

Does Kentucky Need a Cell Phone Law?

In the United States there are six states as well as the District of Columbia that ban the use of hand-held cellular devices while driving. There are other states, Kentucky included, that are considering enacting similar laws. This proposition has spiked a controversy between the cell phone industry and the National Safety Council.

On January 6th of this year two different bills were introduced in the Kentucky legislature that would ban the use of hand-held cellular devices while driving. The first bill, House Bill 41 <http://www.kentuckyvotes.org/2009-HB-41> (Budget Request 135), was introduced by Rep. David Floyd to ban the use of a hand-held cell phone by the driver of a motor vehicle while the vehicle is in motion. The bill makes exceptions for certain emergencies and permits cell phones to be used in moving vehicles when a hands-free device is present and in use. The bill would authorize fines of between \$20 and \$100 per violation beginning January 1, 2010. This bill was referred to the House Transportation Committee on January 7, 2009.

The second bill introduced, House Bill 46 <http://www.kentuckyvotes.org/2009-HB-46> (Budget Request 267), was introduced by Rep. Rick Nelson that would prohibit anyone under age eighteen and possessing a driving permit or license from using a personal communication device while operating a motor vehicle, motorcycle or moped. The bill makes exceptions for when the vehicle operator is in pursuit of medical or law enforcement assistance. The bill defines personal communication device as one capable of audio or text communication and is not limited to cell phones or pagers. The bill provides for a fine of \$20 to \$100 for violations on or after January 1, 2010. This bill was also referred to the House Transportation Committee on January 7, 2009.

The president and CEO of The National Safety Council, Janet Froetscher, <http://www.nsc.org/resources/issues/drivsafe.aspx> has said that “Driving drunk is also dangerous and against the law. When our friends have been drinking, we take the car keys away. It’s time to take the cell phone away.” In an effort to raise awareness the SC has sent letters to several governors and legislative leaders pleading their case and asking them to pass the state bans.

The other side of this controversy is the cell phone industry. An association known as CTIA-The Wireless Association <http://www.ctia.org/> promotes education over legislation. They believe that cell phone use can be safe and sensible for a short period of time while driving. They also report that there are other activities that could be potential driving distractions, eating, adjusting the radio, reading, reaching for objects and other passengers. Their premise is that there is a right and wrong time to talk on the cell phone while driving. The wrong time is, among others, in heavy traffic and bad weather.

When you get behind the wheel of a vehicle it is your responsibility to be alert and responsive to all of the activities around you. If talking on the phone distracts you, hang it up. If eating distracts you, don’t eat. Whatever the activity, if it takes away your awareness of what’s happening on the road you need not to do it.

Does this law go far enough in really providing a deterrent that will aid in the prevention of auto accidents? I don't think so. We have all seen drivers talking on their cell phones, or even worse, text messaging while they are driving. I have clients who have been injured in car accidents where the driver of the at-fault car says "I am sorry. I didn't see you stop. I was on my cell phone". This should never happen.

Talking on a cell phone while driving a motor vehicle should be more than a violation. I believe the offense should carry jail time of up to 90 days, making it a class B misdemeanor. If the consequences are more severe there is a greater chance that the individuals will be deterred from talking on a cell phone while driving. The consequences are severe for car accident victims. When driving you are in control of a several ton object that can be propelled into another vehicle if you are negligent in any way. This can cause a herniated disc, broken bones or even death. Inattention while talking on a cell phone and driving can have severe and deadly consequences for an innocent victim.

Even if one victim is saved by a cell phone law in Kentucky it is worth while in my opinion. Kentucky should enact a cell phone law. I hope our legislature makes it one that will do the job it is intended for.