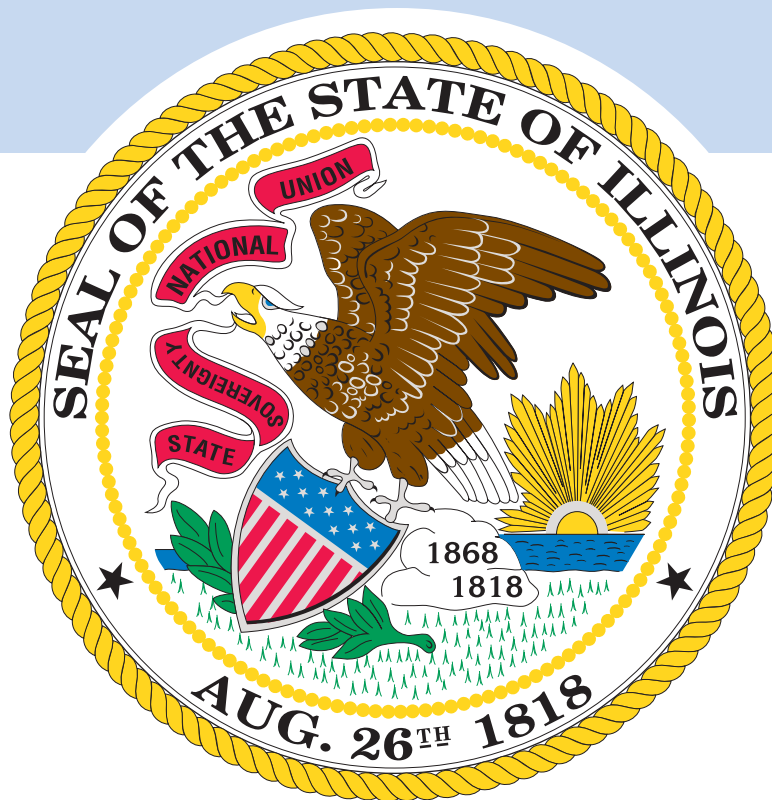


DISTRACTED DRIVERS TASK FORCE

final report



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I. INTRODUCTION

Due to the increase in the number of traffic crashes resulting from drivers becoming distracted by today's technological advances, compromising the safety of those using the roadways in Illinois, House Joint Resolution 22 was passed creating the Distracted Drivers Task Force. The Task Force was commissioned to study the growing problem of distracted driving in Illinois, with particular attention focused on the impact of recent communications technology.

The Task Force, which was presided over and chaired by Illinois Secretary of State Jesse White, included the following distinguished members:

Senator Michael W. Frerichs
Senator Pamela J. Althoff
Representative William B. Black
Representative Monique D. Davis
Julia Rietz, State's Attorney for Champaign Co., IL
Commander Robert Haley, IL State Police
Michael R. Stout, Director, IL Dept. of Transportation, Division of Traffic Safety
Edward M. Maloney, IL State Bar Association
Laimutis "Limey" Nargelenas, IL Association of Chiefs of Police

The Task Force was sanctioned to conduct hearings for the purpose of acquiring personal and expert witness testimony regarding the dangers of distracted driving. These meetings occurred on January 9, 2008 in Springfield, February 19, 2008 in Chicago.

Testimony was presented at the January and February meetings by the following:

Charles and Gloria Wilhelm, Victim Advocates
Jeff Wilhelm, Victim Advocate
Timothy & Cynthia McAvoy, Victim Advocates
Randy Neufeld, Healthy Streets Campaign
Dave Manning, IL Trucking Association
Michael R. Stout, Director, IL Dept. of Transportation, Division of Traffic Safety

Beth Mosher, AAA Chicago
Charles Eger, Motorola
Monica Mueller, Motorola
Dean Schott, League of Illinois Bicyclists

A third meeting was held on Thursday, May 15, 2008, at which time the Task Force Membership discussed the previous testimony and the recommendations contained in this document.

II. BACKGROUND

According to a study conducted by the National Highway Traffic Safety Administration (NHTSA) and Virginia Tech Transportation Institute (VTTI), distracted driving is “anything that diverts the driver’s attention” away “from the primary tasks of navigating a vehicle and responding to critical events.” A distraction can be visual (something that takes your eyes off the road), cognitive (something that takes your mind off the road) or manual (something that takes your hands off the wheel of the vehicle). Eating would be a form of visual and manual distraction while text messaging would qualify as a combined manual, cognitive and visual distraction as an individual uses their hands to type, their eyes to see what they are typing and their mind because they have to think about the message.

In 2006, a NHTSA study reported that the leading factor in most crashes and near-crashes (80% of crashes and 65% of near-crashes) is driver inattention within three seconds before the event. Dialing a hand held device increases a driver’s chance of being involved in a vehicle crash by three (3) times and listening or talking on a hand held device increases a driver’s risk by 1.3 times. However, the report also found that:

- Reaching for a moving object while driving increases the risk of a crash or near-crash by 9 times;
- Looking at an external object while driving by 3.7 times;
- Reading while driving by 3 times;
- Applying make-up while driving by 3 times.

There are no research numbers to tell us how many of the approximately 8.5 million drivers on Illinois' roadways have some type of electronic communication device or how often they are distracted while they are driving; however, NHTSA estimates that 10% of all Illinois drivers are utilizing their cell phones at any given moment while operating their motor vehicle. National surveys also indicate that drivers are quick to point out instances where they have witnessed other drivers performing some type of distracting activity while driving a vehicle.

While cell phones are the most familiar form of distraction, the report from NHTSA has indicated applying makeup, adjusting the radio or stereo and reading a roadmap are among the list of numerous activities that can distract a driver from the responsibility of safely operating a motor vehicle.

One of the newest and most deadly forms of distraction is text messaging. An article published by USA Today states that since the year 2000, the use of equipment with text messaging capabilities has increased from 12 million messages annually to over 16 BILLION messages in 2006. In 2007, five New York teenagers were killed in a fiery crash. It was ultimately determined the driver was text messaging just prior to the crash.

The states of California, Connecticut, New Jersey, New York and Washington, along with the District of Columbia and the U.S. Virgin Islands, have enacted legislation

prohibiting the use of hand held cellular phones while operating a motor vehicle. The states of Washington and New Jersey also prohibited the practice of text messaging while operating a motor vehicle. Legislation is currently pending in several other states to ban text messaging while operating a motor vehicle.

Today's society is such that multi-tasking has become a way of life and many people perform more than one function at a time, many without even realizing they are doing it. A person could be taking a cell phone call from their child while they are at work in the middle of writing a report or grocery shopping and text messaging a friend about plans for later in the week. Multi-tasking itself is not hazardous except when one of the tasks involves the operation of a motor vehicle and the driver is distracted by a second task they are performing. Multi-tasking drivers increase the risk of injuring or killing themselves, anyone else that might be in the vehicle with them, and bicyclists, pedestrians or any innocent victim traveling in the other vehicle involved in the crash. Distractions within a car may take the driver's eyes off the roadway and even a 1-2 second distraction can mean tragedy.

States and private groups are beginning to recognize distracted driving as a serious traffic safety issue and as a civil liability towards their organizations. Large corporations, colleges/universities and governmental agencies with employees that are required to drive as a part of their employment are implementing prohibitions on the use of interactive technology while driving in a corporate or motor pool vehicle due to the financial risk it may place on the company or agency. An insurance company recently paid out a \$31 million settlement for a fatal crash that was the result of distracted driving.

III. ILLINOIS' CURRENT & PROPOSED LEGISLATION REGARDING DISTRACTED DRIVING

Illinois has been a pioneer in battling this growing issue by enacting several laws dating back to 2001, when the General Assembly passed a law prohibiting headsets while operating a motor vehicle. In July of 2002, a bill was signed prohibiting bus drivers from operating a cell phone while driving a school bus. To further its fight against distracted driving, two separate laws were passed in 2005: (1) prohibits media technology, other than navigational systems, to be located at any point in the vehicle that was visible by the driver and (2) limits anyone under the age of eighteen (18) years, and possessing a drivers license, from utilizing a cell phone while operating a motor vehicle (this law has since been amended raising the designated age to 19).

With the continued advancement of modern mobile technology, Representative William R. Black crafted House Joint Resolution 22 which created the Distracting Drivers Task Force, with it's purpose being to perform an in-depth study of the issue, conduct hearings, gather applicable data, solicit professional opinions and report findings to the General Assembly.

In addition to the laws above, the Illinois General Assembly currently has several pieces of legislation regarding distracted driving under review. These include:

- **HB1382** (Sponsored by Rep. William Black) creates the offense of negligent vehicular homicide, a Class A misdemeanor. It provides that a person commits the offense if the person's negligent operation of a motor vehicle is a proximate cause of the death of another person. It further provides that a person acts negligently within the meaning of the provision if he or she fails to be aware of a substantial and unjustifiable risk of death

or injury to others, and that failure constitutes a substantial deviation from the standard of care, which a reasonable person would exercise under the circumstances then prevailing. Additionally, the finder of fact may consider statutes and ordinances regulating the defendant's conduct in determining whether he or she was culpably negligent.

As of the writing of this report, the legislation is assigned to the Senate Rules Committee.

- **HB0663** (Sponsored by Rep. William Black) provides that the Secretary of State shall immediately revoke (rather than may, within 6 months of the date of conviction or one year of the date of the crash, revoke or suspend) the driving privileges of any person who has been convicted of an offense that involved the unlawful operation of a motor vehicle and caused or contributed to a crash resulting in the death of any person.

As of the writing of this report, the legislation is assigned to the Senate Rules Committee.

- **SB2462** (Sponsored by Senator John Cullerton) provides that it is an aggravating factor in sentencing if the defendant (i) committed reckless homicide or any violation of the Rules of the Road Chapter of the Illinois Vehicle Code and (ii) was sending an electronic text message or operating any electronic device not a part of the vehicle's original equipment, while operating a motor vehicle. It further provides that the court may impose an extended term sentence when a defendant is convicted of reckless homicide or is convicted of a felony violation of the Rules of the Road

Chapter of the Illinois Vehicle Code and was sending an electronic text message or operating any electronic device not a part of the vehicle's original equipment, while operating a motor vehicle.

As of the writing of this report, the legislation is assigned to the Senate Rules Committee.

- **SB2596** (Sponsored by Senator William Delgado) creates the offense of infliction of serious physical injury or death to a vulnerable user of a public way. It provides that a person commits the offense of infliction of serious physical injury or death to a vulnerable user of a public way if the person (i) operates a vehicle upon a highway in this State in a careless or reckless manner and (ii) causes serious physical injury or death to a vulnerable user of a public way. It further provides that infliction of serious physical injury or death to a vulnerable user of a public way is a Class A misdemeanor and carries a minimum fine of \$12,500 and states that any driver who is convicted of infliction of serious physical injury or death to a vulnerable user of a public way is subject to suspension of his or her driving privileges.

As of the writing of this report, the legislation has been placed on the Senate Concurrence Calendar.

- **HB4861** (Sponsored by Rep. Luis Arroyo) creates the offense of infliction of serious physical injury or death to a vulnerable user of a public way. It provides that a person commits the offense of infliction of serious physical injury or death to a vulnerable user of a public way if the person operates a

vehicle upon a highway in this State in a careless or reckless manner and causes serious physical injury or death to a vulnerable user of a public way. It further provides that infliction of serious physical injury or death to a vulnerable user of a public way is a Class A misdemeanor and carries a minimum fine of \$12,500 and states that any driver who is convicted of infliction of serious physical injury or death to a vulnerable user of a public way is subject to suspension of his or her driving privileges.

As of the writing of this report, the legislation is in the House Rules Committee.

- **HB4998** (Sponsored by Rep. Robert Pritchard) creates the offense of distracted driving. It provides that a person commits distracted driving when he or she operates a motor vehicle while doing anything that distracts the driver from driving in a lawful manner. It further provides that a law enforcement officer may charge a person with distracted driving under this provision if the officer has stopped the person for any violation of a law or ordinance governing the movement of vehicles and if the officer determines that the driver was driving while distracted. Additionally, any person who commits the offense of distracted driving is subject to an additional fine equivalent to the amount of the fine for the underlying offense that he or she committed and provides that the offense of distracted driving is not a violation of a law or ordinance governing the movement of vehicles and may not be recorded on the driving record of the owner of the vehicle; Any person who commits the offense of

distracted driving by operating a motor vehicle while engaging in text messaging, reading a newspaper, book, magazine, or map, applying make-up, or changing clothes or tying a tie (instead of operating a motor vehicle while doing anything that distracts the driver from driving in a lawful manner) and the operation of the motor vehicle is in violation of a law or ordinance governing the movement of vehicles. The offense of distracted driving is not a violation of a law or ordinance governing the movement of vehicles and may not be recorded on the driving record of the driver of the vehicle.

As of the writing of this report, the legislation is assigned to the House Rules Committee.

- **HB 4649** (Sponsored by Rep. John Bradley) creates the offense of negligent operation of a motor vehicle. It provides that if a person commits the offense when he or she: (1) operates a motor vehicle without the motor vehicle being covered by a liability insurance policy; and (2) causes great bodily harm to another person that was the proximate result of the driver's negligent operation of the motor vehicle. This offense is a Class A misdemeanor.

As of the writing of this report, the legislation is in the House Rules Committee.

- **HB 4738** (Sponsored by Rep. William Black) creates the offense of negligent vehicular homicide. It provides that a person commits the offense if the person's negligent operation of a motor vehicle is a

proximate cause of the death of another person. It further provides that a person acts negligently within the meaning of the provision if he or she fails to be aware of a substantial and unjustifiable risk of death or injury to others, and that failure constitutes a substantial deviation from the standard of care which a reasonable person would exercise under the circumstances then prevailing. The finder of fact may consider statutes and ordinances regulating the defendant's conduct in determining whether he or she was culpably negligent.

As of the writing of this report, the legislation is in the House Rules Committee.

HB 4739 (Sponsored by Rep. William Black) provides that a person not otherwise prohibited from driving a vehicle on a roadway while using a wireless telephone may do so only if that wireless telephone is specifically designed and configured to allow hands-free operation, and is used in that manner while driving. It further provides that any person who violates the provision regarding wireless telephone use shall be fined \$250.

As of the writing of this report, the legislation has been tabled by the sponsor.

- **HB 4740** (Sponsored by Rep. William Black) provides that if any person is convicted of or pleads guilty to a violation of the Illinois Vehicle Code, or a similar provision of a local ordinance, that resulted in an accident, and the person's use of a wireless telephone caused or contributed to the

accident, the person shall, in addition to any other penalty imposed, pay a fine of \$500.

As of the writing of this report, the legislation has been tabled by the sponsor.

IV. RECOMMENDATIONS

Based upon the testimony given by witnesses and discussion among the membership, the Distracted Drivers Task Force makes the following legislative and administrative recommendations:

- **The Distracted Drivers Task Force recommends that legislation be enacted making it unlawful for a driver to operate a motor vehicle while engaging in either creating, sending or reading a text message.** This law would apply to any type of technological device that is capable of text messaging, including, but not limited to, cell phones and blackberries. The only exception to this law would be in the case of an emergency situation (if a discrepancy arises regarding the definition of an “emergency situation,” the presiding law enforcement officer will utilize their judgment).

This recommendation passed with the unanimous vote of the Task Force Members present.

- **The Distracted Drivers Task Force recommends the establishment of the offense of Negligent Vehicular Operation.** This law would provide that a person commits the offense if the person’s negligent operation of a motor vehicle

is the proximate cause of a crash (without inflicting bodily harm). A person acts negligently within the meaning of the provision if he or she fails to be aware of a substantial and unjustifiable risk of death or injury to others, and that failure constitutes a substantial deviation from the standard of care that a reasonable person would exercise under the circumstances. First-time offenders would receive a standard, points assigned, moving violation ticket as set forth in the IVC.

- **The Distracted Drivers Task Force recommends the establishment of the offense of Aggravated Negligent Vehicular Operation.** This law would provide that a person commits the offense if the person's negligent operation of a motor vehicle is the proximate cause of a Type A Personal Injury (as defined in the Illinois Vehicle Code 11-501.6(g)) to an individual(s) or property damage exceeds \$500. A person acts negligently within the meaning of the provision if he or she fails to be aware of a substantial and unjustifiable risk of death or injury to others, and that failure constitutes a substantial deviation from the standard of care that a reasonable person would exercise under the circumstances. This offense will be classified as a Class A Misdemeanor and may be subject to a jail sentence of 0 - 12 months, up to a \$2,500 fine and a one-year revocation of driving privileges.
- **The Distracted Drivers Task Force recommends the establishment of the offense of Negligent Vehicular Homicide.** This law would provide that a person commits the offense if the person's negligent operation of a motor vehicle is the

proximate cause of the death of another person. A person acts negligently within the meaning of the provision if he or she fails to be aware of a substantial and unjustifiable risk of death or injury to others, and that failure constitutes a substantial deviation from the standard of care that a reasonable person would exercise under the circumstances. This offense will be classified as a Class 4 Felony and will subject the individual to a jail sentence of 1 to 3 years, up to a \$25,000 fine and revocation of his or her driving privileges for no less than one year.

The recommendation of the establishment of the Negligent Vehicular Operation, Aggravated Negligent Vehicular Operation and Negligent Vehicular Homicide laws passed with the majority vote of the Task Force Members present with one vote in the negative. Mr. Ed Maloney, representing the Illinois State Bar Association, expressed concerns about this provision and the definition of negligence being used by the Task Force in the creation of the offenses. He provided follow-up comments requesting that the Reckless Driving Statute of the Illinois Vehicle Code be amended to include the use of any electronic device as prima facie evidence in lieu of establishing this new provision.

- House Joint Resolution 10 (HJR 10), currently under consideration by the Illinois General Assembly, requires that police reports include an indication as to whether an automobile crash involved the use of a cellular phone and directs the Illinois Department of Transportation to compile statistics from state, county, and municipal law enforcement agencies related to cellular phone use and automobile crashes. **The Distracted Drivers Task Force recommends the passage of HJR**

10 and that the Illinois Department of Transportation (IDOT) publish crash statistics regarding the relationship between the use of cell phones and other methods of distracted driving and motor vehicle crashes for two calendar years (rather than one) based on the statistical analysis of this report. The Distracted Drivers Task Force further recommends that the statistics be compiled and reported by IDOT to the members of the Illinois General Assembly, the Office of the Governor and the Office of the Secretary of State within three (3) months of the completion of the study. The study would be reviewed by the above entities in order to identify any trends, positive or negative, in consideration of further legislation regarding the use of cellular phones and the operation of a motor vehicle.

This recommendation passed with the unanimous vote of the Task Force Members present.

- Current Illinois law (SB1557 / PA95-0339) requires that driver education courses must include classroom instruction on distracted driving as a major traffic safety issue. **The Distracted Drivers Task Force recommends legislation to require: (1) Commercial Driver Training Schools to teach a distracted driving curriculum, and (2) that the distracted driving material covered in both the driver's education and commercial driver curriculums be standardized to emphasize the most important factors and safety focal points.**

This recommendation passed with the unanimous vote of the Task Force Members present.

- Children and construction workers are among the most vulnerable citizens when it comes to interaction with an automobile and school zones and construction areas are where Illinois motorists should be the most attentive. **The Distracted Drivers Task Force recommends that legislation be enacted prohibiting the use of cell phones when a motor vehicle is traveling through a marked construction/work zone or a marked school zone on all Illinois roadways.**

It should be noted, that a growing percentage of construction zones and municipalities are using cameras as a back up system to enforce speed limit restrictions as well as red light acknowledgement at times when a law enforcement officer is not or cannot be physically present. It is suggested by the Distracted Drivers Task Force that this technology be considered to assist in monitoring the prohibition of cell phone usage in these safety areas.

This recommendation passed with the unanimous vote of the Task Force Members present.

In follow up comments submitted by Mr. Ed Maloney representing the Illinois State Bar Association, he recommended that the first two violations of this offense, if they occur within 1-2 years of each other, be punishable by a fine and that an individual's driver's license be suspended for subsequent violations. A specific punishment for a violation of this provision was not discussed by the Task Force at the May 15, 2008 hearing.

The following two recommendations require no action by the Illinois General Assembly but are suggestions by the Task Force Membership. No vote by the membership was taken on either of these issues as they require no legislative action.

- Currently, attending law enforcement officer(s) at the scene of a crash are required to fill out a police report and make the determination if toxicology test(s) shall be administered to the drivers involved. **The Distracted Drivers Task Force recommends that law enforcement officers receive additional training about the importance of properly filing a police report including all influences that may have contributed to the crash. Further, law enforcement officers should be periodically re-trained on the importance of requesting toxicology screening for drivers involved in crashes where alcohol or drugs may have played a role in motor vehicle crashes.**
- **The Distracted Drivers Task Force recommends that the insurance industry be encouraged to allow for incentives or discounted rates to corporations and businesses who make it a company policy to prohibit their employees from utilizing electronic devices and other forms of distracted driving while operating a company vehicle, except in the case of an emergency.**