages, but communicating through email, entering or sending data, reading texts or viewing images on a wireless device. This recent legislation allows drivers to use wireless devices to make and receive calls and use GPS or navigation services.

For the second year in a row, Senator Ross Romero (D) introduced legislation that would further restrict the use of handheld wireless devices for minors. In the 2012 General Session, Sen. Romero introduced S.B. 128, which would have prohibited drivers under 18 from any handheld wireless devices for any purposes other than several specified, including talking with parents, reporting safety hazards, or during a medical emergency3. In both 2011 and 2012, the Wireless Telephone Use Restriction for Minors in Vehicles bills passed in the Senate and failed in the House.

It now appears federal restrictions on cell phone use while driving may be forthcoming. Representative Carolyn McCarthy (D-NY) introduced the Safe Drivers Act (H.R. 2333) in June of 2011, which would ban the use of all hand-held mobile devices while driving4. In December, the National Transportation Safety Board recommended a ban on all cell phone use by drivers, based on data on distraction-related accidents5. The Board’s recommendation goes beyond the currently proposed legislation to include not only hand-held mobile devices, but also hands-free devices such as Bluetooth technology. In January, a ban on hand-held phones by commercial vehicle drivers and bus drivers went into effect. Those caught using a hand-held cell phone can face fines up to $2,750, and repeat offenders can have their commercial driver’s license revoked.

While nationwide restrictions applicable to all drivers have yet to be implemented, more action is anticipated on this issue. In the meantime, it is hoped that the piecemeal approach to tackling the issue in the states makes some strides toward improving safety on the roads.

1 hfs.sagepub.com/content/48/1/196.short
3 le.utah.gov/~2012/bills/sbillint/SB0128.pdf
4 www.opencongress.org/bill/112-h2333/text