

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
HOUSE TRANSPORTATION COMMITTEE

IRVIS OFFICE BUILDING  
ROOM G-50  
HARRISBURG, PENNSYLVANIA

MONDAY, OCTOBER 15, 2007  
11:00 A.M.

PUBLIC HEARING ON DISTRACTED DRIVERS  
HOUSE BILLS 698, 1506, 1549, AND 1827

BEFORE :

HONORABLE JOSEPH F. MARKOSEK, CHAIRMAN  
HONORABLE RICHARD A. GEIST  
HONORABLE MIKE CARROLL  
HONORABLE PAUL COSTA  
HONORABLE JOHN EVANS  
HONORABLE KATE HARPER  
HONORABLE DICK L. HESS  
HONORABLE DAVID S. HICKERNELL  
HONORABLE MARK K. KELLER  
HONORABLE MARK LONGIETTI  
HONORABLE RON MILLER

1 (CONT'D)

2

HONORABLE TONY PAYTON  
3 HONORABLE TINA PICKETT  
HONORABLE JEFFREY PYLE  
4 HONORABLE JOHN P. SABATINA, JR.  
HONORABLE DANTE SANTONI, JR.  
5 HONORABLE MARIO SCAVELLO  
HONORABLE JOHN J. SIPTROTH  
6 HONORABLE THOMAS J. SOLOBAY  
HONORABLE KATHARINE M. WATSON  
7 HONORABLE JAKE WHEATLEY  
HONORABLE EDWARD P. WOJNAROSKI, SR,

8

9

10

11

ALSO PRESENT:

12

HONORABLE THOMAS R. CALTAGIRONE  
13 HONORABLE CHRIS ROSS  
HONORABLE EUGENE DEPASQUALE  
14 HONORABLE WILLIAM C. KORTZ, JR.  
HONORABLE JOSH SHAPIRO  
15 STACIA RITTER, EXECUTIVE DIRECTOR (D)  
ERIC BUGAILE, EXECUTIVE DIRECTOR (R)  
16 MARK BUTERBAUGH, RESEARCH ANALYST

17

18

BRENDA S. HAMILTON, RPR  
19 REPORTER - NOTARY PUBLIC

20

21

22

23

24

25

	INDEX	
1	NAME	PAGE
2	HON. CHRIS ROSS	9
3	HON. EUGENE DEPASQUALE	12
4	HON. WILLIAM C. KORTZ, SR.	16
5	HON. JOSH SHAPIRO	46
6	GARY HOREWITZ	75
7	CAPTAIN JACOB M. CRIDER, PSP	86
8	JOHN LEONARD, JR., EXECUTIVE DIRECTOR	107
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1                   P R O C E E D I N G S

2

3                   CHAIRMAN MARKOSEK: First order of  
4 business this morning is we want to recognize  
5 one of our top staff people who has a  
6 birthday, Vickie Trostle, and ask her to lead  
7 us in the pledge of allegiance in honor of  
8 her.

9                   (Pledge of allegiance)

10                  CHAIRMAN MARKOSEK: Happy birthday,  
11 Vickie.

12                  MS. TROSTLE: Thank you.

13                  CHAIRMAN MARKOSEK: In case any of  
14 you know Linda Lehman in the chief clerk's  
15 office, it is her birthday today also. Good  
16 friend of mine.

17                  With that, I want to welcome  
18 everybody here today. Good morning. I see we  
19 have the mood lighting here for the audience  
20 set up. I'm not sure why it's so dark back  
21 there, but nevertheless I want to welcome  
22 everybody here today and members that are  
23 trickling in.

24                  And, first of all, I want to say this  
25 obviously is a hearing relative to a very

1 interesting and topical issue, that is,  
2 distracted driving, in particular with  
3 distracted driving by technology.

4           It doesn't include electric shavers  
5 or hair dryers here today, but that does  
6 distract some people on occasion.

7           I want to first also point out that  
8 there was an erroneous e-mail, letter,  
9 correspondence sent out here about a week ago  
10 indicating that legislation that would ban  
11 cell phones, et cetera, in vehicles had  
12 passed, and that was totally erroneous.

13           Obviously these bills are in our  
14 committee. That's why we're having our  
15 hearing today. Certainly no guarantee in the  
16 future what will happen, but hopefully the  
17 information that we gather here this morning  
18 will send us a good message on how we should  
19 proceed relative to that.

20           Before I introduce Chairman Geist for  
21 remarks, I'd like to have the secretary take  
22 the role, please.

23           MS. WOLFE: Markosek.

24           CHAIRMAN MARKOSEK: Here.

25           MS. WOLFE: Carroll.

1 REPRESENTATIVE CARROLL: Here.

2 MS. WOLFE: Costa. Gerber.

3 Haluska. Longietti.

4 REPRESENTATIVE LONGIETTI: Here.

5 MS. WOLFE: Mann. Payton.

6 REPRESENTATIVE PAYTON: Here.

7 MS. WOLFE: Petarca. Sabatina.

8 Santoni. Siptroth. Solobay.

9 REPRESENTATIVE SOLOBAY: Here.

10 MS. WOLFE: Wagner. Wheatley.

11 REPRESENTATIVE WHEATLEY: Here.

12 MS. WOLFE: Wojnaroski.

13 REPRESENTATIVE WOJNAROSKI: Here.

14 MS. WOLFE: Geist.

15 REPRESENTATIVE GEIST: Present.

16 MS. WOLFE: Evans.

17 REPRESENTATIVE EVANS: Here.

18 MS. WOLFE: Harper.

19 REPRESENTATIVE HARPER: Here.

20 MS. WOLFE: Hess. Hickernell.

21 REPRESENTATIVE HICKERNELL: Here.

22 MS. WOLFE: Keller.

23 REPRESENTATIVE KELLER: Here.

24 MS. WOLFE: Maher, leave. Marsico.

25 Miller.

1 REPRESENTATIVE MILLER: Here.

2 MS. WOLFE: Pickett. Pyle.

3 REPRESENTATIVE PYLE: Here.

4 MS. WOLFE: Scavello.

5 REPRESENTATIVE SCAVELLO: Here.

6 MS. WOLFE: Watson.

7 REPRESENTATIVE WATSON: Here.

8 REPRESENTATIVE SCAVELLO: Just in  
9 time, Watson.

10 CHAIRMAN MARKOSEK: Let the record  
11 show also that Representatives Costa, Santoni,  
12 and Siptroth have arrived.

13 With that I'll have some brief  
14 remarks from Chairman Geist.

15 REPRESENTATIVE GEIST: Over the years  
16 we've had many, many pieces of legislation  
17 aimed just at cell phones, and it's my belief  
18 that distracted driving is much more than cell  
19 phones.

20 But I will say this. There's nothing  
21 that bothers me more than watching a teenager  
22 drive down the road with elbows steering while  
23 they're texting. And I have -- I have not  
24 mastered that yet, but I tell you what. That  
25 kind of worries me.

1           Hopefully we can get good information  
2 here and see what we can do. But I think we  
3 have to address the whole distracted driving  
4 in toto, not just one piece of it. Thank you.

5           CHAIRMAN MARKOSEK: Okay. Thank you,  
6 chairman.

7           The first order of business we have  
8 four bills officially in front of us here this  
9 morning. Three of the prime sponsors of those  
10 bills are here. Representative Ross,  
11 Representative DePasquale, and Representative  
12 Kortz, and I would like to have them come up  
13 to the -- the three of them together come up  
14 to the testifying area and -- for brief  
15 remarks on -- on each of their bills.

16           Representative Shapiro also has a  
17 bill in the committee. He will be here a  
18 little bit later. He's on the turnpike. I  
19 hope he didn't call from the turnpike.

20           REPRESENTATIVE SCAVELLO: He texted.  
21 He texted.

22           CHAIRMAN MARKOSEK: Well, actually  
23 it's not illegal right now, so when he shows  
24 up later we'll -- we'll have him come on.

25           But at this point in time I'd like to



1 introduce these three gentlemen. We'll go  
2 with Representative Ross first who has House  
3 Bill 698. Representative Ross has to run to  
4 another committee meeting I believe.

5           So, Representative Chris Ross, the  
6 floor is yours, please.

7           REPRESENTATIVE ROSS: Thank you,  
8 Mr. Chairman. And I appreciate the  
9 consideration. I'm having one of those  
10 mornings where there's a lot of things going  
11 on.

12           So this is a subject that I've been  
13 interested in for several sessions now and  
14 have had legislation in the past on it.

15           And my understanding is really that  
16 this is a serious issue, distracted driving;  
17 that there are accidents that occur; there are  
18 people that are driving down the road and  
19 violating various different traffic laws  
20 because they're distracted.

21           But I felt from the very beginning  
22 when I first started learning about this issue  
23 that it was a broad based kind of a problem.  
24 And as Chairman Geist has mentioned earlier,  
25 that there are many things that can take

1 people's attention away from the business at  
2 hand of driving safely.

3           And with all due respect to Chairman  
4 Markosek, we actually do in my legislation  
5 also include personal grooming devices. So  
6 they're not getting off with their hair dryers  
7 or shavers in my legislation either.

8           But what I felt is important is to  
9 focus in on the broad range of things that may  
10 distract people from driving safely, including  
11 the use of electronic, electrical, mechanical,  
12 personal grooming devices, food, drinks,  
13 books. Unfortunately people actually read  
14 while they're driving. And other printed  
15 material.

16           And my sense is that rather than  
17 overburdening the police for -- for them to be  
18 looking constantly in everybody's car and  
19 stopping people all across the road that we  
20 focus in on those that are particularly  
21 engaged in these activities such that they are  
22 otherwise violating a traffic law or perhaps  
23 have gotten to the point where they are  
24 actually involved in an accident.

25           And that if, in fact, either of those

1 two things come into play that we accelerate  
2 the penalties and do that in a way that's  
3 consistent with some of the other code  
4 violations.

5           So my focus is a secondary offense  
6 rather than a primary offense and also a fine  
7 of \$50 if, in fact, one of these activities  
8 has been engaged in such that you violated the  
9 law or otherwise created an accident.

10           And that, in sum, is pretty similar  
11 to what I've proposed in the past. I'll be  
12 happy to take any questions that anybody would  
13 have about it.

14           CHAIRMAN MARKOSEK: Thank you,  
15 Representative Ross. What -- what we'd like  
16 to do is have the other two gentlemen --

17           REPRESENTATIVE ROSS: All right.

18           CHAIRMAN MARKOSEK: -- speak as well  
19 and then any members that have some  
20 questions.

21           REPRESENTATIVE ROSS: Fair enough.

22           CHAIRMAN MARKOSEK: At this point in  
23 time I'd like to introduce Representative  
24 Eugene DePasquale from York, Pennsylvania,  
25 House Bill 1506.

1 Eugene, you may begin.

2 REPRESENTATIVE DEPASQUALE: Thank  
3 you, Mr. Chairman, and for -- members of the  
4 committee, especially for highlighting on this  
5 important traffic safety issue today.

6 On May 11th, 2007 Washington Governor  
7 Christine Gregoire signed the country's first  
8 law that put an end to text messaging or at  
9 least the legality of text messaging while  
10 driving in the state of Washington.

11 This was the result of a five-car  
12 pileup on Interstate 5 in December of '06 that  
13 was later found by State Police to be caused  
14 by a driver typing on a BlackBerry.

15 This legislation is what is used as  
16 the model for my legislation, which is House  
17 Bill 1506.

18 According to a New York Times report  
19 about a 150 billion mobile text messages were  
20 sent in the U.S. -- U.S. last year, up almost  
21 two-fold from 2005. And while it's unknown  
22 how many of those were typed by drivers in  
23 moving vehicles, it doesn't take scientific  
24 research to figure out we're talking a high  
25 number.

1           In the Chicago area this year  
2 18-year-old Richard Tatum was driving when he  
3 sent his girlfriend a text message. His  
4 quote, I don't even remember hitting the truck  
5 because I was looking down at my phone when I  
6 hit it.

7           His mother Linda said, quote, he was  
8 using his text messaging on his cell phone and  
9 crossed the yellow line and had a head-on  
10 collision with a cement truck. His car was  
11 totaled and he barely survived.

12           His pelvis was crushed along with his  
13 hip and knee. He tore two ligaments and his  
14 kneecap, a portion of it, chipped off.

15           His quote, you just look down, text,  
16 look up, drive, look down, text, and it's not  
17 hard to see to do so everybody does it.

18           According to Joe Neely, Jr., a  
19 driving instructor with the National Highway  
20 Safety Council, quote, you're talking about a  
21 400 percent increase in the amount of time  
22 that your eyes are off the road when you're  
23 text messaging.

24           According to Mr. Neely, researchers  
25 found another fact about test -- text

1 messaging behind the wheel. An increase of,  
2 about, a 140 increase in lane violations,  
3 where you're weaving across lanes because  
4 you're not paying attention to the road.

5           As for Richard, the young man from  
6 Chicago, he now has the hip of a 47-year-old  
7 at 17 years of age because of the cartilage  
8 damage and he's going to have arthritis, the  
9 doctors say, and he's just not going --  
10 according to his mom, he's just not going to  
11 be able to do things that he could do before.

12           According to a Nationwide Mutual  
13 Insurance survey found that one in five  
14 drivers -- drivers in United States text  
15 message while they're driving. That number  
16 increases to 37 percent among those aged 18 to  
17 34.

18           An April 2006 study from Liberty  
19 Mutual Research Institute for Safety and  
20 Students Against Destructive Driving found  
21 that 80 percent of crashes and 65 percent of  
22 near crashes involve some sort of driver  
23 inattention -- so that could be everything --  
24 within three seconds of that event.

25           So I would ask everyone when you are

1 out of this testimony, out of this hearing in  
2 your office, look down at your BlackBerry or  
3 your cell phone, type thanks and look back  
4 up. That is going to take you at least three  
5 seconds off the road.

6           So that is, again, when we're talking  
7 about the studies now, we're talking about 80  
8 percent of crashes, 65 of near crashes, are  
9 talk -- we're talking about three seconds of  
10 inattention prior to that incident. Just  
11 looking down, typing thanks on your BlackBerry  
12 or your cell phone text messaging-wise, and  
13 looking back will be that three seconds of  
14 time.

15           My legislation, House Bill 1506,  
16 would force violators to pay a hundred dollar  
17 fine. Law enforcement, on-duty emergency  
18 personnel, and drivers reporting an emergency  
19 or traffic incident would be exempt.

20           And as a personal note, I used to do  
21 this until my wife scolded me for doing it in  
22 the minivan. And, yes, there is that reality  
23 that I drive a minivan, which is the --  
24 something I have to deal with personally.  
25 Yes, it's sad. What are you going to do?

1           But it really resulted from her --  
2 she was looking at me while I was doing this.  
3 We had the kids in the back. And she said,  
4 you're not even looking at the road. And that  
5 personal incident, because I didn't want to  
6 sleep on the porch that night, is what caused  
7 me to start doing a significant amount of  
8 research on this issue. I do believe that  
9 this is a very dangerous activity.

10           And I thank the committee for the  
11 time and, Mr. Chairman, for the opportunity,  
12 especially looking at the whole issue of  
13 distracted driving.

14           CHAIRMAN MARKOSEK: Okay. Thank you  
15 very much, Representative.

16           Next we have Representative Bill  
17 Kortz and he has -- he's the sponsor of House  
18 Bill 1549. Representative Kortz is a freshman  
19 legislator from my home county of Allegheny.

20           And, Bill, welcome and you may begin.

21           REPRESENTATIVE KORTZ: Thank you,  
22 Mr. Chairman, members of the committee.

23           Again, thank you for affording me the  
24 opportunity to bring House Bill 1549 before  
25 you for your consideration.



1           I bring this bill before the  
2 committee out of concern for the safety of our  
3 children that ride school buses. Basically,  
4 this bill will ban the consumption of food or  
5 beverages or the use of handheld cellular  
6 phones by school bus drivers while they're  
7 operating a school bus.

8           Okay. Now, there is a provision to  
9 allow for those activities when the bus is  
10 parked in a safe area off of a trafficway or  
11 in an emergency situation where that it's  
12 necessary to use a cellular phone.

13           The PSBA and I have had some  
14 conversation about this. They are in support  
15 of the provision. They do want to have some  
16 minor language modification made which would  
17 further define cellular phone and an emergency  
18 situation.

19           In the handout that's on Page 2. You  
20 can see their verbiage. I actually presented  
21 this to the Educational Committee, and it was  
22 re-referred over here and we got to redo the  
23 amendment.

24           You will have it by the time voting  
25 comes up.

1           Basically what I'm trying to do is  
2 keep our children safe when they're in the  
3 school bus.

4           There's further distractions.  
5 There's enough distractions and when you think  
6 about it, the time of operations of a school  
7 bus, it's always high traffic volume times.

8           In the morning, 7:00 a.m. to about  
9 8:30. That's when people are going back and  
10 forth to work. That's also when our kids are  
11 going to school.

12           You have some operation at noontime  
13 with pre-K and with half-day kindergarten  
14 kids.

15           But then also you have the high  
16 traffic volume in the afternoon from about  
17 2:00 to 3:30. Again it's the time when some  
18 people are returning home from work. So  
19 that's another factor to consider when you  
20 take a look at this legislation.

21           But I would ask for your consider --  
22 positive consideration of this legislation. I  
23 think it is long overdue and it's worthwhile  
24 to put into play.

25           Thank you.

1           CHAIRMAN MARKOSEK: Okay. Thank you,  
2 Bill, Gene and Chris. We do have some  
3 questions.

4           I would advise the members, as well  
5 as any other testifiers here today, we have a  
6 little bit of a time constraint, one o'clock.  
7 We do have to be on the floor at one o'clock.

8           So if we could ask our questions and  
9 make our testimony as in a streamlined way as  
10 possible.

11           Representative Harper.

12           REPRESENTATIVE HARPER: Thank you.  
13 Thank you, Mr. Chairman.

14           We have no less than 12 bills that  
15 deals with these types of issues. And this  
16 question is for Representative Ross, and I  
17 really do like the way that you have set your  
18 bill up aiming at -- instead of aiming at a  
19 particular device, aiming at distracted  
20 driving.

21           I like that. I think that's a really  
22 good way to go because I think distracted  
23 driving is what causes accidents, whether  
24 you're distracted by a cell phone or  
25 whatever.

1           But here's my question for you. Why  
2 would your version of the bill say that a  
3 violation cannot be used as evidence in a  
4 civil action?

5           I mean if some member of my family  
6 gets creamed by somebody texting and is in a  
7 wheelchair for the rest of their life and  
8 would have a civil lawsuit against that person  
9 for the damages that they have suffered, why  
10 would you not be able to use the fact that  
11 they pleaded guilty to or were found guilty  
12 of, you know, using a cell phone or some other  
13 device that caused the accident?

14           REPRESENTATIVE ROSS: Well, one of  
15 the things that I was thinking a lot about  
16 this whole subject is how does -- how do we go  
17 forward with, first of all, working with the  
18 police to get the violation properly recorded  
19 and, secondly, to make sure that -- that  
20 attention is paid when this is a contributing  
21 factor to an accident or to some other form of  
22 violation of the traffic code.

23           And one of the points is that -- I  
24 make this a secondary offense because I want  
25 to make sure that the police are focused in on

1 occasions when it really happens.

2           But, secondarily, if there is a  
3 threat of a civil suit, in addition, that  
4 might make the police somewhat less ready  
5 to -- to cite it.

6           It will be a little bit of a judgment  
7 call here as to whether or not someone was  
8 actually -- you know, there's a book on the  
9 seat. Was the person actually reading the  
10 book or did it fall there afterwards while  
11 they're reading it or whatever?

12           So I was concerned that there was  
13 going to be more aggressive attempts to avoid  
14 responsibility here if there was the civil  
15 lawsuit hanging over their heads as well.

16           REPRESENTATIVE HARPER: Well, let me  
17 just suggest that maybe we go with the mere  
18 charging of the offense cannot be used.

19           REPRESENTATIVE ROSS: Well, I'm  
20 open-minded to look at further considerations  
21 in this regard, of course.

22           REPRESENTATIVE HARPER: But, in  
23 general, I think it's a good bill. I think  
24 it's probably the way to go.

25           REPRESENTATIVE ROSS: Thank you.

1           REPRESENTATIVE HARPER: Thank you,  
2 Mr. Chairman.

3           CHAIRMAN MARKOSEK: Thank you.  
4           Representative Pyle.

5           REPRESENTATIVE PYLE: Thank you,  
6 Mr. Chairman.

7           I agree with Representative Harper.  
8 I like the approach Representative Ross uses  
9 with this bill with the distracted driving.  
10          Representative Kortz, you'll have my  
11 vote. I like your bill. School bus safety  
12 can't be stressed enough.

13          I have a question for Representative  
14 DePasquale. First of all, is it not possible  
15 to amend this where wives are not allowed to  
16 yell at husband's while driving?

17          REPRESENTATIVE DEPASQUALE  
18 Representative Pyle --

19          REPRESENTATIVE PYLE: I'm kidding. I  
20 withdraw. I withdraw. I withdraw. I  
21 withdraw. I withdraw.

22          My question for you, Representative  
23 DePasquale, I don't know any punchouts here  
24 for hands-free systems like On Star.

25          I was at a Verizon Wireless store at

1 Pittsburgh Mills over the weekend. They're  
2 now selling a device that wires into your car  
3 stereo where your whole car stereo system  
4 functions as a transponder.

5           Do you see any kind of leeway where  
6 you can include that in your legislation as  
7 them not being knocked out of the box?  
8 Because I do feel it's a responsible way if  
9 you got to use the phone while you're driving.

10           REPRESENTATIVE DEPASQUALE: No. No.  
11 I do agree with that point, and I'm certainly  
12 willing to engage in any discussion so that we  
13 make sure that that type of activity is  
14 appropriately dealt with.

15           That isn't what the intent was.  
16 That's why, again, I think it's a good idea to  
17 have the hearing so we can sort of mete out  
18 these issues. One challenge we have with  
19 these technologies is they change so rapidly,  
20 you know, that it's hard -- just from when I  
21 first drafted the legislation and now we've  
22 advanced.

23           REPRESENTATIVE PYLE: It's kind of  
24 interesting. I was speaking with  
25 Representative Curt Sonney earlier today and

1 he walked in to buy a little pouch for his  
2 phone, and the salesman in the store came up  
3 and asked him did he want a wireless  
4 handheld -- handheld set because it had  
5 already been law.

6 I think if you can include, you know,  
7 for lack of better words, open air, use of a  
8 cell phone, one of those that talk into the  
9 air and  
10 you-don't-even-need-to-put-the-cell-phone-up-  
11 to-your-head-type thing. That kind of  
12 addresses the problem better.

13 Thank you, Mr. Chairman.

14 CHAIRMAN MARKOSEK: Okay. Thank  
15 you.

16 Representative -- Representative  
17 Evans is next. And just for the information  
18 of the members, after Representative Evans, we  
19 have Representative Payton, Keller, Wheatley,  
20 and Watson so far.

21 So Representative Evans.

22 REPRESENTATIVE EVANS: Thank you,  
23 Mr. Chairman. I'll try to make this quick.

24 I've got -- I have a couple of  
25 questions here for Representative DePasquale.



1           You referred to data from the state  
2 of Washington as far as your model for this  
3 legislation and current legislation they have  
4 there.

5           REPRESENTATIVE DEPASQUALE: Right.

6           REPRESENTATIVE EVANS: Has there been  
7 any documentation that since their bill came  
8 into law that the text messaging issue has  
9 changed? Are people text messaging less in  
10 Washington since that legislation has passed?

11           REPRESENTATIVE DEPASQUALE: Yeah. I  
12 have tried to research this issue. I haven't  
13 found any evidence in either direction nor any  
14 increase in fines in either direction,  
15 although it was just in May.

16           REPRESENTATIVE EVANS: The other  
17 example you gave was the -- the accident that  
18 occurred in that state, and I can appreciate,  
19 obviously, anecdotal evidence. It's  
20 compelling in these type of testimonies. But  
21 is it always the best public policy?

22           Because the same example could be  
23 used for various distractions. I mean a  
24 couple seconds of looking away at your radio  
25 to tune the dial, to drop a CD in your car, if

1 you drop a soft drink or, you know, there's a  
2 million things you could reference that would  
3 take your attention away for those seconds.  
4 So that's a bit of a concern.

5           I think the enforcement issue is  
6 another one, particularly with text  
7 messaging. How can an officer determine if  
8 you're responding to a text if you're holding  
9 it down below the steering wheel? I don't  
10 understand how they can view that from a long  
11 distance away, a view in your vehicle making  
12 that action. It's very, very difficult to  
13 understand.

14           REPRESENTATIVE DEPASQUALE: On that  
15 point, you'll actually -- because on -- I'll  
16 try to take them in order. If I don't answer  
17 them all, I'll remind --

18           REPRESENTATIVE EVANS: Okay.

19           REPRESENTATIVE DEPASQUALE: -- me and  
20 I'll answer them.

21           REPRESENTATIVE EVANS: Okay.

22           REPRESENTATIVE DEPASQUALE: I'm not  
23 trying to duck any of them.

24           On the enforcement side of it,  
25 looking down on it, certainly a clear issue.

1 The officer would have to be close to the  
2 vehicle.

3           However, the flip side of the  
4 argument is in text messaging, when you open  
5 the e-mail, when you send the e-mail, is all  
6 recorded. I mean so that timing is all  
7 recorded somewhere.

8           So if an officer is looking to  
9 enforce it and you've, you know, sent it at  
10 11:07 and you have an accident within that  
11 time frame, that timing of the -- of the -- of  
12 the sending of the message is recorded, as  
13 well as the opening.

14           Now, there's no question if someone  
15 is doing it below the sight, that's a  
16 different issue and I -- I concede that point  
17 of the challenge.

18           But at least from a recording issue,  
19 as we -- most of us are aware, the time you  
20 send an e-mail, when you open up an e-mail,  
21 and how long it is open, is all items that are  
22 recorded.

23           REPRESENTATIVE EVANS: My  
24 understanding is you can be cited for that  
25 today under the reckless driving code, for --

1 for that.

2           But that aside, the other issue is  
3 the primary or secondary offense. In  
4 Pennsylvania we don't have seat belt laws as a  
5 primary offense and to have a cell phone bill  
6 as a primary offense is -- is somewhat  
7 troubling in that regard because there is --  
8 there is new technology also coming out, and I  
9 think Representative Ross's bill does address  
10 that issue.

11           I saw recently on a trip that the  
12 Garmin devices you can stick on the windshield  
13 for mobile tracking and they're selling GPS  
14 systems and so on and all the new things that  
15 come out. Are we going to write new  
16 legislation for each new piece of technology  
17 that comes down the road in the future that  
18 now we're not even aware of?

19           REPRESENTATIVE DEPASQUALE: Well,  
20 I --

21           REPRESENTATIVE EVANS: I think that  
22 presents a question.

23           REPRESENTATIVE DEPASQUALE: We do  
24 have to deal with -- with -- I mean as society  
25 moves further, I mean a lot of these

1 challenges are going to continually bump up.

2           I don't think we should not act on  
3 this because some other technology may come  
4 down the pike.

5           But it is certainly something for --  
6 for us to consider as far as how we move  
7 forward and to make sure that we are trying to  
8 take it in as much of -- a comprehensive  
9 approach as possible.

10           Regarding the seat belt issue, and  
11 I'll remove my personal take on the seat belt  
12 issue for a second. That is, at least when  
13 you are putting the seat belt on or off, that  
14 is impacting you.

15           If you are looking down when you are  
16 text messaging and crash into someone else,  
17 you could potentially be causing significant  
18 injury or damage a life, threatening damage to  
19 someone else by the text messaging, whereas --  
20 again, I think everyone should wear their seat  
21 belt. I want to be very clear about that.  
22 But that is something that is impacting that  
23 individual whereas an accident caused by text  
24 messaging could severely impact somebody  
25 else.

1           REPRESENTATIVE EVANS: Just in  
2 conclusion, Mr. Chairman, I think that  
3 Representative Ross's bill does better spell  
4 out the future technologies, addresses the  
5 issue as a secondary offense if you already  
6 are reckless driving, and I think it does  
7 really meet the needs in a more comprehensive  
8 way for all distractions that are out there.

9           So I -- I think the other bills are  
10 certainly well-intentioned, but Representative  
11 Ross's bill does -- does show some real merit  
12 in the way that it's going at this issue.

13           Thank you.

14           CHAIRMAN MARKOSEK: Okay. Thank  
15 you. We do have -- the State Police will be  
16 testifying shortly as well relative to some of  
17 the enforcement issues, for the information of  
18 the members.

19           Representative Payton.

20           REPRESENTATIVE PAYTON: Thank you,  
21 Mr. Chairman.

22           Representative Ross, quick question.  
23 What other states have laws similar to the one  
24 you're proposing?

25           REPRESENTATIVE ROSS: I can't answer

1 that question actually. I don't know. I just  
2 drafted it up because I thought this would be  
3 good for Pennsylvania.

4           REPRESENTATIVE PAYTON: All right.  
5 Thank you very much.

6           CHAIRMAN MARKOSEK: We can look into  
7 that and -- for the information of the members  
8 and see if we can get that out.

9           Representative Keller.

10          REPRESENTATIVE KELLER: Thank you,  
11 Mr. Chairman.

12          This is for Representative Kortz on  
13 his particular bill. I think all of us  
14 sitting here are very much on board as far as  
15 safety is concerned with the school buses and  
16 those types of things.

17          And as I read your -- your bill  
18 itself, it specifically talks about exemptions  
19 for emergencies with the drivers and those  
20 type of things.

21          I just want to point something out.  
22 Do we need to make it a little clearer on the  
23 fact -- and I'm going to give you an example.  
24 As we have individuals out there today who are  
25 diabetic and, of course, they'll drink an

1 orange juice to -- you know, and I'm thinking,  
2 you know, okay, that comes on them pretty  
3 fast. You know, do we need to make an  
4 exception for something like that? Does --  
5 does your bill itself, when it says exceptions  
6 of emergencies, would that take into  
7 consideration something in that caliber where  
8 eventually they wouldn't be pulling off but  
9 they'd drink that short orange juice very  
10 quickly.

11 REPRESENTATIVE KORTZ: Yeah.

12 REPRESENTATIVE KELLER: I mean that's  
13 just a concern that I want to throw out to you  
14 and ask you, you know, if maybe we ought to  
15 clear that up just a little bit better than  
16 what's stated here so that there's no problem  
17 in -- in deciphering which is what and -- and  
18 how it is. So your response?

19 REPRESENTATIVE KORTZ: Sure. That's  
20 an excellent point. And as the language is  
21 currently drafted on the -- the amendment, it  
22 does not take that into consideration. And  
23 we're going to have to look at that,  
24 absolutely.

25 You bring a very good point up, and



1 that's why we're having these public hearings,  
2 to bring out things just like that that  
3 clearly should be added. Because that is a  
4 medical condition and obviously we don't want  
5 him going into diabetic shock while he's  
6 operating the school bus.

7 Thank you.

8 REPRESENTATIVE KELLER: Well, thank  
9 you.

10 Thank you, Mr. Chairman.

11 CHAIRMAN MARKOSEK: Thank you.

12 Representative Wheatley.

13 REPRESENTATIVE WHEATLEY: Thank you,  
14 Mr. Chairman.

15 I guess I'm going to ask the one  
16 question first, and this could be to either  
17 one of you.

18 Currently do we require a reporting  
19 from accidents that lets us know what the  
20 accident -- what's the -- what was the  
21 mitigating factors of the accident? Meaning  
22 if someone was texting or if someone was  
23 reading or if someone was just carelessly  
24 driving, do we report it in any way right now?

25 REPRESENTATIVE DEPASQUALE: My

1 understanding is that those reports would --  
2 you know, from an accident would include the  
3 cause from the officers on the scene.

4           Now whether they're always, you know,  
5 completely accurate --

6           CHAIRMAN MARKOSEK: If I can  
7 interrupt, we have the State Police will be  
8 testifying. So that's better.

9           REPRESENTATIVE DEPASQUALE: Oh, that  
10 would be better.

11           REPRESENTATIVE WHEATLEY: And the  
12 reason why I ask that question is because it  
13 seems that -- and we all can agree that  
14 there's all reasons why drivers are  
15 distracted. I mean some are on text. Some  
16 are on the phone. Some are just careless in  
17 their driving behaviors.

18           And, quite frankly, I'm probably one  
19 of the worse drivers up here, for a -- for a  
20 lot of reasons.

21           CHAIRMAN MARKOSEK: We won't tell  
22 anybody. This room is hermetically sealed.

23           REPRESENTATIVE WHEATLEY: And the --  
24 and the reason why I'm saying that is because  
25 how do we -- are we trying to regulate

1 something that no matter what we do will --  
2 will not necessarily solve our problem that  
3 we're trying to solve?

4           REPRESENTATIVE DEPASQUALE: I can't  
5 speak for the other bills, but I -- this has  
6 gotten a lot of attention in the York area, my  
7 legislation.

8           I've literally had people come up to  
9 me at different events and say they've stopped  
10 doing it because of the press coverage.

11           So if it's like that because there's  
12 press coverage on it, if we were to make it  
13 illegal, I think that would have an impact.

14           Would it eliminate it? I'm not naive  
15 enough to think that. But I do think at least  
16 the awareness of this issue, and that would  
17 include that -- all the areas we're talking  
18 about today, and I think even going further,  
19 making this part of teen driver education, to  
20 let teens know as they're -- as they're  
21 getting their license how dangerous is it to  
22 drive on their cell phones, to, you know, eat  
23 while they're driving, to text message while  
24 they're driving would be absolutely critical.

25           So I do think awareness has an

1 impact. So the legality of something  
2 certainly would as well.

3           And we've seen how much press  
4 coverage this received from -- saying this had  
5 become law when it hadn't. So I think there  
6 is an impact from that.

7           REPRESENTATIVE WHEATLEY: And I can  
8 appreciate that answer, and I guess that's  
9 where I was heading.

10           It seems to me that most of what I  
11 read on this goes to the nature of awareness  
12 and training, and there's all types of ways to  
13 incentivize or to reprimand people for good  
14 behavior or bad behavior.

15           And, again, it goes to the point, do  
16 we want to force people in a legal way to  
17 drive better and more carefully or do we want  
18 to incentivize, educate them, and train them  
19 in better ways?

20           So I guess that's my point. I'm --  
21 I'm -- I'm really -- who can argue with the  
22 fact that we want to make our roads safer?  
23 And if we can eliminate people from eating or  
24 being distracted in any causative manner, if  
25 we want to do that, but at the same way how do

1 we make that so it's not a punitive thing but  
2 it's more of a thing that -- that -- that  
3 tries to work with the behaviors of -- people  
4 exhibited and make them -- make our world  
5 safer.

6           So, anyway, that's -- that is my  
7 statement. Those are my questions.

8           And thank you, Mr. Chairman.

9           CHAIRMAN MARKOSEK: Okay. Thank  
10 you. We have Representative Watson, and  
11 Representative Carroll had a question, and  
12 then we're going to have Representative  
13 Shapiro after that make some statements.

14           And Representative Hess has arrived.

15           Representative Watson.

16           REPRESENTATIVE WATSON: Thank you,  
17 Mr. Chairman.

18           Gentlemen, then question. Probably  
19 comment first and then question.

20           Certainly, Representative Kortz, I  
21 think it's a very good bill. I would suggest  
22 having familiarity with the school districts  
23 in my county, in Bucks County, most of them  
24 have that in a driver handbook that they can't  
25 do it.

1           But I recognize it may not be there.

2 To codify it, I think, makes the point.

3           Certainly the exception

4 Representative Keller suggested where there is

5 the need to do, simply because it's medicine

6 and it's to protect while you drive, I

7 understand that.

8           It seems to me that we're down to

9 with Representative Ross and Representative

10 DePasquale, we're talking really about the

11 concept of what I'll call the hands-free.

12 Texting involves the hands doing the -- and I

13 do text. Old people do text. I do not do

14 it --

15           REPRESENTATIVE SCAVELLO: You're not

16 old.

17           REPRESENTATIVE DEPASQUALE: You said

18 old, not me.

19           REPRESENTATIVE WATSON: And on

20 those -- on those nails, too. But I don't do

21 it while driving, and I honestly can't fathom

22 that one. I think I'm good, but that's just

23 beyond me.

24           But, in any event -- but answering

25 e-mails, or whatever it might be, I think it's

1 because it's not just the -- as Representative  
2 DePasquale says -- looking down but it's also  
3 the idea of the hands, and hands off the  
4 wheel, or whether it's elbows or whatever.

5 REPRESENTATIVE KORTZ: Knees.

6 REPRESENTATIVE WATSON: Knees?

7 REPRESENTATIVE KORTZ: Knees.

8 REPRESENTATIVE WATSON: Good Lord.

9 Okay. Not in high heels. It's very  
10 difficult. Anyway, it's a whole new thing.

11 But, in any event, very seriously, I  
12 like the concept of distracted, if we can  
13 include a variety of things.

14 My only -- and I'm a co-sponsor  
15 because I think the texting, we sometimes  
16 think it's just -- and that's why I made the  
17 point, trying to be humorous, of old people do  
18 it, because a lot of us do, that's what those  
19 kids do.

20 And the bottom line is, no, it  
21 isn't. That's what a lot of the grownups do.  
22 And certainly figures would suggest there's  
23 not just young people doing that.

24 I guess I would prefer to see it  
25 though as a secondary offense. Following up

1 on what Representative Harper said, I would --  
2 if you are found guilty, I think it should be  
3 used in a civil suit, or whatever, because it  
4 is a contributing factor to that accident.

5 And, in fact, it may be the reason the  
6 accident really occurred. That had you been  
7 not texting or using your hands for something  
8 else and paying attention, it wouldn't have  
9 happened.

10           And I would just suggest consider  
11 that, because I really would think -- and the  
12 State Police are going to testify -- but I'm  
13 not sure then if one is doing -- and down here  
14 (demonstrating), like how the officer, as  
15 you're flying, you know, on the turnpike, but  
16 at a legal speed, is supposed to drive by and  
17 see that. I mean it's real easy to pick up  
18 that you're speeding and this and that, but  
19 when you're starting now with what the hands  
20 are doing, that gets really difficult.

21           So I would suggest that maybe we want  
22 to go -- and I think that gets to something  
23 Representative Wheatley was talking about, if  
24 we were in the secondary offense, we then do  
25 the investigation and you're found guilty of



1 that, as a contributing factor to the  
2 accident, what might that keep adults from  
3 doing who think they can get away with it?  
4 Well, for adults, particularly, it's the idea  
5 that, wow, in the accident they're going to  
6 come at me and it will also be a civil suit.  
7 And I think a lot of people pay attention to  
8 that.

9 I do think that the texting may be  
10 just a phenomenon of -- and I would think it's  
11 going to last longer than even some of -- we  
12 will advance in the technology, but I think  
13 texting is going to be here to stay for a long  
14 time.

15 Sometimes it's less intrusive.  
16 People like to do it. Therefore, we need to  
17 consider it in a car.

18 I do think it's great in your  
19 distracted driving to list the things that  
20 people long ago -- they keep going about those  
21 people on cell phones and texting and they  
22 don't realize that eating or as, I guess,  
23 Representative Evans said, changing the CD or  
24 whatever, is also taking your eyes off the  
25 road and your attention.

1           It's sort of like a pilot. You know,  
2 you get set up. You know you're going to  
3 drive. And then you just go. Not that you're  
4 doing all the other stuff while you're  
5 driving. You take the time to get set up for  
6 the drive and then complete the drive. That  
7 makes sense to me.

8           But I would ask, gentlemen, to --  
9 if -- Representative DePasquale, consider kind  
10 of folding it in something with Representative  
11 Ross but making it secondary, and I think it  
12 would be easier. Police could enforce it. We  
13 could get to the heart of it. And people  
14 would understand. Especially if we would  
15 include that it could be used once found  
16 guilty. I think it will have an effect on  
17 adults who are texting.

18           Thank you.

19           REPRESENTATIVE DEPASQUALE: Thank  
20 you. And I think the critical -- at least  
21 from my point of view on that issue is I do  
22 want to hear from law enforcement specifically  
23 on the pros and cons specifically of primary  
24 versus secondary, because I do think that will  
25 be critical testimony on that specific policy

1 point.

2 REPRESENTATIVE KORTZ: Mr. Chairman,  
3 if I may, if I could follow up on --

4 CHAIRMAN MARKOSEK: Representative  
5 Kortz.

6 REPRESENTATIVE KORTZ: On the  
7 representative.

8 Fifteen months ago in my area, there  
9 was a young lady who was on her way to  
10 Kennywood Park who was trying to dial her  
11 mother. She crossed over the center line, hit  
12 a car head-on, a family of four returning from  
13 Kennywood, lived in Uniontown. The mother  
14 perished in that. And she admitted to the  
15 investigating officer she was trying to dial  
16 her mother on the cell phone.

17 And it absolutely was the root cause  
18 of that accident and the mother would be here  
19 if she wouldn't have done that.

20 CHAIRMAN MARKOSEK: Thank you.

21 Representative Carroll, please. And  
22 Representative Pickett has arrived.

23 REPRESENTATIVE CARROLL: Thank you,  
24 Mr. Chairman.

25 A couple of thoughts. First on

1 Representative Kortz's bill.

2           It seems to me that we ought to  
3 codify this under the Vehicle Code and not in  
4 the School Code, and I'd ask you to take a  
5 look at whether or not you think that the  
6 school -- the Vehicle Code isn't a better  
7 place to codify this language.

8           With respect to the other two bills,  
9 and even Representative Shapiro, as I thought  
10 about these bills on the agenda today, I was  
11 trying to determine in my mind which way was  
12 the better way to go and -- because there's  
13 merit for -- for all of the bills. And it  
14 dawned on me as I listened to the testimony  
15 today that -- that really Representative  
16 Ross's bill is not mutually exclusive of the  
17 other bills and that because of the prevalence  
18 of cell phone use we ought to highlight the  
19 problem that that is for drivers and at the  
20 same time consider the other distractions that  
21 occur while driving.

22           And so I would ask that the committee  
23 consider the possibility and the -- the belief  
24 that we ought to consider both pieces of  
25 legislation because there's real merit to

1 both, but especially, I think, consider the  
2 prevalence of cell phone use and the immediate  
3 danger that it causes to drivers that we  
4 highlight that problem and prevent -- dedicate  
5 a special section in the Vehicle Code to the  
6 problem of cell phone driving -- or cell phone  
7 use while driving a vehicle.

8           So thank you, Mr. Chairman.

9           CHAIRMAN MARKOSEK: Thank you,  
10 Representative Carroll. It's a good idea. We  
11 will consider that.

12           And I want to thank these three  
13 gentlemen. I know some of them have other  
14 meetings to go to. And thank you very much,  
15 and the committee will investigate your bills  
16 here.

17           And very good. Thank you for your  
18 time.

19           And I'd like at this point in time to  
20 have Representative Shapiro come forward and  
21 make brief comments on his piece of  
22 legislation.

23           Representative Shapiro has introduced  
24 House Bill 1827, and Representative, just give  
25 us a brief overview on that before we proceed.

1           REPRESENTATIVE SHAPIRO: Sure. Thank  
2 you, Mr. Chairman. I appreciate it.

3           Just a brief overview of -- of my  
4 legislation, House Bill 1827. It would create  
5 a summary offense, a primary offense in  
6 Pennsylvania, if an individual were to be  
7 driving using a handheld cell phone.

8           That -- that means that one could be  
9 pulled over for using a handheld cell phone.  
10 It would allow a driver to use a hands-free  
11 device, such as Bluetooth, a headset, a  
12 speaker phone, what-have-you, and it would  
13 carry with it a \$50 fine.

14           It would -- there is language in the  
15 legislation to allow someone to manipulate the  
16 phone for the purposes of dialing or  
17 instigating or ending a phone call. And there  
18 is also exception language built in primarily  
19 for our emergency responders.

20           So that's a summary of the  
21 legislation. I think the legislation, the  
22 importance of it is borne out of the data and  
23 the facts that are available to us today.

24           Back in 2006, and when Chairman Geist  
25 was chairman of this committee, I testified

1 about this issue last year. I had introduced  
2 a similar bill, and this data had just become  
3 available to us.

4           But I want to remind the members of  
5 the committee of this -- this important data.  
6 Virginia Tech and the National Highway Traffic  
7 Administration put out a study saying that  
8 driver inattention is the number one factor in  
9 causing crashes in the United States. And  
10 that the number one factor to create driver  
11 inattention is the use of cell phones.

12           As we look at our roads here in  
13 Pennsylvania there's a board to my right that  
14 just talks about crashes involving the use of  
15 handheld versus hands-free cell phones.

16           Between 2002 and 2006, as the board  
17 shows, there were 5,715 accidents on  
18 Pennsylvania roadways as a result of using a  
19 handheld cell phone. During the corresponding  
20 period of time, during the same period of  
21 time, those using a hands-free cell phone,  
22 there were only 367 accidents.

23           These numbers are according to  
24 PennDOT, not according to one interest group  
25 on one side of the issue or another.

1           I will point out that both numbers,  
2 according to PennDOT, and according to  
3 research we've done, are underreported. The  
4 police are not required under current law to  
5 assess at an accident scene whether or not  
6 someone was using a handheld or a hands-free  
7 device.

8           And even if they do assess and ask  
9 that question, the driver is under no  
10 obligation to admit whether he or she was  
11 using a handheld or a hands-free device.

12           In fact, I was involved in an  
13 accident when I was rear-ended on Old York  
14 Road in Abington, Pennsylvania in my  
15 district.

16           I was hit by a driver who was on her  
17 cell phone, and in the police report that was  
18 written up certainly she was a hundred percent  
19 responsible. I was stopped at a red light.  
20 She hit me from behind. The -- there was no  
21 mention in the citation that, in fact, she was  
22 on a cell phone, even though she came out and  
23 admitted to me and to the police officer that  
24 she was on it.

25           So I think the underreporting --



1 certainly given the statistics that we know,  
2 the underreporting bears out the fact even  
3 more that we have a significant problem on our  
4 roadway.

5 I would point out -- there was a  
6 comment made about law enforcement earlier. I  
7 was a bit late today because I was in  
8 Montgomery County where Representative Harper  
9 is from, at FOP Lodge 14, standing with many  
10 of the police chiefs from around Montgomery  
11 County, and there were chiefs from all across  
12 Pennsylvania who support this legislation  
13 urging us to pass it and urging us to get it  
14 done and to help make our roadways safer.

15 Now, we talk about making our  
16 roadways safer, and I understand there was  
17 some testimony earlier saying that there are  
18 many distractions when people drive. That's  
19 one of the criticisms of the legislation, that  
20 it just focuses on one of the distractions.

21 I have a five-year-old and a  
22 two-year-old. It is certainly distracting to  
23 drive with them.

24 As I drove on the turnpike this  
25 morning, I was eating a banana and drinking a

1 cup of coffee. Not at the same time. But  
2 eating in a car is -- is a distraction. I  
3 understand that.

4           But I would submit to this committee  
5 that we have the technology available to us  
6 today that is basically free for the consumer  
7 to make at least one of those distractions,  
8 and the distraction that the Virginia  
9 Tech/National Highway Traffic Safety  
10 Administration says is the number one  
11 distraction and we can render that distraction  
12 even less and even more dangerous on -- even  
13 less dangerous on our roadways by simply  
14 requiring a distracted driver to plug in a  
15 headset and, therefore, enable them to drive  
16 safer.

17           The statistics are also clear that  
18 when you plug in a headset you do drive  
19 safer. There was a design science study done  
20 on December 20th -- issued on December 20th,  
21 2005 that found that 71 percent of drivers who  
22 were done -- who were looked at during the  
23 study were able to more accurately steer when  
24 they used a headset, that 100 percent of the  
25 drivers in this study reacted faster to

1 objects on the roadways and things coming into  
2 their sight as a result of using a headset,  
3 and that 92 percent of the drivers achieved a  
4 more consistent speed throughout their driving  
5 while using a headset.

6           It is certainly not perfect. There  
7 is still a distraction when you're using a  
8 headset. Your cognitive abilities could be  
9 impaired if you're focusing too much on that  
10 conversation.

11           But we have the technology available  
12 to us today to make our roadways safer.

13           And the final comment I'd like to  
14 make, I've heard it from some of my colleagues  
15 who suggest -- and very well-intentioned,  
16 reasonable colleagues -- who suggest, you  
17 know, is it really our job in the state to  
18 legislate someone's behavior when they're in  
19 the car? Don't they have a right to make that  
20 phone conversation?

21           And my response to that would be,  
22 yeah, they have a right to have that phone  
23 conversation. I think we all probably talk on  
24 the phone when we're in the car. We're all  
25 busy people. We all have to get a lot done.

1           But that does not give us the right  
2 to take a 5,000 pound object and use that in  
3 an unsafe manner on our roadways and make some  
4 other innocent driver potentially at risk  
5 because we are not making available to us the  
6 technology that could make our car driving  
7 safer.

8           So I would respectfully encourage the  
9 chairman of this committee and members of this  
10 committee, as you go forward in your  
11 deliberations -- and I'm very grateful that  
12 you've given some time to this issue today --  
13 but that you seriously consider adopting a  
14 measure that relies on the technologies  
15 available today to make our roadways safer, to  
16 limit accidents on Pennsylvania roadways by  
17 adopting my legislation.

18           Mr. Chairman, thank you for the time  
19 and, if appropriate, I'd be more than happy to  
20 answer any questions.

21           CHAIRMAN MARKOSEK: Thank you,  
22 Representative. I think it's only fair to  
23 tell you before you got here, we did discuss  
24 some of your driving habits. You weren't  
25 here. You weren't here to defend yourself,

1 but we'll talk about that later.

2           But Representative Wheatley and then  
3 Representative Harper.

4           REPRESENTATIVE WHEATLEY: Thank you.  
5 And I appreciate your review and your comments  
6 this morning and, generally speaking, I think  
7 we share the same view -- views on things.

8           The -- the question becomes, in my  
9 mind, hands-free, if, in fact, our mission and  
10 your mission is to make sure we try to take  
11 care of one of the number one issues why  
12 people are distracted, driving with -- with  
13 the use of a phone, and you yourself said that  
14 even hands-free has some causes around your  
15 distraction --

16           REPRESENTATIVE SHAPIRO: Sure.

17           REPRESENTATIVE WHEATLEY: -- why --  
18 why not just eliminate cell phone use in the  
19 car altogether?

20           REPRESENTATIVE SHAPIRO: Well, it's a  
21 fair question. I think there's some around  
22 the state that would like to see us go that  
23 far.

24           I think that's unreasonable, and I  
25 think that places a burden on the drivers and

1 on commuters who need to rely on a cell  
2 phone.

3           And, again, the reason I think it's  
4 not necessary to go that far is because we  
5 have the technology available today to make  
6 the practice of driving and talking safer, and  
7 we have the technology available that is so  
8 inexpensive that in many cases carriers are  
9 simply giving away a -- a corded headset to --  
10 to individuals when they purchase a cell  
11 phone. So it's not a burden on the consumer.

12           I think given that, those two  
13 factors, we can make our roadways safer, not  
14 infringe upon the rights of individuals to  
15 have that conversation, but make sure that, as  
16 they have that conversation, they're driving  
17 as safely as possible under those  
18 circumstances.

19           REPRESENTATIVE WHEATLEY: And I know  
20 I don't have a lot of time, so you're not  
21 going to get more than one or two other  
22 questions from me this morning.

23           But, one, the statistics, I've always  
24 been interested in how we gather the  
25 information and we don't necessarily make it

1 so that when we collect on the accident scene  
2 we know exactly what were the causes of that  
3 accident altogether, be it that they were  
4 using cell phones or texting or doing a  
5 combination of things.

6           So how sure are you -- and I'm sure  
7 I'm going to hear from the other testimony,  
8 some of the other testimony -- testifiers --  
9 how sure are you that that number of the 5,000  
10 was -- the primary cause was by a handheld and  
11 not a combination of some other things that  
12 also added to the distraction and so if we  
13 eliminate the hand -- handheld, we will see a  
14 significant drop of the 5,000 accidents?

15           REPRESENTATIVE SHAPIRO: It's a very  
16 fair question, Representative Wheatley. And  
17 the numbers, as I said, were gathered by  
18 PennDOT, according to the criteria that  
19 PennDOT used.

20           The PennDOT folks, as well as many of  
21 the private individuals involved in this,  
22 recognize that those numbers are  
23 underreported.

24           I would venture to guess  
25 underreported on both sides of the equation,

1 that is, handheld and hands-free accidents.

2           And I would further say that the  
3 accidents that are listed under the handheld  
4 cell phone column as well as those listed  
5 under the hands-free cell phone column could  
6 have other factors that -- that led to that --  
7 that accident. I know that --

8           REPRESENTATIVE WHEATLEY: Well, I  
9 guess the reason I'm asking that is -- is --  
10 is -- do we have good data to help us  
11 understand if you eliminate one, meaning the  
12 cell phone, handheld cell phone, but there are  
13 these other contributing factors that you will  
14 see is a significant reduction?

15           Because ultimately we're trying to  
16 make our roadways safer.

17           REPRESENTATIVE SHAPIRO: Sure.

18           REPRESENTATIVE WHEATLEY: So we would  
19 hope that the elimination of handheld would  
20 ultimately bring our numbers down.

21           How sure are we in that data that  
22 that will -- if we were to enact your piece of  
23 legislation, that we would see that  
24 significant drop?

25           REPRESENTATIVE SHAPIRO: Sure.



1 Here's what we are sure of based upon the  
2 studies.

3           That driver inattention is the number  
4 one cause of crashes and that the leading  
5 factor in driver inattention -- and I should  
6 be honest, too, that there have been other  
7 studies that show cell phones not number one  
8 but number two or three, but they're clearly  
9 up at the top of the list. I think it's fair  
10 to say that.

11           REPRESENTATIVE WHEATLEY: All cell  
12 phone uses or handheld cell phone?

13           REPRESENTATIVE SHAPIRO: Cell phone.  
14 Cell phone usage.

15           REPRESENTATIVE WHEATLEY: Okay.

16           REPRESENTATIVE SHAPIRO: I'm getting  
17 there. Your --

18           REPRESENTATIVE WHEATLEY: All right.

19           REPRESENTATIVE SHAPIRO: Cell phone  
20 usage. So driver inattention is a big  
21 factor. That cell phones are number one or --  
22 or toward the top of that -- that result in  
23 accidents from that inattention.

24           And when you look at the statistics  
25 from Pennsylvania, it clearly shows a

1 lopsidedness to suggest that when one is using  
2 a handheld cell phone, they are more likely to  
3 have an accident than one is using a  
4 hands-free device.

5 I think those statements we can state  
6 for sure, and then certainly people can argue  
7 the specific numbers here and there.

8 REPRESENTATIVE WHEATLEY: Sure.

9 REPRESENTATIVE SHAPIRO: Because  
10 we're not required to gather them right now.

11 REPRESENTATIVE WHEATLEY: Sure. And  
12 I appreciate that.

13 And, Mr. Chairman, I would just make  
14 this last final comment. The fact of the  
15 matter is, you know, handheld versus  
16 hands-free to me is -- I mean one -- one and  
17 the other is the same to me in a lot of ways.

18 But if I'm drinking a cup of coffee  
19 and I'm driving a car, it's the same kind of  
20 -- type of motion as if I'm holding a  
21 handheld.

22 So what the logical extension of that  
23 is we're -- we're probably going to move to  
24 reduce the use of food and other consumptions  
25 in the car and we do know that there's new

1 technology now that's going to force people to  
2 use less hand time on the wheel where they're  
3 now going to be operating things from their  
4 dashboards, from their computerized systems.

5           So I -- I still go back to the point  
6 that I think education awareness and other  
7 ways of trying to minimize careless driving  
8 behaviors are better than trying to legalize a  
9 punishment and trying to force people into  
10 operations of habits that we know every year  
11 we're going to have to come back and do  
12 something else that punishes people for using  
13 careless behaviors for driving.

14           So I just -- that's just my -- my  
15 take on this whole scenario.

16           CHAIRMAN MARKOSEK: Okay. Thank you  
17 very much for the information to the members.

18           The lineup is Representative Harper,  
19 Pyle, Scavello and Evans all with very brief  
20 questions.

21           So Representative Harper.

22           REPRESENTATIVE SCAVELLO: Ha ha ha.

23           CHAIRMAN MARKOSEK: Representative  
24 Harper.

25           REPRESENTATIVE HARPER: All right.

1 That was aimed at me. I'll be quick.

2 Thank you, Mr. Chairman. Before you  
3 came in, Representative Shapiro, I had said  
4 that I preferred the Ross version of this bill  
5 which goes to distracted driving instead of a  
6 particular device or coffee cup or whatever,  
7 and I find myself in agreement with my  
8 colleague from the west, Representative  
9 Wheatley.

10 Here's my question. The statistics  
11 that you're showing on the board over there,  
12 or that somebody is showing on the board over  
13 there, I -- I want to ask you whether they  
14 control for how many hands-free cell phones  
15 were in circulation versus hand -- handheld  
16 because it was my belief there were more  
17 handheld cell phones in circulation so  
18 naturally there would be more of them involved  
19 in accidents.

20 Is that accurate?

21 REPRESENTATIVE SHAPIRO: That's a  
22 fair -- it's a fair statement that you made.  
23 I don't know the answer to that.

24 I think PennDOT would have to answer  
25 whether or not they compared apples to apples

1 or apples to oranges. But I think that would  
2 be up to PennDOT to -- to defend that number  
3 on the board.

4           REPRESENTATIVE HARPER: Right. I  
5 would not only add, Mr. Chairman, as a comment  
6 that when we were at the hearing in  
7 Philadelphia, which Representative Wheatley  
8 and I both attended, and we heard from the  
9 doctors, it may be the conversation that  
10 distracts people, not the particular device.

11           Now, obviously if you got your hands  
12 off the wheel, that's an additional problem.

13           But the doctor from Children's  
14 Hospital was -- was quite clear the brain  
15 function is affected by a conversation and  
16 that itself can be a distraction.

17           CHAIRMAN MARKOSEK: Representative --

18           REPRESENTATIVE HARPER: Thank you  
19 very much, Mr. Chairman.

20           CHAIRMAN MARKOSEK: Representative  
21 Pyle.

22           REPRESENTATIVE PYLE: Thank you,  
23 Mr. Chairman.

24           I notice, as I listen to the bills  
25 today, they all have very good intention. We

1 all want our -- our highways to be safer.

2 I need to make clear for the record  
3 the state of Pennsylvania does not consider  
4 driving a right. It is not something you're  
5 born with. It is a privilege for which you  
6 must qualify through driver's tests, et  
7 cetera.

8 Representative Shapiro, I applaud  
9 your bill. I think it's great stuff.

10 I'm not sure about Rep. DePasquale's,  
11 but I'll work with him on it, but --

12 REPRESENTATIVE DEPASQUALE: He's got  
13 some On Star issues.

14 REPRESENTATIVE PYLE: Well, yeah.  
15 Dad just bought a car with On Star.

16 Anyway, but the point I wanted to  
17 make, Mr. Chairman, for the assembled panel is  
18 I -- I feel all these bills we're considering  
19 today are kind of cut from the same bolt of  
20 cloth and I think there is a compromise in  
21 there that has a much -- far reaching effect  
22 in Representative Ross's favor here.

23 You know, reckless driving comes in  
24 many forms. And I don't want to get into  
25 cognitive synaptic response about what a

1 conversation does or any of that.

2           It's plain commonsense, simple fact,  
3 hands-free driving is the way we got to go.  
4 We got to make it a condition of the license.  
5 We've got to empower the State Police to stop  
6 people who are not adhering to this. We got  
7 to make the roadway safer.

8           And, Mr. Chairman, what I would  
9 encourage is, through your leadership and in  
10 bipartisan fashion, maybe we can get all four  
11 of these bills together and come up with  
12 something everybody thinks is the bee's knees.  
13 Because I think there's good stuff in here.

14           CHAIRMAN MARKOSEK: Thank you very  
15 much. Yeah, we had similar -- Representative  
16 Carroll had a similar idea, and we will  
17 consider that. So we appreciate that.

18           REPRESENTATIVE SHAPIRO:  
19 Mr. Chairman, may I? I recognize  
20 Representative Pyle didn't ask a question, but  
21 may I respond in ten seconds?

22           CHAIRMAN MARKOSEK: To his  
23 nonquestion?

24           REPRESENTATIVE SHAPIRO: To his  
25 non -- to his statement.

1           REPRESENTATIVE PYLE: In short, do  
2 you agree or not?

3           REPRESENTATIVE SHAPIRO: Thank you  
4 very much. That was a -- that was a  
5 Bidenesque-type question. You used your time  
6 to make a statement.

7           Just one thing, I think  
8 Representative Ross's intentions are very good  
9 and I think we all should get together and  
10 talk about this.

11           The only thing I would point out  
12 is -- is somewhat of a discrepancy in what you  
13 said between your -- your goal, I believe, and  
14 what Representative Ross's legislation does.

15           His legislation, as I understand it,  
16 is a secondary offense.

17           REPRESENTATIVE PYLE: Right.

18           REPRESENTATIVE SHAPIRO: So it  
19 addresses it after the problem, after the  
20 accident has already occurred. My legislation  
21 and Representative DePasquale's legislation is  
22 primary.

23           My goal is not to sort of punish  
24 drivers a bit extra but rather to stop an  
25 accident from occurring before it occurs. And



1 that -- that, I think, that is one of the key  
2 differences we would need to iron out.

3           REPRESENTATIVE PYLE: I'd like to  
4 frame this in a form of a question,  
5 Mr. Chairman.

6           REPRESENTATIVE SHAPIRO: Oh, boy.

7           CHAIRMAN MARKOSEK: Briefly.

8           REPRESENTATIVE PYLE: If we're going  
9 to make this a primary offense, do we have  
10 enough State Police to adequately enforce this  
11 or are we creating a toothless tiger?

12           REPRESENTATIVE SHAPIRO: I would hope  
13 that Colonel Miller would be able to enforce  
14 it under -- be able to enforce the new law  
15 should we be able to pass it and should he  
16 need additional officers, I've always been  
17 supportive of additional funding for State  
18 Police.

19           I think we would need to step up  
20 and -- and provide him with that, with that  
21 funding.

22           REPRESENTATIVE PYLE: I would agree  
23 wholeheartedly.

24           Mr. Chairman, I'm just dying to see  
25 more -- more troopers in the Kittanning

1 barracks.

2           CHAIRMAN MARKOSEK: Thank you. We  
3 have a guest. Representative Caltagirone, the  
4 Chairman of the Judiciary Committee, is in the  
5 audience, and we wanted to make sure that we  
6 recognized him.

7           Before we go to Representative  
8 Scavello for a question, I just want to let  
9 folks know that we have written testimony  
10 submitted by the CTIA, Wireless Association,  
11 and also the State Public Policy of -- Verizon  
12 Wireless, Daniel Mullin has -- from Verizon  
13 has submitted testimony also. They're not  
14 here in person.

15           Representative Scavello, please.

16           REPRESENTATIVE SCAVELLO: Thank you,  
17 Mr. Chairman.

18           And not to beat a dead horse, but I  
19 want to go back to the -- and Representative  
20 Shapiro mentioned it earlier and -- and also  
21 Representative Wheatley.

22           Let's talk about that coffee cup  
23 because that coffee cup could be worse than  
24 that cell phone if you spill it on you while  
25 you're driving. I -- I think that we need to

1 continue to look at distraction in total  
2 rather than just picking on the cell phone  
3 industry.

4 I'd be interested in seeing how many  
5 accidents occurred in the state of  
6 Pennsylvania within those years from  
7 distracted drivers.

8 I've seen folks reading a map while  
9 they're driving, reading a newspaper, ladies  
10 fixing their -- you know, putting their  
11 make-up on. You know, the whole gamut.

12 And to -- just to go after the cell  
13 phone industry, I just think there's others  
14 and I bet you those numbers would be even  
15 higher than the numbers that you have up  
16 there. Distracted drivers in total.

17 And that's why I kind of tend to lean  
18 towards Representative --

19 REPRESENTATIVE GEIST: Eating a  
20 bagel.

21 REPRESENTATIVE SCAVELLO: Yeah, there  
22 you go. Eating a bagel.

23 Lean to go towards Representative  
24 Ross's bill.

25 What's your comments on that bill?

1           REPRESENTATIVE SHAPIRO: Well, let me  
2 also say I am not -- let me say for starters,  
3 no one is picking on the cell phone industry.

4           In fact, Chairman Markosek just  
5 mentioned Verizon Wireless who I understand  
6 supports my legislation.

7           So we're trying to work with the cell  
8 phone. There's no sort of unfair targeting of  
9 the cell phone industry.

10          In fact, many of them want people  
11 to -- to utilize their phones more safely.  
12 They have safety campaigns. They encourage  
13 people to use headsets. So that is not a  
14 motivation on my part or anyone else's.

15          REPRESENTATIVE SCAVELLO: Okay.

16          REPRESENTATIVE SHAPIRO: And, again,  
17 I think there are many distractions. I said  
18 that at the beginning of my testimony.

19          We have technology available to  
20 render the use of cell phones much safer when  
21 one is driving. And I think we ought to  
22 utilize the technology available to us to do  
23 that.

24          If you can figure out a way to, using  
25 technology more safely, eat a bagel or drink a

1 coffee, I'm game.

2 But right now the technology is -- is  
3 available to make our cell phone safer and  
4 that's what I think we should do.

5 REPRESENTATIVE SCAVELLO: How do you  
6 dial a number when you're on hands-free?

7 REPRESENTATIVE SHAPIRO: My  
8 legislation allows for a temporary period, a  
9 brief period, to activate a call and also to  
10 end a call and dial a call. So that -- that  
11 is already built in the legislation.

12 REPRESENTATIVE SCAVELLO: Okay.  
13 Thank you.

14 CHAIRMAN MARKOSEK: Thank you very  
15 much.

16 Representative Evans and -- will be  
17 the last questioner of this witness.

18 REPRESENTATIVE EVANS: Thank you very  
19 much, Mr. Chairman. Appreciate it.

20 Question for you, Representative  
21 Shapiro. On the statistics from PennDOT here,  
22 do those crashes involving drivers using cell  
23 phones on Pennsylvania roads, are those the --  
24 did cell phones cause those crashes?

25 REPRESENTATIVE SHAPIRO: That is --

1           REPRESENTATIVE EVANS: Did cell phone  
2 usage cause those individual crash -- numbers?

3           REPRESENTATIVE SHAPIRO: The requests  
4 we made from PennDOT was please give us the  
5 numbers for crashes caused from the use of  
6 handheld cell phones versus crashes caused by  
7 the use of hands-free cell phones and this is  
8 the data that they provided us.

9           REPRESENTATIVE EVANS: All right.  
10 Because last year -- last winter in Erie my  
11 wife was involved in an -- in an automobile  
12 accident. She was using her cell phone at the  
13 time when it happened but she didn't cause  
14 it. Somebody ran a stop sign and ran into  
15 her.

16           So would her -- would her statistic  
17 be on that?

18           REPRESENTATIVE SHAPIRO: I believe --  
19 it's hard for me to say, because I didn't  
20 gather the statistics for PennDOT, but under  
21 the request that we made we would not include  
22 that in. It would not be included on that  
23 list.

24           REPRESENTATIVE EVANS: It just seemed  
25 to be a little bit of a gray area.

1           REPRESENTATIVE SHAPIRO:  Again,  
2  Representative Evans, I would also point out  
3  that in the accident -- and I assume your wife  
4  is -- is fine and -- but under that accident  
5  the police would have been under no obligation  
6  to find out whether your wife was on a cell  
7  phone or the other driver was on a cell  
8  phone.  These statistics are -- are, in fact,  
9  incomplete, as I said -- as I said earlier,  
10 and probably much, much higher --

11           REPRESENTATIVE EVANS:  Okay.

12           REPRESENTATIVE SHAPIRO:  -- given the  
13 fact the police are not required to collect  
14 this data.

15           REPRESENTATIVE EVANS:  Okay.

16           CHAIRMAN MARKOSEK:  Thank you, Rep --

17           REPRESENTATIVE EVANS:  They are  
18 required.

19           REPRESENTATIVE SHAPIRO:  If an  
20 accident occurs, the police are not in --  
21 according to PennDOT and according to many of  
22 the police officers that we've spoken to, are  
23 not in all the accidents recording whether or  
24 not cell phones were the cause of accidents or  
25 not the cause of accidents.

1           REPRESENTATIVE EVANS: Yeah. We'll  
2 have to check on that when we have the police  
3 testimony, but --

4           CHAIRMAN MARKOSEK: We'll -- we'll  
5 have the staff look into that.

6           REPRESENTATIVE EVANS: One other very  
7 brief question. The primary offense versus  
8 secondary offense I think is somewhat  
9 troubling on this bill.

10          CHAIRMAN MARKOSEK: Okay.

11          REPRESENTATIVE EVANS: And I think  
12 we're all here in accord that we want to  
13 enhance public safety, we want to make our  
14 roads more safe, and we want to end distracted  
15 driving.

16          But what's the best way to go about  
17 it here?

18          As a primary offense right now, if  
19 you're driving recklessly you could be pulled  
20 over whether you're using the cell phone or  
21 using text messaging or use -- whatever you're  
22 doing. You can be cited for reckless  
23 driving.

24          Under your bill if you're driving  
25 safely and you're using a handheld cell phone



1 and an officer sees you hypothetically a  
2 hundred yards away and thinks you're using a  
3 handheld cell phone, wouldn't that not open  
4 the door for potential of racial profiling in  
5 Pennsylvania?

6           REPRESENTATIVE SHAPIRO: I suppose  
7 any law we put on the books to help police our  
8 roadways, whether it's cell phones or  
9 otherwise, could open the door for racial  
10 profiling or -- or ethnic profiling or  
11 anything else.

12           I would hope, and I believe, that our  
13 police in Pennsylvania are not conducting  
14 themselves in that manner.

15           So I think, you know, that's a  
16 question that could be applied to the cell  
17 phone bill or any other bill when we empower  
18 police to pull someone over.

19           And I have confidence that -- that  
20 the brave men and women who serve in  
21 Pennsylvania are not doing that.

22           REPRESENTATIVE EVANS: Well, I do  
23 too. But the fact of the matter is it's a  
24 primary offense. And in Pennsylvania right  
25 now, as mentioned earlier if you're not

1 wearing a seat belt you cannot be pulled over  
2 because that's not a primary offense.

3 REPRESENTATIVE SHAPIRO: Right.

4 REPRESENTATIVE EVANS: And I think  
5 that that -- if we're going to make primary  
6 offenses into law, I think we should be very  
7 careful in doing so because it does open up  
8 some doors for -- for possible questionable  
9 conduct.

10 And I'm certainly not trying to  
11 impugn our -- our men and women in the police  
12 forces across the state, but I think it is  
13 something that has to be considered and  
14 brought out on the table and talked about when  
15 we're thinking about these bills.

16 REPRESENTATIVE SHAPIRO: That's a  
17 fair comment and I would be happy to join you  
18 in making the seat belt law a primary offense  
19 if you're interested.

20 CHAIRMAN MARKOSEK: Representative  
21 Evans, thank you. That was very good  
22 suggestions.

23 I'd like to thank the other members  
24 for their very good comments and questions as  
25 well.

1 Thank you, Representative Shapiro.

2 REPRESENTATIVE SHAPIRO: Thank you,  
3 Mr. Chairman.

4 CHAIRMAN MARKOSEK: Thank you for  
5 being here. You're welcome to stay and we  
6 appreciate you being here. Thank you.

7 We have our next testifier, is Gary  
8 Horewitz from Sprint Nextel.

9 Gary, welcome. Perhaps we'll get a  
10 different slant on this issue and you're  
11 certainly -- we're glad that you're here and I  
12 know you came some distance to be here and we  
13 appreciate that and you may proceed when  
14 you're ready, sir.

15 MR. HOREWITZ: My pleasure,  
16 Mr. Chairman, and thank you and thank you  
17 members of the committee.

18 And --and actually not a dramatically  
19 different -- different stance. I -- I -- and  
20 I know we're behind on time a little bit,  
21 but -- so I want to emphasis some key points  
22 and, of course, make myself available for  
23 questions.

24 CHAIRMAN MARKOSEK: I think you need  
25 to speak a little more into the mike or make

1 sure it's on. The little green light.

2 MR. HOREWITZ: It's on. Can everyone  
3 hear me okay?

4 CHAIRMAN MARKOSEK: Yeah. That's  
5 better.

6 MR. HOREWITZ: I'm not allowed to say  
7 can you hear me now because I lose a job if I  
8 say something that's from one of my  
9 competitors.

10 It's very hard to avoid that. I got  
11 to give them credit for a great phrase. In  
12 fact, I will say something about, you know,  
13 working -- getting to work with our  
14 competitors and -- and, in fact, I'm not here  
15 on behalf of the whole industry except to one  
16 point, that the -- that the wireless industry  
17 is very interested in making sure that our  
18 customers -- and I will argue that the data  
19 supports that most -- probably mostly everyone  
20 in this room -- that our customers do use  
21 their -- their wireless devices in a safe  
22 manner when they do drive.

23 We're on the road, too. Our -- our  
24 hundreds of thousands of employees of the  
25 wireless industry drive -- drive the roads.

1 I'm on the road. I have that six-year-old and  
2 three-year-old on the road. So we are very  
3 interested in driver safety.

4 In fact, one of the things that we're  
5 very proud of is Sprint Nextel has a program  
6 and our competitors have programs, too. Our  
7 program is called Focus On Driving.

8 We will provide that for free to any  
9 school or -- or the troopers or any driving  
10 instruction program that wants a copy of it  
11 with the videotapes that reach out to new  
12 drivers that explains that a lipstick is two  
13 ounces but you're driving a 4,000 pound car  
14 and a cell phone is eight ounces but you're  
15 driving a 4,000 pound car. So we -- we do, in  
16 fact, emphasize driver safety.

17 But back to the -- back to the fact  
18 that we know that there are a dramatic -- has  
19 been a dramatic increase in cell phone usage  
20 and cell phone ownership in the Commonwealth  
21 and yet the accidents, the crashes that  
22 have -- over the years have also remained  
23 steady despite that dramatic exponential  
24 increase.

25 But, most importantly, we know that

1 cell phone usage, while -- it's one of the  
2 most noticeable, not the highest, one of the  
3 most noticeable distractions.

4           But we -- when we notice good drivers  
5 and bad drivers out there, we can --we notice  
6 the bad driver that happens to be talking on  
7 their cell phone. The problem is -- and I  
8 think it was pointed out about the fact that  
9 we have drivers using their phones in a very  
10 safe manner. I think the data supports that.

11           We don't notice the drivers and say,  
12 wow, that person is using their cell phone and  
13 driving really, really well.

14           What we notice is, boy, that person  
15 is driving poorly. I happen to notice they're  
16 on a cell phone. We might not notice that  
17 they're on --they're using or changing their  
18 radio station, eating, drinking. It's --  
19 happens to be one of the most noticeable  
20 pieces.

21           So my main point is -- is -- here is  
22 to understand that just -- that there are good  
23 drivers and there are bad drivers, and there  
24 are good drivers with cell phones and there  
25 are bad drivers with cell phones.

1           And what -- what Sprint  
2 Nextel opposes is saying that just because  
3 you're using a handheld cell phone makes you a  
4 bad driver. That is not true. The data is  
5 not there.

6           In fact -- again, we're looking at  
7 the PennDOT data. The PennDOT data said in  
8 distracted driving, which is -- which is  
9 reportable but does not -- between handheld  
10 and -- it's not required to report between  
11 handheld and hands -- a hands-free device, but  
12 cell phone usage and distracted driving  
13 crashes from PennDOT data is only ten  
14 percent. I'm going to repeat that number.  
15 Ten percent according to the PennDOT crash  
16 data in 2006.

17           And that's -- that's consistent  
18 despite dramatic increases over the years.  
19 If -- if -- if cell phones were causing  
20 crashes left and right, because of -- because  
21 of the increase, we would see a dramatic  
22 increase in crashes in the Commonwealth.  
23 We're not seeing that.

24           I am not here to tell you that  
25 there -- that there is not a potential

1 distraction or potential risk in the use of a  
2 cell phone. I'm not here to say that at all.

3           More importantly, Sprint Nextel is  
4 not here to say that we're against hands-free  
5 devices. We sell lots of them. We're happy  
6 to sell more.

7           What Sprint Nextel is against is a  
8 legislative requirement singling out one  
9 aspect of one potential distraction. We're  
10 against legislation that would regulate and  
11 require hands-free when using -- when using a  
12 wireless device while talking and driving.

13           Why? Because Sprint Nextel believes  
14 that not only is it singling out and  
15 stigmatizing cell phone usage but, more  
16 importantly, we're not sure that it's going to  
17 make things safer.

18           In fact, let me repeat that. We're  
19 not sure that hands-free requirements would  
20 make anything safer.

21           Sprint Nextel is concerned that it  
22 would increase the risk to drivers. Let me  
23 explain why.

24           First of all, you're on the  
25 Schuylkill Expressway or I-95 and I'm -- while



1 I'm driving long, late for a hearing, not that  
2 we've ever been driving along late for a  
3 hearing, of course, and you get a phone call  
4 -- I get a phone call from my nanny.

5           My nanny never calls me. She knows  
6 that she can call at any time. But nanny  
7 calls me. I look and I say, hey, it's my  
8 house calling. Why is my nanny calling me at  
9 three o'clock in the afternoon? And I just  
10 don't happen to have a hands-free device that  
11 day.

12           Again, we're not against hands-free  
13 devices. Sprint Nextel encourages the use of  
14 them.

15           What do I do? I now have to  
16 cross four -- if I want to take that phone  
17 call to find out what's wrong with my  
18 children, I have to -- and, by the way, I'm  
19 late for a hearing. I have to drive across  
20 four lanes of highway. I got to change  
21 lanes. Change lane, change lane, and then  
22 exit the highway, and -- and -- and take that  
23 phone call and now I got to merge back onto  
24 the highway after I've taken that phone call.

25           Statistics say that's a really

1 dangerous activity. Because I didn't have a  
2 hands-free device.

3 Or alternatively, I've got to go pull  
4 to the shoulder. Can you imagine if everyone  
5 pulled to the shoulder to make a phone call?  
6 Can you imagine the danger of having that many  
7 cars sitting on the shoulder?

8 PennDOT, state troopers, AAA, will  
9 tell you, the shoulder is not a good place to  
10 hang out and make a phone call.

11 Well, that phone call, let's say I  
12 take it and say, oh, it's my nanny saying, hi,  
13 can you tell me where the glue stick is so the  
14 kids can do their homework for first grade?  
15 Yeah. It's on the second shelf in the pantry.

16 End of phone call. Or I could,  
17 again, sit on the shoulder and cross those  
18 lanes.

19 And, by the way, your wife isn't  
20 home. She's supposed to be home by now. Can  
21 I feed the kids? Sure. Now, why didn't my  
22 wife call? Well, maybe she doesn't have her  
23 handset.

24 Do you really want to make it illegal  
25 for the mother or, in my case, the father to

1 call home ahead of time and say, I'm going to  
2 be late for the kids or do you want to tell  
3 that parent to drive faster or worry about  
4 their kids because they don't have a  
5 hands-free device?

6           We are concerned -- Sprint Nextel is  
7 concerned that with the intention of saying,  
8 hey, this is a distraction. Hands-free  
9 devices may make it better for you to steer,  
10 that you're causing people -- you're opening  
11 up a whole new can of worms causing people to  
12 engage in other dangerous and, we would argue,  
13 more risky activities.

14           The data supports that all these  
15 activities are -- are more dangerous, of  
16 crossing -- crossing the lanes, of exiting the  
17 highway, sitting on the shoulder.

18           What we would -- we would propose is  
19 two things. Let's use focus on driving in the  
20 other programs to educate people to say, you  
21 know what? You're driving on 90 -- I-95.  
22 There's lots of traffic around you. Let that  
23 phone call go to voice mail. Education is the  
24 answer.

25           And, by the way, my wife, who was

1 late coming home, when she's sitting in  
2 two-mile-an-hour traffic and doesn't have her  
3 headset, maybe it's okay at that point to open  
4 up the phone and say, hey, I'm going to be  
5 late, but now I'm going to go drive safely and  
6 slowly now that you know I'm coming home and  
7 I'm going to be late.

8           It's called education. It's called  
9 judgment. And that is the solution.

10           Now, at the same time, Sprint Nextel  
11 does support the Ross -- Ross legislation. We  
12 have no problem whatsoever that if you're  
13 using a cell phone and driving poorly that you  
14 should get a ticket.

15           I'll be happy to answer any  
16 questions. Thank you.

17           CHAIRMAN MARKOSEK: Thank you very  
18 much. Okay. So you are in favor of the Ross  
19 legislation?

20           MR. HOREWITZ: That's correct. We --  
21 we -- we are only against the legislation that  
22 requires hands-free or would ultimately  
23 restrict phones.

24           But we do have a couple minor --  
25 minor changes that we'll speak with

1 Representative --

2 CHAIRMAN MARKOSEK: What about -- oh.

3 MR. HOREWITZ: -- Ross about.

4 CHAIRMAN MARKOSEK: Excuse me. What  
5 about the texting? We have a bill relative to  
6 that. Representative DePasquale's bill and  
7 also some school bus usage by the school bus  
8 drivers or prohibiting usage by -- in certain  
9 instances.

10 MR. HOREWITZ: Sprint Nextel doesn't  
11 have -- is not going to take a position on the  
12 texting. We're not -- we're not opposed to  
13 that. We're not -- we're not saying we're in  
14 favor either, but we're not taking a position  
15 on -- on texting.

16 We do understand that there is a  
17 difference between talking on the phone and --  
18 and texting on the phone.

19 And, yes, we're also interested in  
20 school bus safety.

21 Again, on the school bus measure, one  
22 of the programs that Sprint Nextel has is that  
23 we -- with global positioning systems, we are  
24 able -- we have a product that enables us to  
25 track buses and that if that bus deviates from

1 the route for any reason or there's an  
2 emergency that the school district can contact  
3 that bus.

4           Again, we would -- we'd want to work  
5 on making sure that that kind of measure  
6 would -- would still be enabled because we  
7 think that does enhance safety.

8           CHAIRMAN MARKOSEK: Okay. Thank  
9 you. Mr. Horewitz, thank you very much. Very  
10 interesting testimony.

11           MR. HOREWITZ: Thank you.

12           CHAIRMAN MARKOSEK: Next is Captain  
13 Jake Crider of the Pennsylvania State Police.  
14 Captain Crider, come forward please. Thank  
15 you.

16           CAPTAIN CRIDER: Thank you.

17           CHAIRMAN MARKOSEK: And I just want  
18 to mention that Representative John Sabatina  
19 has arrived as well from Philadelphia.  
20 Welcome.

21           REPRESENTATIVE GEIST: Don't you  
22 think you need Bill McHale up there?

23           CAPTAIN CRIDER: He's going to try to  
24 let me wing this by myself but he's in the  
25 bullpen waiting if I need him.

1           CHAIRMAN MARKOSEK: Thank you,  
2 Captain, and you may proceed when you're  
3 ready.

4           CAPTAIN CRIDER: Thank you. Well, my  
5 testimony, I was going to start off with good  
6 morning, but if you don't mind I'm going to  
7 change that to good afternoon.

8           Good afternoon and thank you. I am  
9 Captain Jacob M. Crider of the Pennsylvania  
10 State Police. I am director of the Patrol  
11 Services Division of the Bureau of Patrol.

12           On behalf of Colonel Jeffrey B.  
13 Miller, the Commissioner of the Pennsylvania  
14 State Police, I would like to thank you for  
15 the invitation to provide testimony at this  
16 public hearing concerning distracted driving.

17           Highway safety continues to be a  
18 major objective of the Pennsylvania State  
19 Police. In our efforts to achieve this  
20 objective, troopers enforce the traffic laws  
21 of the Commonwealth as part of their patrol  
22 duties. Troopers also investigate vehicle  
23 crashes to identify causal factors and then  
24 take appropriate enforcement action to help  
25 prevent future crashes.

1           According to the National Highway  
2 Traffic Safety Administration, NHTSA, driver  
3 inattention is the leading factor in most  
4 crashes and near crashes. Primary causes of  
5 inattention are distracting activities such as  
6 cell phone use and drowsiness.

7           The most common distraction for  
8 drivers is the use of cell phones according to  
9 NHTSA. However, the number of crashes and  
10 near crashes attributable to dialing is nearly  
11 identical to the number associated with  
12 talking or listening. Dialing is more  
13 dangerous but occurs less often than talking  
14 or listening.

15           When a driver is text messaging on  
16 his cell phone, he or she is not only dialing  
17 to send messages but also reading incoming  
18 text messages as well. This is not only  
19 distracting but requires the driver to take  
20 his or her eyes off the roadway.

21           As the Pennsylvania driver's manual  
22 states, driving requires constant awareness of  
23 everything around you, such as speed, signs,  
24 and road conditions.

25           Many drivers at some point look away



1 from the road, whether it is to text on a cell  
2 phone, dial a cell phone when talking on the  
3 phone, to read, apply makeup, eat fast food,  
4 drink a cup of coffee, check their BlackBerry,  
5 or even only to change the radio station, or  
6 replace a CD.

7           However, the more frequently a driver  
8 engages in such multi-tasking activities, the  
9 greater the chance their inattentiveness will  
10 cause a vehicle crash. No one can be sure  
11 when it is safe to look away.

12           The situation on a highway can change  
13 in an instant, leaving a driver with little  
14 time to react.

15           Examples of distracted driving, such  
16 as text messaging or talking on a cell phone,  
17 are an even greater problem when the driver is  
18 committing another moving violation such as  
19 speeding or following another vehicle too  
20 closely.

21           According to the Pennsylvania  
22 driver's manual, driver distraction and  
23 inattention to road and traffic conditions are  
24 responsible for 25 percent to 30 percent of  
25 police-reported traffic crashes. This adds up

1 to approximately 1.2 million traffic crashes  
2 every year.

3           The Pennsylvania driver's manual also  
4 reports that research has found a normal,  
5 undistracted driver fails to notice an  
6 important road event, such as another driver  
7 making a mistake, three percent of the time.  
8 An adult dialing a cell phone misses the same  
9 event 13 percent of the time. A teenager  
10 dialing a cell phone misses the event 53  
11 percent of the time.

12           The Pennsylvania driver's manual  
13 recommends that for safety purposes drivers  
14 should pull to the side of the road to make or  
15 receive calls.

16           The National Highway Traffic Safety  
17 Administration's position on cell phone use is  
18 as follows: The primary responsibility of the  
19 driver is to operate a motor vehicle safely.  
20 The task of driving requires full attention  
21 and focus. Cell phone use can distract  
22 drivers from this task risking harm to  
23 themselves and others. Therefore, the safest  
24 course of action is to refrain from using a  
25 cell phone while driving.

1           According to NHTSA's study six  
2 percent of drivers used handheld phones while  
3 driving in 2005. This was an increase from  
4 five percent of drivers in 2004. The number  
5 of drivers speaking with headsets on while  
6 driving increased from 0.4 in 2004 to 0.7 in  
7 2005.

8           The Pennsylvania Department of  
9 Transportation has been collecting data on the  
10 use of cellular telephones by drivers involved  
11 in reportable vehicle traffic crashes  
12 investigated by police in Pennsylvania.

13           The statistics collected do not  
14 specify whether the use of the cell phone was  
15 a contributing factor to the crash but rather  
16 whether the cell phone was in use at the time  
17 of the traffic crash.

18           Below is a chart which indicates cell  
19 phone use in reportable crashes statewide for  
20 Pennsylvania from the years 2002 through 2006  
21 provided by PennDOT and that is in each of  
22 your packets, that chart.

23           The current PennDOT traffic crash  
24 report does contain an entry block to indicate  
25 whether the use of a cell phone was a

1 contributing factor in the crash. However,  
2 the investigating officer or trooper generally  
3 relies on the observation of the witness or  
4 the statement of a driver in making a  
5 determination concerning cell phone use.

6           This information may not be a true  
7 indicator of the effect of cell phone usages  
8 in vehicle crashes.

9           If a trooper determines the use of a  
10 cell phone by the driver was a contributing  
11 factor to a crash or a traffic violation, the  
12 driver could be cited under the Vehicle Code  
13 Section 3714, Careless Driving.

14           This section states: Any person who  
15 drives a vehicle in careless disregard for the  
16 safety of persons or property is guilty of  
17 careless driving, a summary offense.

18           Often, a more specific causal traffic  
19 violation occurs as a result of the driver  
20 engaging in a secondary activity while they  
21 are driving. Such common violations include  
22 Following Too Closely; Driving On Roadways  
23 Laned For Traffic, moving from one lane to  
24 another, or Driving On Right Side Of Roadway,  
25 swerving into the opposite lane.

1           According to the Governor's Highway  
2 Safety Association, GHSA, highlights of  
3 current state cell phone driving laws include  
4 the following:

5           In May of 2007, Washington became the  
6 first state to ban driving while text  
7 messaging for all drivers. A few other states  
8 are considering similar measures.

9           Seventeen states and the District of  
10 Columbia have special cell phone driving laws  
11 for novice drivers.

12           School bus drivers in 14 states and  
13 the District of Columbia are prohibited from  
14 all cell phone use when passengers are present  
15 except for emergency situations.

16           No state completely bans all type of  
17 cell phone use, handheld and hands-free, while  
18 driving.

19           Connecticut, New York, New Jersey,  
20 and the District of Columbia have enacted  
21 jurisdiction-wide cell phone laws prohibiting  
22 driving while talking on handheld cell  
23 phones. California and Washington have passed  
24 similar laws that will go into effect in July  
25 of 2008. Many other states ban cell phone use

1 in specific situations.

2           Some states, such as Utah and New  
3 Hampshire, treat cell phone use as a larger  
4 distracted driving issue.

5           Because there are few studies and  
6 little crash data available, states are  
7 beginning to take a more active role in  
8 improving data collection. DeKalb County,  
9 Georgia has begun sanctioning drivers whose  
10 improper usage of a mobile phone was a  
11 contributing factor in a collision causing  
12 death, injury, or damage. The law is likely  
13 the first of its kind in Georgia and perhaps  
14 elsewhere.

15           While the ability to multi-task may  
16 be a desirable attribute in the office or at  
17 home, all available research indicates drivers  
18 should do their best to focus solely on  
19 driving and potential hazards while they're  
20 behind the wheel.

21           Engaging in any other activity while  
22 driving increases the chances the driver will  
23 be involved in a vehicle crash.

24           The State Police have and will  
25 continue to take appropriate enforcement

1 action against those drivers who commit  
2 traffic violations in an effort to minimize  
3 the number of vehicle crashes and resulting  
4 injuries and fatalities which occur far too  
5 often.

6           Once again, I thank you for the  
7 opportunity to appear before this committee  
8 today. I would be happy to answer any  
9 questions.

10           CHAIRMAN MARKOSEK: Thank you. Thank  
11 you very much, Captain.

12           I see we do have Representative  
13 Siptroth and Representative Scavello.

14           Representative Siptroth.

15           REPRESENTATIVE SIPTROTH: Thank you,  
16 Mr. Chairman.

17           Thank you, Captain, for enlightening  
18 us today.

19           Can you tell us what the current fine  
20 is under the Vehicle Code, Section 3714, for  
21 careless driving?

22           CAPTAIN CRIDER: Current fine? It  
23 will be \$25, plus costs then.

24           REPRESENTATIVE SIPTROTH: Thank you  
25 very much.

1 Thank you, Mr. Chairman.

2 CHAIRMAN MARKOSEK: Okay. Thank  
3 you.

4 Representative Scavello.

5 REPRESENTATIVE SCAVELLO: Thank you,  
6 Mr. Chairman.

7 And thank you, Captain, for your  
8 testimony.

9 If we looked back over the last 12  
10 years and I'd say, you know, cell phone use  
11 probably in the last ten years has become more  
12 than -- than prior, have our accidents gone  
13 down or our accidents gone up?

14 And I'm looking, you know, at your  
15 numbers here from 2002 to 2006 and we've gone  
16 down 10,000 crashes in that five-year period.

17 But have we looked into the early  
18 '90s, the accidents on our state roads, in  
19 Pennsylvania, has that gone up because of cell  
20 phone use? Has it stayed the same?

21 Because we're always saying cell  
22 phone use rather than distracted drivers. I'd  
23 be interested in looking at those statistics  
24 and comparing them to -- to the last five.

25 CAPTAIN CRIDER: On the chart here,



1 sir, as you said, the traffic crashes from  
2 2002 to 2006 have gone down approximately  
3 10,000 and the percentage of cell phone  
4 uses -- usage in those crashes has pretty much  
5 remained unchanged.

6           It's gone up a little bit. It's  
7 from -- just a tad over one percent in 2006,  
8 and it was around 90 percent from 2002.

9           REPRESENTATIVE SCAVELLO: But,  
10 Captain, it doesn't mean that because of the  
11 cell phone that that accident occurred. Am I  
12 right?

13           CAPTAIN CRIDER: That's correct.  
14 These are only statistics.

15           REPRESENTATIVE SCAVELLO: Those are  
16 just statistics.

17           CAPTAIN CRIDER: That's correct.  
18 There are no statistics that say that the cell  
19 phone usage caused a traffic crash.

20           REPRESENTATIVE SCAVELLO: So if  
21 somebody is dialing a cell phone and driving,  
22 you know, and driving and he's erratic, and a  
23 State Police officer sees him, he's going to  
24 pull him over I'm -- I'm assuming.

25           CAPTAIN CRIDER: That's correct.

1           REPRESENTATIVE SCAVELLO:  And the  
2 fine would only be \$25?

3           CAPTAIN CRIDER:  Yes.

4           REPRESENTATIVE SCAVELLO:  See,  
5 that -- that we need to address.  Okay.  Thank  
6 you.

7           CHAIRMAN MARKOSEK:  Okay.  Thank  
8 you.

9           Representative Evans.

10          REPRESENTATIVE EVANS:  Thank you,  
11 Mr. Chairman.

12          Thank you very much for your  
13 testimony today.  Appreciate it very much,  
14 Captain.

15          The poster that was referenced  
16 earlier, is that from your department or is  
17 that from Representative Shapiro's office?  
18 Does anyone know?

19          CAPTAIN CRIDER:  That poster?

20          MS. RITTER:  PennDOT.

21          CHAIRMAN MARKOSEK:  The source is  
22 PennDOT.

23          REPRESENTATIVE EVANS:  The source is  
24 PennDOT.

25          CAPTAIN CRIDER:  And that's the

1 statistics that I have also, are PennDOT's  
2 statistics.

3 REPRESENTATIVE EVANS: Is that part  
4 of your presentation or was this presented by  
5 Representative Shapiro?

6 CAPTAIN CRIDER: No, I have not seen  
7 those.

8 REPRESENTATIVE EVANS: It was  
9 Representative Shapiro's. Okay.

10 Just clarifying, Representative  
11 Shapiro referenced this poster during his  
12 testimony and the question I asked was whether  
13 or not the example I gave of my wife using a  
14 cell phone, involved in the accident which she  
15 did not cause, in Page 3 of your testimony you  
16 indicate that the data collected does not  
17 specify whether the use of a cell phone was a  
18 contributing factor to the crash.

19 So I think that does somewhat refute  
20 Representative Shapiro's testimony, if I'm not  
21 mistaken.

22 CAPTAIN CRIDER: What -- what I can  
23 tell you -- and I have a photocopy here and I  
24 could have copies made for you of a page of  
25 the traffic crash report that we have.

1           There's a block under driver action,  
2 and basically to refer to whether a cell phone  
3 was used, it's driver using handheld phone,  
4 driving using hands-free phone. That would  
5 just be a driver action. But it would not --  
6 it would being carried -- carried for as  
7 somebody that would be, as you'd say, in a  
8 violation or not in a violation, as you  
9 indicated.

10           I heard your previous testimony. So  
11 if the police officer investigating that and  
12 your wife was using a cell phone, that  
13 characteristic would be carried there but if  
14 she did not commit a violation that would not  
15 be -- she would not be -- that would not be  
16 held against her.

17           REPRESENTATIVE EVANS: Thank you very  
18 much.

19           And just briefly on Page 4 with the  
20 chart that references the crashes from 2002 to  
21 2006, you indicate that those have remained  
22 fairly constant, hovering around one  
23 percent --

24           CAPTAIN CRIDER: That's correct.

25           REPRESENTATIVE EVANS: -- as a

1 baseline there.

2           Isn't that somewhat shocking?

3 Because, you know, if you look at the sales  
4 statistics of cell phones from 2002 to 2006,  
5 hasn't the market exploded? Haven't we seen,  
6 you know, tens of thousands, hundreds of  
7 thousands more phones being sold, and that  
8 statistic I -- I really am somewhat stunned  
9 that the -- the figure has remained constant  
10 from 2002 to 2006.

11           Does that surprise you as well,  
12 Captain?

13           CAPTAIN CRIDER: Well, the only  
14 concern that I have is a lot of times on our  
15 traffic crash reports we're only going on  
16 testimony of whether a witness has seen it or  
17 what the driver tells us ourselves, unless we  
18 would happen to witness a crash.

19           So that would be the only thing that  
20 some of our statistics, as far as what we get  
21 for the reports, I'm not sure if they're a  
22 hundred percent accurate.

23           REPRESENTATIVE EVANS: That is being  
24 used though as the baseline?

25           CAPTAIN CRIDER: Yes. That's how

1 we -- we either ask the driver or if we have  
2 an independent witness that can establish  
3 whether a person was using a cell phone.

4 REPRESENTATIVE EVANS: All right.

5 Well, thank you very much, and thank you for  
6 your testimony today.

7 CAPTAIN CRIDER: Thank you.

8 CHAIRMAN MARKOSEK: Thank you.

9 Representative Wheatley.

10 REPRESENTATIVE WHEATLEY: Actually,  
11 Captain, I think you actually answered the  
12 question, because I was going to the point  
13 that you -- in your testimony where you  
14 referred to the investigating officer or  
15 trooper having to rely on the witness to  
16 generally tell them if they were using the  
17 cell phone or not.

18 There's nothing that -- well, here's  
19 the question. When you're -- when you're  
20 investigating actions, like drunk driving, you  
21 either -- your trooper either can smell or see  
22 from the performance that there is maybe  
23 alcohol involved.

24 Are there other things that you  
25 investigate, not just solely from the witness

1 testimony, I mean, providing you with  
2 information, that you actually investigate  
3 that could be comparable to an incident that  
4 would involve cell phone usage where you can  
5 investigate? Is there something comparable to  
6 it?

7           CAPTAIN CRIDER: Sometimes probably a  
8 seat belt, whether somebody had a seat belt on  
9 or not.

10           REPRESENTATIVE WHEATLEY: And that --  
11 you normally would be able to see that from --  
12 once you got to the scene, you would be able  
13 to investigate if the seat belt was in use,  
14 not necessarily depending on if the person  
15 said that they were wearing a seat belt or  
16 not?

17           CAPTAIN CRIDER: Sometimes we would  
18 have to also depend on their testimony whether  
19 they had a seat belt on or not. Also some  
20 injuries you can match up sometimes, like  
21 damage to the windshield. But that would be  
22 comparable sometimes to where we would have to  
23 ask whether somebody was wearing a seat belt  
24 or not. In a less serious crash where there  
25 wouldn't -- where there aren't injuries.

1           REPRESENTATIVE WHEATLEY: The only  
2 reason I'm asking that question is because  
3 I -- I would be very interested in seeing how  
4 we can institutionalize the reporting of  
5 distractions, you know, some way of  
6 understanding what are these distractions that  
7 leads to some of these crashes and getting it  
8 more institutionalized in our reporting  
9 system.

10           And I don't know if that's what  
11 they're doing in Georgia where you say it was  
12 the first of its kind, but I would be very  
13 interested, before we start making -- passing  
14 laws to try to identify one thing over the  
15 other, that we have good data that helps us  
16 understand what's happening on our roads.

17           Thank you.

18           CHAIRMAN MARKOSEK: Okay. Thank you,  
19 Representative Wheatley.

20           And one final follow-up question by  
21 Representative Scavello and then we're going  
22 to move to our next testifier.

23           REPRESENTATIVE SCAVELLO: Thank you.

24           Captain, you were here earlier when I  
25 asked Representative Shapiro, you know, that



1 the hands-free, how does someone dial? And he  
2 says he gives them -- he allows them that time  
3 to -- to dial.

4           So if they're dialing, you know, if  
5 they're pushing, wouldn't they -- that's when  
6 the problem is going to occur, would it not?

7           CAPTAIN CRIDER: That's when I think  
8 one of the problems would occur, dialing, such  
9 as in text messaging.

10           REPRESENTATIVE SCAVELLO: So the  
11 dialing, you know, and I'm looking at those  
12 statistics here about hands-free, isn't it  
13 possible that not many folks have hands-free  
14 and so that's why those numbers are here?

15           Because I would assume most of the  
16 time that the accident is going to occur is --  
17 is when somebody is pushing the buttons. So  
18 really by allowing hands-free in this  
19 legislation, it's flawed because when you're  
20 dialing is when your problem is going to  
21 occur.

22           CAPTAIN CRIDER: Right. And I  
23 believe as I stated in my testimony earlier  
24 there, that even though it's about the same  
25 when you're dialing as when you're talking or

1 listening but you're listening and talking  
2 many more times -- much more of the time than  
3 you are the dialing but it is the time when it  
4 occurs from NHTSA, it is about the same. So I  
5 would have to agree.

6 REPRESENTATIVE SCAVELLO: If somebody  
7 is going to be driving -- driving and reading  
8 a newspaper -- and we see it -- we're going to  
9 cite them. Am I correct?

10 CAPTAIN CRIDER: That would be --  
11 probably the officer would pull them over and  
12 probably use the careless driving citation.

13 REPRESENTATIVE SCAVELLO: And that's  
14 that \$25?

15 CAPTAIN CRIDER: Yes.

16 CHAIRMAN MARKOSEK: Okay. Thank you.

17 Just one follow-up question of my own  
18 relative to truckers and CB's, any data  
19 relative to that on accidents that they have?  
20 Because the CB requires some hand motion, et  
21 cetera, just like a cell phone would.

22 CAPTAIN CRIDER: I'm not aware of any  
23 specific data on that here today, but I'm sure  
24 that's something that we could look at and  
25 find out.

1           CHAIRMAN MARKOSEK: Okay. Thank you,  
2 Captain. We appreciate you being here. Very  
3 good testimony. And thank you very much.

4           CAPTAIN CRIDER: Thank you.

5           CHAIRMAN MARKOSEK: We'll have our  
6 next person to kind of sum up everything here  
7 today, very important person to testify,  
8 Mr. Ted Leonard, from the AAA Federation.

9           And, Ted, welcome.

10          MR. LEONARD: Thank you very much.

11          CHAIRMAN MARKOSEK: Okay. And --

12          MR. LEONARD: I hope I'm not holding  
13 everyone from lunch.

14          CHAIRMAN MARKOSEK: We have to be on  
15 the -- I remind the members we have to be on  
16 the floor at one o'clock. So I guess that  
17 reminder is for you as well so --

18          MR. LEONARD: Okay. Well, I'd be  
19 happy to summarize the --

20          CHAIRMAN MARKOSEK: Thank you.

21          MR. LEONARD: -- the information that  
22 I submitted, including the chart on cell phone  
23 laws.

24                 First of all, AAA would advocate a  
25 comprehensive approach to distracted driving,

1 not particularly aimed at any specific type  
2 technologies. The technologies are changing  
3 too fast. A cell phone is not just a  
4 telephone anymore. You can also surf the web,  
5 check football scores, stock market prices,  
6 anything on the phone anymore.

7           AAA has conducted a couple different  
8 studies. The first study to try and determine  
9 what types of distractions were out there that  
10 took drivers attention and eyes and hands off  
11 the road.

12           In my testimony I listed basically a  
13 hierarchy of the events and the types of  
14 events, the percentage of drivers that were  
15 infected with these different types of  
16 distractions.

17           Topping the list by a pretty wide  
18 margin was an event outside of the car, and it  
19 goes right on down with adjusting the radio,  
20 another occupant in the car causing a  
21 distraction, a moving object. And cell  
22 phones, which received a great deal of  
23 attention, were at about 1.5 percent.

24           The Pennsylvania Joint State  
25 Government Commission also conducted a study

1 in 2001 which came up with a similar hierarchy  
2 of events.

3           A follow-up on the AAA study, which  
4 was pretty technical in nature. It put  
5 cameras in the cars and cameras on the roads  
6 and so forth to try to determine what type of  
7 distractions were occurring in the cars and  
8 what it actually did to the driver. It  
9 focused on their eyes and hands and when the  
10 hands would leave the wheel and so forth. And  
11 this study came up with pretty much the same  
12 hierarchy.

13           In the -- 2002 the National  
14 Conference of State Legislators released a  
15 report documenting an eight-month study that  
16 brought together state legislators, staff,  
17 wireless service providers, auto  
18 manufacturers, and safety groups, and the  
19 report recommended, among other things, that  
20 states, rather than local jurisdictions,  
21 should decide whether or not to -- to regulate  
22 any particular technologies.

23           And we would advocate that as well.  
24 That if anything is going to be regulated,  
25 that it should be on a state level and not a

1 jurisdictional level.

2           In 1997 the New England Journal of  
3 Medicine published a report on distracted  
4 driving and among the important conclusions in  
5 this report was one that hands-free devices  
6 were really not risk free.

7           In fact, they placed the level of  
8 risk of a hands-free device at pretty much the  
9 same as that of a handheld device. It's the  
10 conversation that provides an intellectual  
11 distraction to the driver.

12           And a studies at Carnegie Mellon, the  
13 University of Rhode Island, and University of  
14 Utah have reached the same conclusion, that  
15 the problem is as much holding the  
16 conversation as it is holding the phone while  
17 operating a vehicle.

18           And because mobile phones are  
19 visible, people believe that they alone are  
20 the problem, and that mobile phones pose a  
21 greater risk than other distractions.

22           I've provided in my testimony what  
23 some of the other states have done. New York,  
24 New Jersey, Connecticut, and the District of  
25 Columbia have enacted bans on handheld cell

1 phones. California and Washington have bans  
2 that will go into effect in July of 2008.

3           And, as mentioned in previous  
4 testimony, Washington became the first state  
5 to ban text messaging while the vehicle was  
6 moving and laws prohibiting the use of cell  
7 phones by teens are now in place in 18 states  
8 and the District of Columbia and Maine this  
9 year expanded its state prohibition of teens  
10 using cell phones to include all forms of  
11 handheld technology.

12           Kentucky and Minnesota recently have  
13 passed legislation to prevent school bus  
14 drivers from using cellular phones. This  
15 brings to a total of 14 states, plus the  
16 District of Columbia, that now have these  
17 bans.

18           Utah has added the misdemeanor of  
19 careless driving to its aggressive driving  
20 law, and it defines careless driving as two or  
21 more distracting activities occurring during  
22 one continuous period of driving and  
23 prescribes penalties of up to six months in  
24 jail, \$1,000 in fines, and the license  
25 suspension of three months.

1           AAA understands distracted driving,  
2 including the use of telephones -- cell  
3 phones, is a major contributor to vehicle  
4 crashes.

5           We have taken an educational  
6 approach. We've urged our members to avoid  
7 using cell phones while driving. We have  
8 included in the AAA drivers ed curriculum a  
9 focus on distracted driving, and we have  
10 produced brochures and pamphlets that we have  
11 distributed to schools to focus on distracted  
12 driving.

13           It's difficult to legislate behavior  
14 and to eliminate things like distracted  
15 driving. The -- I mentioned earlier the state  
16 of New York had a cell phone ban, and I have  
17 some statistics on how their ban was working.

18           In 2001, when they enacted the ban,  
19 2.3 percent of drivers were using cell phones  
20 while -- while the vehicle is moving.  
21 Following the ban, that percentage dropped to  
22 1.1 percent. However, within two years, by  
23 2003, it was back up to 2.1 percent. We're  
24 again using cell -- cell phones while -- while  
25 moving.



1           I'll conclude my oral testimony right  
2 there and be happy to answer any questions on  
3 either the written testimony that I've  
4 submitted or if you have any questions I'd be  
5 happy to answer them later.

6           CHAIRMAN MARKOSEK: Okay. Thank you,  
7 Mr. Leonard.

8           Representative Evans.

9           REPRESENTATIVE EVANS: Thank you,  
10 Mr. Chairman.

11           Thank you for your testimony today,  
12 Mr. Leonard. We appreciate it.

13           Some of the information you presented  
14 was -- was very, very interesting. And I'm  
15 just collecting my notes here.

16           In some of the previous testimony  
17 today -- I hate to pick on Representative  
18 Shapiro because he's not here at the moment,  
19 but he did mention twice during his  
20 testimony -- I might have to check the  
21 record -- that in his opinion cell phones were  
22 the major cause of distractions behind the  
23 wheel. I think that was stated twice during  
24 his testimony.

25           REPRESENTATIVE SCAVELLO: That's

1 right.

2           REPRESENTATIVE EVANS: In looking at  
3 this study that you cite here from the  
4 University of North Carolina, just going down  
5 in descending order here, very briefly,  
6 outside person, object or event, 29 percent;  
7 adjusting radio/CD, 11 percent; other  
8 occupant, 10 percent; moving object in  
9 vehicle, four percent; other device brought  
10 into vehicle, three percent; vehicle climate  
11 control is three percent; eating, drinking,  
12 two percent; cell phone, 1.5 percent; smoking,  
13 one percent.

14           Why the disparity or why the  
15 conclusion on that type of an issue when it  
16 comes to that legislation he's putting  
17 forward?

18           MR. LEONARD: I -- I think part of  
19 the issue is in data collection. And that,  
20 again, is one of the things that AAA has  
21 advocated that better data collection needs to  
22 be done.

23           There are probably only about a dozen  
24 or so states that collect data regarding the  
25 use of cell phones and their involvement in

1 crashes, and I've seen involvement usage  
2 ranging from one percent to 11 percent in  
3 California. So there's a wide range of data  
4 out there.

5           The studies that were funded by AAA,  
6 two studies, in fact, done by the University  
7 of North Carolina, used federal CDS, crash --  
8 crash worthiness data systems. So the first  
9 study was an analysis of the data that had  
10 been submitted by states.

11           REPRESENTATIVE EVANS: I appreciate  
12 your testimony. I think that what you've put  
13 forward here today really underscores the need  
14 for a comprehensive distracted driving bill  
15 here in Pennsylvania. Representative Ross, I  
16 think, has a good template for that which  
17 covers not only cell phone usage, text  
18 messaging, but the other distractions as well  
19 are covered in that and also future technology  
20 is a component of that.

21           And I'm hoping that our committee,  
22 Mr. Chairman, can find a way to perhaps work  
23 with the other members to -- to put a package  
24 together of legislation that could address  
25 these problems and move it through our

1 committee this session.

2 Thank you.

3 CHAIRMAN MARKOSEK: Okay. Thank  
4 you.

5 Representative Sabatina.

6 REPRESENTATIVE SABATINA: Thank you,  
7 Mr. Leonard, for your testimony.

8 I was wondering if you or AAA had any  
9 information on data regarding what are the  
10 states that banned cellular devices before and  
11 after. In other words, there were a thousand  
12 crashes due to electronic devices before and  
13 then the ban was in place, now there's half  
14 that, something to that effect?

15 MR. LEONARD: I will see if I can  
16 research that and get back to you. The only  
17 data that I had come across before and after  
18 was the New York data that I cited. That  
19 before the ban the use was at 2.3 percent.  
20 Immediately after the ban it dropped to 1.1,  
21 but within two years had gone back up.

22 REPRESENTATIVE SABATINA: Okay.  
23 Thank you. I just thought that might be  
24 helpful, just to see if these bills would  
25 work.

1 MR. LEONARD: Certainly.

2 REPRESENTATIVE SABATINA: If they  
3 work in other states.

4 MR. LEONARD: Certainly. I'd be  
5 happy to get back to you.

6 REPRESENTATIVE SABATINA: Thank you.

7 CHAIRMAN MARKOSEK: Okay. Some very  
8 good testimony, Mr. Leonard. I, you know,  
9 myself think that the key to this whole thing  
10 is enforcement. Irregardless of what we do,  
11 there are so many people that have become in  
12 the habit of doing these various things in the  
13 car for better or for worse, and I don't know  
14 that we as a legislature can necessarily  
15 control some of that unless we have an  
16 enforcement policy that is -- enables us to do  
17 that.

18 But that's why we have the committee,  
19 and that's why we have this process.

20 I would like to thank you and the  
21 other testifiers that was here today for the  
22 wonderful testimony they made. I want to  
23 congratulate the members on great questions.

24 And, again, I don't think the staff  
25 gets enough credit for what we do here, and

1 they've done an excellent job and -- and a lot  
2 of what they do helps us to -- to carry on  
3 these very good hearings.

4           So I do want to make one  
5 announcement. The next meeting of the  
6 Transportation Committee is scheduled for  
7 Tuesday, October 30th at 9:30 a.m., Room 2005  
8 in the Ryan Office Building. It will be a  
9 voting meeting. We'll get to the members on  
10 particular bills before that time.

11           And just to -- to end the meeting, I  
12 will say, again, happy birthday to Vickie and  
13 the meeting is adjourned. Thank you.

14           (The proceedings were concluded at  
15 12:50 p.m.)

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I hereby certify that the proceedings  
and evidence are contained fully and  
accurately in the notes taken by me on the  
within proceedings and that this is a correct  
transcript of the same.

---

Brenda S. Hamilton, RPR  
Reporter - Notary Public