



## **Delaware House of Representatives House Majority Caucus**

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### **GOVERNOR MARKELL SIGNS LEGISLATION RESTRICTING DRIVERS' CELL PHONE USE**

*Rep. Scott's HS 1 for HB 229 requires drivers to use hands-free devices, prohibits texting*

WILMINGTON – Delaware became just the eighth state to restrict cell phone use while driving on Tuesday, when Governor Jack Markell signed legislation requiring motorists to use a hands-free device while driving.

Sponsored by Rep. Darryl M. Scott, House Substitute 1 for House Bill 229 goes into effect 180 days from signature – January 2, 2011. The comprehensive statewide restriction requires drivers to use a hands-free device to talk while driving and also prohibits text messaging, sending or reading e-mails or browsing websites while the vehicle is in motion. Delaware also becomes the 30th state to prohibit texting while driving with the signing of this law.

“This new law is about improving safety for everyone who shares the road. We hope we can reduce the number of drivers who text and e-mail while driving, and therefore, reduce the number of distraction-related crashes. Just as we’re keeping our focus as a state on creating more jobs, we want drivers keeping their focus on the road,” Governor Markell said.

The bill allows a driver to use a headset, speakerphone or other hands-free device to talk on a cell phone while driving. It also permits a driver to punch in a number or activate the hands-free device, but the driver must then put the phone down while talking. Rep. Scott said that the new law takes the phone out of the driver’s hands, eliminating a major distraction.

“Cell phones are a wonderful and convenient tool, but when used while driving, they present a persistent distraction. Removing the device from the driver’s hand returns the hand to the wheel and the driver’s attention to the roadways,” said Rep. Scott, D-Dover. “This is an important first step in making our roads safer. Putting restrictions in place that will reduce cell phone usage while driving helps curb distracted driving.”

The bill was sponsored in the Senate by Sen. Brian J. Bushweller and Sen. Karen E. Peterson.

“Some people objected to it saying: ‘Well, people do lots things in the car that are distracting. They listen to the radio; they talk to passengers; they eat,’ ” said Sen. Peterson, D-Stanton, the bill’s chief Senate sponsor. “But I’ve never almost been run over by someone eating a Big Mac, but I have been almost hit a dozen times in the past year by someone talking on a cell phone.”

Sen. Bushweller, who chairs the Senate Public Safety Committee, is a former state secretary of public safety.

“I know this bill created a fair amount of controversy,” said Sen. Bushweller, D-Dover. “But the bottom line is this: I’m convinced it will save lives and that’s more important than any inconvenience it may cause motorists. That’s why I cosponsored this bill and floor managed it in the Senate.”

The new law creates a statewide regulation of the use of electronic communication devices while driving rather than a patchwork system that varies by municipality. The cities of Wilmington and Elsmere have laws on the books restricting the use of cell phones while driving.

Under the bill, a first violation of this primary offense would carry a civil penalty of \$50. A second offense would carry a fine of \$100-\$200. Violators would not accumulate any points on their licenses. Drivers would be permitted to punch in the phone number or activate the hands-free device, but then cannot have the phone in their hands.

“This legislation has been a long time in coming,” said State Office of Highway Safety director Tricia Roberts. “Between now and January 2 – when the law takes effect – the Office of Highway Safety will launch a statewide public awareness campaign. OHS has begun these efforts and we will be reaching out to the public and law enforcement agencies with a comprehensive public awareness strategy that will include the development of Delaware specific fliers, posters, radio ads and potentially signage as well.”

Ms. Roberts noted that the new law prohibits the use of pagers, PDAs, Blackberrys, laptops, games or portable computers while driving. Drivers are not permitted to read, write or send texts or emails while driving or browse wirelessly.

Tuesday’s signing took place at AAA Mid-Atlantic’s corporate headquarters in Wilmington. AAA has been a strong advocate of restricting cell phone usage and texting while driving.

“Texting and using a hand-held cell phone while driving are a threat to public safety, and the 2010 AAA Mid-Atlantic poll found that 95 percent of Delaware drivers agree,” said Ronald W. Kosh, AAA Mid-Atlantic Vice President of Public and Government Affairs AAA Mid-Atlantic. “Thanks to the passage and signing of House Substitute 1 for House Bill 229 which bans these practices, Delaware’s highways will become a whole lot safer for the motoring public. AAA Mid-Atlantic salutes both the Delaware General Assembly and Governor Markell for this far-sighted action.”

The bill allows exemptions for police, firefighters and other emergency personnel, permitting them to use a hand-held cell phone while performing their duties. It also allows drivers to use a hand-held cell phone to report an accident, fire, reckless driver or another emergency.

Shortly after passage of the hands-free cell phone legislation, the business community raised concerns about how it might impact their operations, so House Majority Leader Rep. Peter C. Schwartzkopf introduced legislation allowing employees to use two-way radios in their business

vehicles to communicate with co-workers or headquarters. Rep. Schwartzkopf said that the prohibition was an unintended consequence because it would prevent several businesses, such as taxicab, electric and propane delivery companies, from using two-way radios in the course of their normal business.

House Bill 493 exempts a person using a two-way communication device mounted or attached to a motor vehicle during their course of employment with a business or government entity while talking to a central dispatch, base of operation, or with other employees of such business or government entity.

“We became aware of an unintended consequence from the cell phone bill that could negatively affect several businesses,” said Rep. Schwartzkopf, D-Rehoboth Beach. “That was never our intention, and this bill is meant to be business-friendly and address the business community’s concerns. Additionally, I personally don’t view this type of two-way radio communication as the same kind of distraction as a cell phone.”

Another companion piece of legislation signed into law on Tuesday was House Bill 494. Sponsored by Rep. Ruth Briggs King, R-Georgetown, HB 494 carves out an exemption from the radio ban for “FCC-licensed amateur radio operators.” Originally an amendment to the hands-free bill, the legislation was filed as a separate bill and won quick passage in both chambers.

“I know these men and women perform a really important public service especially in times of crisis, such as the severe storms we had this past winter,” Rep. King said. The second time around, more legislators had a better handle on this issue and the measure passed. I was really glad to get this done.”

Bayhealth Medical Center has launched a public awareness campaign to help educate the community about the potential dangers of texting on your cell phone while driving.

“Many people don’t realize that texting while driving can be more dangerous than drinking and driving,” said Bayhealth Trauma Medical Director Dr. Ed Alexander. “Unfortunately, we’ve had to treat patients who’ve suffered traumatic injuries from crashes caused by drivers who are sending or receiving a text message.”

In early June, Bayhealth Trauma & Emergency Services launched a comprehensive public awareness campaign featuring radio public service announcements, billboards and posters that make a blunt, but poignant point. The billboards and posters feature Bayhealth Trauma & Emergency personnel with the message, “Texting and Driving? CU in our ER!”

According to the National Conference of State Legislatures, states such as Maryland, New Jersey and New York, and Washington, D.C., require drivers to use hands-free devices, with Maryland’s law going into effect on Oct. 1.

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