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HOUSE OF REPRESENTATIVES

TRANSPORTATION COMMITTEE

STATE CAPITOL
ROOM 140 MAIN CAPITOL BUILDING

WEDNESDAY APRIL 20, 2011
1:00 P.M.

HEARING ON
HB 896 (ROSS) CARELESS DRIVING/DRIVER DISTRACTIONS

BEFORE:

HONORABLE RICHARD GEIST, MAJORITY CHAIRMAN
HONORABLE MICHAEL McGEEHAN, MINORITY CHAIRMAN
HONORABLE KATE HARPER
HONORABLE C. ADAM HARRIS
HONORABLE DICK HESS
HONORABLE MIKE CARROLL
HONORABLE STEVEN SANTASIERO

ALSO PRESENT:

ERIC BUGAILE, MAJORITY EXECUTIVE DIRECTOR
MEREDITH BIGGICA, MINORITY EXECUTIVE DIRECTOR
PAUL PARSELLS, MINORITY SENIOR POLICY ANALYST

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WRITTEN TESTIMONY SUBMITTED:

COLONEL FRANK NOONAN, COMMISSIONER
PENNSYLVANIA STATE POLICE

BARRY J. SCHOCH, P.E.
SECRETARY OF TRANSPORTATION
PENNSYLVANIA DEPARTMENT OF TRANSPORTATION

CHAIRMAN GEIST: This meeting, hearing will please come to order, and first off, a couple announcements. Does everyone know the placements of the job johnnies? And for that very reason I hope that this is a very short hearing, and that's based upon necessity. Also, like to tell everybody that this is being recorded. The recording lights are on, and we want to thank those who made it and those who had to work under trying conditions. First off on the agenda is the remarks by the co-chairman here.

CHAIRMAN MCGEEHAN: Thank you very much, Mr. Chairman. I look forward to the hearing. I've known Representative Ross for a number of years; he's a well-liked and well-respected member. I know he's been diligent in his efforts to pass a distracted driving bill for a number of sessions, so I'm looking forward to the hearing and hearing from him and the other members. Thank you.

CHAIRMAN GEIST: Thank you very much. Chris, I don't know how many times I've voted for the Ross amendment or how many times that we've talked about it or debated it, but we're probably in a better position right now to see your legislation pass this General Assembly and really address all distracted driving. So, at this time the mike is yours, and you can take over.

REPRESENTATIVE ROSS: Thank you very much, Mr. Chairman, Chairman McGeehan, members. I appreciate your coming up here on a day which is not particularly our best, perhaps, for attendance in the Capitol for the reasons that have been outlined earlier. But, I won't belabor the point too much, I know many of you are quite familiar with the concepts, but for those that are not, and also, for the audience, I'm happy to try and give a brief summary of my thinking on this and the background of the bill.

There have been a number of very disturbing situations where people have been hurt, injured, killed by folks that are not paying attention while they're driving. And we've had specific cases, I know, in Bucks County, and there were a family of a very unfortunate situation that live in my district, too, where people who were driving were either talking on a cell phone, texting, or doing some other form of distraction, which led them to lose attention to their driving and cause them to have an accident, and people were hurt, and this is a common problem, and it's really a subject that I know the General Assembly has talked about extensively previously, and it has a subject that's been discussed extensively all through the country. My sense of the right way to handle this problem and the right way to address it is really embodied in House Bill 896 of this session, and I had similar legislation, as many of you know, last session. The thinking that I have is whenever your eyesight is taken away from your driving, when you're not looking through the windshield, that that becomes an immediately dangerous situation. And it really doesn't matter whether it's because you are eating or doing your makeup, if you're inclined to do makeup, or shaving or anything else. Obviously, reading, text messaging, reading magazines, books, all of these things have been observed by State Police and other law enforcement personnel and by those that are concerned about this kind of issue, and all of them wind up taking your attention off of the road, and all of them make you a dangerous driver. So, my sense is not to focus in on the technology, because again, those of you that watched the debate last time know that we can get really lost in the weeds of the technology. It really doesn't matter; it's the behavior that we want to get at. So, the sense of this bill is first, that any form of distraction that takes your attention away should be penalized. The mechanism in how the police wind up picking up on this, I think, has been a complication in some of the other bills, and that if you are observed by the police driving in any way that looks like it's unusual, going too slowly,

weaving in and out of lanes, or perhaps, doing something else that looks to be apparently not paying attention, that's the flag. It's very difficult, and I've talked to police about this, for them to be able to see if someone's looking down, whether they're just looking away for a minute or what they're doing. So, a hand is up near somebody's ear, are they just holding their head? Do they have a cell phone in there? If you're going by at 55 miles an hour, this creates a problem for the police. But they can observe a car driving erratically, and that leads them into the existing careless driving legislation. Then, once we have found somebody to be in violation of that and pulled over and they notice that there some other form of distraction, a book, a magazine open, whatever else is going on, and they determine that that's a contributing factor to the careless driving, then, that triggers, in my legislation, the distracted penalty in addition. Now, some have criticized the idea of this being a secondary rather than a primary offense, and that's really what we're doing here; we're using the careless driving to get at the distracted driver. My thinking on that is this: that really if you're relying exclusively on the penalty and that's how you expect to change people's behavior, I think that's not going to be successful. And I know that there have been occasions when we've looked at New Jersey and some of the other states that have gone on as a primary offense. They've gotten tremendous amounts of revenue in because many, many people get fined, and they keep on doing the same thing. So, what I'm really hoping that we can do to tie this legislation in with a very aggressive public service announcement and public relations effort to get people to change behavior. It's not good enough just to make it legislated; we have to actually get a change in behavior. And people's behavior doesn't change merely because we pass a law up here. It changes because you first say, "This is wrong. We're making it illegal," and then you follow that up with an aggressive campaign that really gets the kids in the car saying, "Mom, Dad, put the cell phone down. Stop reading, stop

doing whatever else you're doing." And the parallel from my point of view is the seatbelt legislation. We've always had it as a secondary offense in Pennsylvania. We coupled it with a very aggressive outreach campaign, and we have gradually changed people's behavior. So, that's a summary, really, of what I have in the legislation again this session, as I did last. And I think that this is the correct way for us in Pennsylvania to really address this problem and work toward roads that have drivers on them that are looking out the windshield, paying attention to what's in front of them, and not being distracted by cell phones, text messaging, food, reading, whatever else might be a problem. And that I think, since everybody wants to keep this short, I think is more than enough, and I'm more than happy to take any questions or comments that the committee might have.

CHAIRMAN GEIST: Thank you very much, Chris. First of all, would you explain the three points that you can get for careless driving in your legislation?

REPRESENTATIVE ROSS: Well, basically, the careless driving – you mean, essentially, that there is careless driving, distracted driving, and then, I'm not sure what the third point would be, but I'm not sure I'm understanding the question.

CHAIRMAN MCGEEHAN: I think what the chairman was talking about is that there's three points that go on your record with the careless driving as opposed, which would actually try to change people's behavior.

REPRESENTATIVE ROSS: Oh, okay. Yeah, well, on the careless driving does have points attached to it, which is part of the penalty, you know, exactly, so.

CHAIRMAN GEIST: Thank you. Any other?

CHAIRMAN MCGEEHAN: Thank you, Mr. Chairman. There have been efforts in the past to pass cell phone bans and texting bans and the like. Chris, you eluded to the, the

experience in New Jersey where, certainly, revenues have gone up since the violations, since it's been a primary violation. Are there statistics from other states that you're aware of that demonstrate that a primary offense saves more lives or causes less accidents than a secondary offense?

REPRESENTATIVE ROSS: Well, I think there's been a tremendous amount of, of data that's been generated on this, and I think that it varies a good deal depending on who's doing it. What I really did is I went and talked to police officers and tried to get a sense of what their concerns were. And, I think that when I talked to them about primary offense with, you know, they're not supposed to have tinted windows, but they do, people are going by at a high rate of speed, and one of the things police worry about constantly is being charged with profiling. And having this as a primary offense and having it something that is rather hard to perceive and, you know, what exactly is going on with that hand or what's in somebody's lap before you pull them over, and then you find out that, in fact, there was nothing there. And people compile a series of statistics that might lead to charges of profiling of one sort or another. That's why the police that I talked to did not like this as a primary offense. It's much easier for them to see someone weaving between lanes or driving, you know, 30 miles an hour in a 45 mile an hour speed limit zone or something like that. Those are the things that typically wind up being a problem. And so, that's a more neutral kind of a discussion rather than this issue of, "What is that person's hand doing?" or something like that.

CHAIRMAN McGEEHAN: So, no hard data exists that you're aware of?

REPRESENTATIVE ROSS: I think there's a lot of data; the problem is that it's not all consistent. That's really been the challenge from looking at this. And, and again, if you arrest a lot of people or charge a lot of people with this offense and that's all that happens, that's really

not where we want to go. This is not about trying to just punish people; it really should be about trying to change behavior.

CHAIRMAN GEIST: Thank you, Mr. Chairman. Representative Harper.

REPRESENTATIVE HARPER: Thank you, Mr. Chairman. Representative Ross, I appreciate your bill, and I have read the same research you have, and it's the distraction and not the device, and I understand all that. I guess my question, though, is to get people to stop driving distracted, would it not make sense to just outright ban things? Because it's easier to convey to the public, "You must not text. You must not use a handheld cell phone," although I understand the research says that it's the conversation not the cell phone. I get all that. But the public, I'm afraid the public will think that they can do it. That you might not be able to talk on your cell and stay in your lane, but I can do it. I'm afraid that's the public perception. Because, obviously, the information's out there that driving distracted is dangerous, and yet, every day people do it. Particularly, in the southeast where the traffic's very bad where we live, and so I guess what I'm asking you is; do you think it would be easier on the public to get the public to stop doing it if we just pick things, like, don't text while driving, don't use your handheld cell phone, or don't use any cell phone or whatever? Have you thought of that approach?

RERPESENTATIVE ROSS: Well, perhaps I'm maybe not making myself quite plain because one of the things that I have seen is that no matter what you do, the minute you take your eyes off the road, you will begin to start having problems with your driving. So, I would think that the right way for the public relations campaign to be, is that if you're doing any of these sorts of things you will be leading yourself into the crime. So, I would not say don't do it unless you're really, you know, very good at it. I would say simply don't do it. And the penalty will happen automatically, because everything we've seen, from studies that do look at the

behavioral side of it, I think, those are much more clear that the kind of talking on cell phone or text messaging that is done leads you automatically to being in violation of this. You know, there are none of us that are good enough to be able to do this successfully, to be able to do these kind-of activities successfully, and not wind up falling into the category of careless and distracted driving. So, I would put that out there that when you try this, you will wind up having the problem that is described here. And so therefore, you will wind up being in position of being able to get arrested much like we have with driving impaired. There are some people that think they can drive impaired, but in real life we know that it doesn't work, so therefore, you would wind up using the same kind of logic, and I think the message should be that either texting, or talking on the cell phone, or reading, or any of these other activities will lead you to a penalty, and don't do it.

REPRESENTATIVE HARPER: But the offense of careless driving already exists, doesn't it?

REPRESENTATIVE ROSS: Yes.

REPRESENTATIVE HARPER: You're basically enhancing it by saying if you're driving carelessly...

REPRESENTATIVE ROSS: Right.

REPRESENTATIVE HARPER: ...and, and it's because you're on your cell phone or because your texting or using your iPad, or whatever while you're driving, you're going to get an extra penalty.

REPRESENTATIVE ROSS: And it's explicitly in the legislation, because we're calling out the types of activities, so that no longer is it just merely, "I was daydreaming," but it was now, because of this range of items that we specifically called out and put into law. So, you do

say, you know, that kind of activity is banned because we know it leads you to drive carelessly, and therefore, you will wind up getting in trouble with it. So, I think it gives you a hook for the campaign; that's really what I'm looking at.

REPRESENTATIVE HARPER: Thank you.

REPRESENTATIVE ? : Thank you, Mr. Chairman, and thank you, Representative Ross. I agree with your first point which is that there is a larger scope of issues that can cause distracted driving or careless driving, so I appreciate that thought as it is embodied in the bill. I'm not sure I agree with you with respect to the deterrent factor. But let me ask, if someone is driving carelessly, how is it, then, that the police identify that one of these distracted activities are involved?

REPRESENTATIVE ROSS: Well, I think that by observation once the person's pulled over, and also, you know, any other way that you would, you would, as you're pulling them over, you ask questions, you observe what they're doing. It's not flawless. I'm not going to pretend that it's 100 percent, but again, I think that if we're primarily counting on the police to stop this behavior, I think we're going at it in the wrong way. I think that's been the fundamental misunderstanding from my point of view; that if only the police had another tool, this would all stop. That's missing the behavioral issue, and if we don't address the behavioral issue and think we can do this through police enforcement alone, I think we're bound to fail.

RERPESENTATIVE SANTASIERO: So just to follow up, if they're pulled over, and let's say there's a newspaper there on the chair next to them, is that now the *prima facie* case that the person was reading?

REPRESENTATIVE ROSS: No. You'd have to have more than that, obviously. Just merely the presence of the newspaper by itself wouldn't be. The question would be, are you

reading the newspaper? Is somebody in the car saying he was reading the newspaper? Is there some other additional evidence of some sort? But, again, I think the key point is just as we had with the secondary seatbelt law, the key is to get the public to be aware of this and change their behavior, and the law is really a hook to attach that to.

REPRESENTATIVE SANTASIERO: I hear what you're saying with respect to the seatbelt law, though I think that was more of a national phenomenon, and that was a campaign that had happened over many years nationwide, and therefore, there may be a distinction with respect to that example. But it's interesting; yesterday, my chief of staff, knowing that I was going to come in here today to talk about this bill, was taking her kids, who were off from school this week, down to Philadelphia to visit one of the museums, and she had them participate in a little research experiment going down I-95 into Philly. And she said, "When we're going down there, take a look out the windows of the car and see if you can see anyone driving down and see what they're doing." And they did. And sure enough, they identified not one, not two, but four tractor trailers where the driver of the tractor trailer was visibly on his cell phone, one was visibly texting, another one was reading, and another one was eating. And needless to say it frightened the kids. But the reason I bring that up is because, when it comes to the issue of a primary or secondary offense, I do think it may be, perhaps, easier than you're suggesting for the police to identify when someone is actively engaged in one of these activities that could well lead to distracted driving, and so I would ask that you think about that in terms of the way the bill is currently structured as perhaps a better approach to try to deter this behavior.

REPRESENTATIVE ROSS: The point that I really want to make is that purely legislating isn't sufficient, and I think New Jersey gives us a good example of that. If we don't go through the extra step, which I think is the more important step, of working to change

behavior, then we're not going to stop this. And I think the example of the seatbelt really carries weight on that. We all would like this to stop immediately. I'd like it to stop immediately, but I think it's naive for us to think that by making a primary offense out of it that it's going to stop it right away. I think the key element is to make a penalty and then work the other side of the equation, which is working on changing behavior. And until we do that second piece, that's really all that it's going to take, in the end, to really change things, and I think people are missing that too much when we have this conversation. That's all.

REPRESENTATIVE SANTASIERO: I'm done. Thank you, Mr. Chairman.

CHAIRMAN GEIST: Representative Hess.

REPRESENTATIVE HESS: Thank you, Mr. Chairman. Representative Ross, just have a couple questions. The offense of distracted driving, many things you could be doing that would be considered offensive distracted driving; your cell phones, your texting, reading a newspaper, whatever. I guess you'd consider those that would be eating food, eating a sandwich, stop at McDonald's, pick up a sandwich or get a cup of coffee, drinking it going down the road. Would that fall under distracted driving?

REPRESENTATIVE ROSS: It can. People spill coffee on their laps and start wiping it up, and, you know, people spill food on their laps. There are a lot of ways that you can be distracted, and any of these things wind up taking people's mind off the road, and any of them, when they do that, wind up creating a problem. So, yes.

REPRESENTATIVE HESS: So, smoking would be, also. Many times back years ago when I was smoking, I've dropped a cigarette in my lap or dropped it on the carpet floor and I'm down on the floor, trying to get it out.

REPRESENTATIVE ROSS: Right.

REPRESENTATIVE HESS: I'm distracted trying to put the fire out, or whatever, put the cigarette out, so that would be considered that, too, wouldn't it?

REPRESENTATIVE ROSS: I mean, I think that the point that we're getting at here is again, if we broaden this and don't get trapped in one technology or another, because I know from looking at the debate and listening to the debate before, we got into, "Well, is this kind of texting okay, or is it hands-free only, or is hands-free even good enough?" You know, "Are they going to have a different type of technology, you know, the video screens?" We're going to be chasing our tail here if we're trying to do this technology by technology. If instead, we look at the behavior and say, "What is it that gets you in your car, you know, taking your attention off?" and make the, the public relations campaign geared around that and forcing people to think about their behavior when they're doing that, that, I think, is critical, and, you know, I think you raise the point some people – I remember I was never a smoker, but my parents both were, and I remember them, you know, lighting up the cigarette and worrying about the lighter and whether it popped out or not and all of that stuff. So, there're many ways that we can take our attention away from what's in front of us, and we all know, and we've all been in this situation. You take your eye off the road for just a moment, somebody unexpectedly stops two cars up, and you're in the back end of the guy in front of you, and so it doesn't take much – or a kid darts out in front of you.

REPRESENTATIVE HESS: It'd be the same thing then, like talking on a cell phone. It'll be the same thing with the trucker with CB [citizens' band radio], talking on his CB.

REPRESENTATIVE ROSS: Exactly.

REPRESENTATIVE HESS: He's doing the same thing. I think, I think, and this is just my opinion, I think we're giving a lot of discretion to the officers to decide whether they're destructive drivers or not.

REPRESENTATIVE ROSS: Well, again...

REPRESENTATIVE HESS: I think we need to narrow this thing down, and I agree with you, but point is, education for the public. But, I think we're giving a lot of flexibility for the officers to decide how they perceive it and want it perceived to be offensive driving.

REPRESENTATIVE ROSS: Well, you know, I understand, and there's probably no real answer to this kind of a question, whether it's primary or secondary, because you do have to use judgment on the officers' part. I just don't want to make this so much about the police officer. I think it really has to be more. This is a hook, and it's only a hook. It's just a place to start, and then if we don't do the follow up campaign, none of this means anything anyway, and I don't care whether you're doing it on the primary offense, secondary offense, whether you focus and say, "Cell phones are good, and text messaging is bad," or "eating is okay, and smoking isn't," or whatever else you're doing. It's trying to get people focused in on what's taking your attention off the road and giving them examples. I mean, there's good studies saying that a cell phone, even a hands-free cell phone, winds up being more distracting than a conversation that's in the car. You know, I don't know all the right answers, and there's a lot of behavioral science that's playing around in all of these different studies, but I think that this is not an overwhelming penalty, certainly, and even if it was many times higher, it wouldn't, in and of itself, change the behavior. We've got to focus people in on the accidents, on the kinds of things that happen, and get them to be thinking more internally within the car.

REPRESENTATIVE HESS: I tend to agree with you. I just think we need to narrow this down a little farther and take some of the discretion away from the officer to decide just exactly what he wants to pull you over and charge you with. And I agree with even the un-hands cell phones, because you're concentrating on the conversation at hand. The conversation could be heated at times, depending what the subject is you're trying to convey to the person and what the person's answer is to you, but I know we have to creep before we crawl and crawl before we walk and walk before we run, but I just think we're just a little bit broad on this.

REPRESENTATIVE ROSS: Well, maybe answering your specific point, this is a secondary offense, so you have to be driving in a funny way before it comes into play, or you have to run a stop sign, or you have to do something else that winds up getting the officers' attention. They're not pulling you over because they think you might be eating or smoking or something. You have to actually be driving in a way that attracts their attention. So that's the neutral standard, and that's the reason why I have it as a secondary offense. Then, the secondary offense is something, again, that you've got them pulled over at that point, you're talking to them, and it's not going to happen all the time, but – and we're not going to catch everybody. We never catch everybody no matter what the penalty is, but, again, my focus isn't primarily on thinking this bill by itself is going to solve the problem. This bill is a hook to attach the rest of the work that needs to be done.

REPRESENTATIVE HESS: Yeah, that's a little bit like the seatbelt law.

REPRESENTATIVE ROSS: Exactly.

REPRESENTATIVE HESS: You know, there's more education on seat belts rather than what the law provides, saying you had to wear seat belts. I don't know how many people that have been pulled over for seat belts because some minor infraction that's quickly just snap the

seat belt on. Why, they run a stop sign, and the officer stops them, and till they get to the car, the seat belt's snapped, so.

CHAIRMAN GEIST: Thank you for your testimony.

REPRESENTATIVE ROSS: No problem.

CHAIRMAN GEIST: Appreciate it.

REPRESENTATIVE ROSS: And it's, and it's always a secondary offense in Pennsylvania, but we have Click It or Ticket, so we've got the message out there anyway that it is, and this would also open up the door for "it's against the law to do this because it distracts you, and you will get in trouble."

REPRESENTATIVE HESS: Thank you.

CHAIRMAN GEIST: Chris, thank you very much.

REPRESENTATIVE ROSS: You're welcome.

CHAIRMAN GEIST: How many terms have you had this up?

REPRESENTATIVE ROSS: I only saw two in here, but it feels like a lot more than that. I'd say it's got to be three or four anyway, maybe, so anyway, but thank you very much for your attention and for giving me the opportunity to talk about it again today.

CHAIRMAN GEIST: Thank you. In the packet you'll notice we have the Sprint Nextel comments that were sent us. Eric is going to summarize it and real quickly.

MR. BUGAILE: Yes. I'll just, I'll just read a, a couple highlights from the letter from Gary Horewitz, who's the counsel at Sprint. He said, "Dear Chairman Geist, Sprint would like to offer its support to efforts of the General Assembly considering ways to reduce distracted driving. The introduction of the mobile phone has provided commuters with a vital and even life-saving communications tool in situations like road accidents and severe weather. But along

with this, mobile phones can also be an additional distraction for drivers. That is why Sprint emphasizes a strong focus on driving and the responsible use of Sprint products and services. Sprint encourages consumers to educate themselves and their loved ones about the dangers of distracted driving and has provided resources to do just that.” They go on to say that, “Sprint has now created a pledge for their employees and customers to focus on driving.” It says that, “According to the National Highway Traffic Safety Administration, texting while driving makes you four times likely to crash your car. Given that car crashes are the leading cause of death among teens in the United States, it’s important that all people – teens as well as adults – adopt a strict no-texting rule while driving. So, that means no reading, no typing, and no sending. The people that you want to text will be there when you get done with your drive.” The whole text is in your, in your packet.

CHAIRMAN GEIST: Thank you, Eric. Now, we’re going to hear from the National Conference of State Legislatures. I think that all of us throughout our legislative history have, have come to lean on this organization for very clear, concise, and accurate presentations of information. Today with us is Anne Teigan, an attorney and policy specialist on transportation and criminal justice, and a delightful young lady with a head full of knowledge, and we’re anxious to hear it. Thank you.

MS. TEIGAN: Thank you, Mr. Chairman. So, I’m just going to follow up on some things that were noted earlier, and first, I’d like to just explain that NCSL is a non-profit, bi-partisan organization, and among our goal is to provide legislatures with information and research about policy issues such as this, and I do track all distracted driving legislation for the conference, and so what we’re going to talk about is I’m going to give you an idea of what research says about distracted driving and the driving while using cell phones, and then, I’m also

going to give an overview of existing laws. Some research has been looked at into the effectiveness of these laws, and then, I'll also talk about some bills and laws that are similar to HB 896.

As we said, that distracted driving can be anything, but the three main things that you have to look at are: visual, taking your eyes off the road; manual, hands off the wheel; and cognitive, taking your mind off. So, when we talk about distracted driving, those are the three main things that researchers are looking at. Most of the discussion lately surrounding distracted driving has been focused on phone use, so I know that Representative Ross did discuss some studies. There's been over 350 studies since the year 2000 on the effects of cell phone use while driving. The problem is that some of them have used labs, simulators. Some of them have been naturalistic studies where they've been observing drivers, and they've all kind of varied, but this well-regarded 2009 study from the Virginia Tech [Virginia Polytechnic Institute and State University] Transportation Institute found that cell phone use can increase risk of near crash or crashes. As you can see, dialing a cell phone can increase the crash risk by about 2.8 times; talking and listening, 1.3; reaching for an object, 1.4.

Also, with handheld use, the Carnegie Mellon Institute – University found in 2008 that the brain imaging study showed that just listening to a cell phone caused drivers to lose 37 percent of the amount of brain activity associated with driving. So, they found and concluded that it's the cognitive distraction as well, not just the physical. A study from the Insurance Institute for Highway Safety did find that regardless of whether drivers were using handheld or hands-free, they were four times as likely to get into a crash. So, the research in the past two years has been that hands-free and handheld really have not made much of a difference. The same Virginia Tech study showed drivers of trucks, so it wasn't just passenger vehicles, who text

message while driving had over 20 times the risk of crash or near crash than a driver who was not using a phone at all. I think that any research in here, and anybody who has actually texted while driving it, it – research indicates that texting while driving is particularly hazardous. You're taking your hands, your mind, and your eyes off the road.

So, just a quick summary of state laws as we stand right now; there is no state that completely bans all phones for all drivers. That being said, eight states and [Washington] D.C. do prohibit the use of handheld phones, and the use of all cell phones by a certain age group of drivers, teen drivers, is prohibited in 28 states and D.C. Also, school bus drivers are prohibited in 19 states and D.C. The states in yellow have passed a texting ban. Washington became the first state in 2007, so it's only been about four years that texting bans have been introduced. Now, 30 states prohibit texting while driving, and the penalties really do differ by state. In Georgia, for example, texting while driving is a misdemeanor carrying a fine of 150 dollars, so it's a criminal offense. In California, it's a simple traffic infraction that carries a 20 dollar fine, and violators in Nebraska of the texting ban will have points assessed against their license in addition to a 200 dollar fine.

So, there has been some studies on effectiveness. New York became the first state to implement a ban on handheld use for drivers, and they did find that driver phone use immediately declined by 47 percent. They also studied D.C. that passed a ban in 2004, and cell phone use, again, dropped by 41 percent. The Insurance Institute for Highway Safety did do a follow up study five years later. They found a difference; handheld use in D.C. edged up a little bit, but it, it stayed relatively low. In New York it went back up to regular levels. So, their conclusions are banning handheld use seems to reduce their use while driving, if just a little bit. Now, the most recent study that came out from the Insurance Institute, they did release a study

that said that they concluded neither texting bans nor bans on handheld use have reduced crash risk, but it's important to note that in their research, they do cite noncompliance as the likeliest reason that bans aren't reducing the crashes, so people just aren't obeying the law, and they also said that finding no reduction in crashes in these states with texting bans does not at all mean that it is safe to drive while texting. There's a crash risk, obviously, associated with it. They just did not find much of a reduction with the texting bans in place.

In response to this, the Governor's Highway Safety Association is really pressing for state laws but also coupling that with public education and enforcement of those laws. And I wanted to add that a recent NHTSA [National Highway Traffic Safety Administration] campaign, it did show that with advertising slogans and increased enforcement, handheld use was down both in Connecticut and New York, and that was probably about nine months ago they finished that. So, right now in 2011, there's 143 bills in 33 states related to some sort of distracted driving; 14 states have introduced a texting ban. West Virginia's texting ban is currently in conference committee, and that one is the only one that's really even close to passing this year. I didn't see any handheld bans that were even close to passing.

So I want to quickly talk about two laws that are similar to HB 896 that have passed in Utah and in Maine, and these two state laws are similar to [HB] 896 because they're not straight texting bans or hand held bans. They address the distracted driving generally. Utah did something very similar to this bill here; they added on to their careless driving statute that if a person commits a moving violation other than speeding while being distracted it's an extra penalty. So, running a red light, swerving with lanes, those things would be moving violations, but speeding does not count in there, so if somebody's going 45 in a 20, that does not trigger the

ticket. But it is a Class E misdemeanor, which carries not more than 90 days in jail and not more than a 750 dollar fine.

The state law in Maine, they've created the infraction of failure to maintain control of a motor vehicle, and it also requires the driver to commit a driving infraction and be engaged in distracted driving. This law really focuses on the behavior and not as much on the devices. Penalties for this would be about 50 dollars.

So, just in conclusion, I'm kind of going to reiterate what Representative Ross said that technology moves really fast, and the research, especially, on the effects of technology, is always going to come a few years later, and so we don't always know, and especially the first texting ban was passed in 2007. It's only been four years. We haven't had the time to really delve really deep into that research. So far, what we do know, is that distractions do affect one's ability to drive safely, and states are taking a variety of approaches to this issue, and mostly, in the past couple years, they have enacted texting bans, but as you can see, there are some other things going on. So, if you guys have any questions.

CHAIRMAN GEIST : Anne, thank you very much. We've really counted an awful lot on the accurate information that you give us. Just one question; has anybody banned iPads yet? Because they didn't come along before these laws were written. How about Kindles?

MS. TEIGAN: And that, that actually is the problem, because what happened is that when New York passed the handheld bill in 2001, nobody knew what an iPad was, and so their language was very specific to a cellular telephone, and so what has happened – and we've seen this in a lot of states – is that some states like Connecticut, they've had to go back and change their wording because it's not just a telephone anymore; it's a handheld device. And now it's not just a handheld device because you can prop it up with a holder, you know. And so, that has

definitely come up in a lot of states that passed laws in the beginning around 2001, 2003, that area. So, no iPads as of yet, but electronic hand held devices, that's been the language lately.

CHAIRMAN GEIST: How about books, electronic books?

MS. TEIGAN: Books, you know, no, we haven't – not a lot of books.

CHAIRMAN GEIST: Representative Cohen's with us, so I thought I'd bring that up.

MS. TEIGAN: No language about books except in the Pennsylvania's bill, reading of any kind, so. And if you have any other questions about other research, I can probably speak to it.

CHAIRMAN GEIST: Thank you very much. Mr. Chairman?

CHAIRMAN McGEEHAN: Thank you, Mr. Chairman, and thank you for your presentation. Have you found, and this is the 64 thousand dollar question, a reduction in insurance rates in those states have been most aggressive about cracking down on, whether it says "texting," "cell phone," or "distracted driving?"

MS. TEIGAN: There recently was a study on, not insurance rates, but reports of accidents, and in the states with texting bans, and there hasn't been a statistically significant reduction in research reports, but those reports, you know, they're out of per hundred thousand drivers, and it's a sample, and so it, it's just one of the many reports that has come out. They did not find a decrease, no.

CHAIRMAN McGEEHAN: Thank you. Thank you, Mr. Chairman.

REPRESENTATIVE SANTASIERO: Thank you, Mr. Chairman, and thank you, Ms. Teigan, for coming in today and offering your testimony. My question has to do with the IIHS [Insurance Institute for Highway Safety] research that you talked about where it showed that there was very little change in behavior in D.C., but that in the case of New York when they

went back after five years, it appeared as if they'd gone back to previous levels of cell phone use prior to the enactment of the law. Are you aware whether in that research there was any analysis of the enforcement that was done in both of those jurisdictions?

MS. TEIGAN: Yes, and I do know from just reading throughout the years that, that D.C. does have serious enforcement, and they do have a lot of public announcements, PSA's [public service announcements], things like that. I don't know about New York's enforcement. I do know that people take it seriously in D.C.

REPRESENTATIVE SANTASIERO: Right.

MS. TEIGAN: And so, it's also a much smaller area to cover.

REPRESENTATIVE SANTASIERO: : Right, right.

MS. TEIGAN: So I'm not, I'm not quite sure. I know that if you talk to the New York State Police, I'm sure they would say that they do enforce it, just like any other law.

REPRESENTATIVE SANTASIERO: Okay, great. Thank you.

MS. TEIGAN: Yeah.

REPRESENTATIVE SANTASIERO: Thank you, Mr. Chairman.

CHAIRMAN GEIST: Representative Harper?

REPRESENTATIVE HARPER: Thank you, Mr. Chairman. I wanted to follow up on the Insurance Institute study, which seems to say exactly what Representative Ross was saying earlier; that we could pass this bill, and we might not actually reduce crashes unless we also did some kind of campaign to get people's behavior to change. Is that the way you understood that?

MS. TEIGAN: Yes, and that's a suggestion by the Governor's Highway Safety Association, and what that is based on is just like the Click It or Ticket type things also. Children with booster seats, I think that education is a big component of any kind of safety

campaign, and so that's their suggestion is that the public has to know that it's a safety issue. The other thing is that we've been working on seat belt, getting information out there about seat belts for 20, 25, 30 years, so it's a process.

REPRESENTATIVE HARPER: Right. I think it would be worthwhile to pass a distracted driving bill in order to establish Pennsylvania's public policy as being opposed to distracted driving, but that alone will not stop crashes from distracted driving if the Insurance Institute study is correct. We would have to also do some kind of education campaign.

MS. TEIGAN: Right and, you know, the other thing to mention is that the research is ongoing, and things like this 2010 study from IIHS, it shocked us all, you know. We were thinking that, that these laws were, in fact, working, the amount of tickets that states were issuing, things like that, so the fact that it wasn't a statistically significant reduction in crashes, it makes you wonder, but it also, it's not an exact science, and there may be studies ahead that say something else because that's what has been the constant, for sure, is that every study is kind of saying something different.

REPRESENTATIVE HARPER: Well, you would need a study that showed the relationship between not driving distracted and a lack of crashes, as opposed to merely making it illegal to drive distracted and then see whether everybody's safer, you know? It's apparent people aren't following those laws or not following them enough, so.

MS. TEIGAN: Right and that was the first, like I said, the, the first couple of years of the research was just at the, "Do cell phones distract you?" You know, that was the question.

REPRESENTATIVE HARPER: Right.

MS. TEIGAN: And so, now we're getting more into the efficacy of the laws.

REPRESENTATIVE HARPER: Right. Thank you.

CHAIRMAN GEIST: Thank you very much. Anne, I just want to thank you for coming in. You came all the way from Denver, and by way of La Guardia and got here at one o'clock this morning, and we just want to thank you so much under the stressful conditions at the Capitol.

MS. TEIGAN: Oh, well, thank you for having me.

CHAIRMAN GEIST: We're really looking forward to working with you. Also, I'd like to praise Vickie Trostle of our committee, who came in when the Capitol was closed and worked very, very hard to make sure that we had everything together for today, and I know that she can't take a compliment, but I want to compliment her for doing a really good job. Also, in the way of announcements, our testimony from the Pennsylvania State Police and PennDOT [Pennsylvania Department of Transportation] did not get here until later today, so there's nobody here from those departments that we can ask the questions that Kate had asked, but we certainly will press them to get some answers for the committee. And now, batting cleanup, Dr. Ted Leonard from AAA. Ted, it's all yours.

DR. LEONARD: Oh, boy. Chairman Geist, Chairman McGeehan, thank you for inviting us to testify on the very important issue of distracted driving. It's, it's long been recognized that drivers themselves cause the vast majority of crashes, and distracted driving, regardless of the cause, contributes to 25 to 30 percent of vehicle crashes, according to NHTSA figures, and we recognize that it's difficult to eliminate all driver distraction through legislation. Therefore, AAA supports a comprehensive approach to addressing distracted driving and believes that any legislative or administrative proposal to address distracted driving should be based upon sound research, fundamental safety principles, and include a significant education component, as I think both the other two folks have already mentioned. We support the

establishment of laws with enhanced penalties for drivers who cause crashes or commit traffic violations as a result of engaging in distracted behavior while driving.

Distracted driving is not a new issue. It's been around since the invention of the windshield wipers in the early 1900's, and motor vehicle administrators gathered together in an emergency meeting in 1929 to address the newly emerging threat of AM radio. Despite, and during the past century, you know, wipers, AM radios, and a host of other innovations designed to enhance motorists' comfort, safety, and convenience drew negative reaction until people learned to manage the distractions that these conveniences caused. In the 1930's it was the radio. In the 1950's drive up windows and fast food, and in the 1980's mobile phones, and in the 1990's we're seeing the development of new telematic devices. Rubbernecking, adjusting the radio, attending to children, reaching for the glove box or something that is dropped in the car, talking to passengers, eating and drinking, grooming, using a mobile phone, reading a map, or programming a GPS [global positioning system], are all activities that divert a driver's attention from the task at hand and place the driver, the passengers, and others on the road at risk.

AAA has conducted studies and research on distracted driving. In 2003, the AAA Foundation for Traffic Safety conducted a study with the University of North Carolina's Highway Safety Research Center on the role of driver distraction in crashes. Researchers installed video cameras in the cars of volunteers from Pennsylvania and North Carolina, and the study concluded that a broad range of distractions are common in everyday driving. Specifically, most driver distractions are neither new nor technological related. Rather, they are aspects of everyday driving that people are likely seldom to think about, such as sipping coffee, reaching into the glove compartment, changing a CD, or tending to a small child. All subjects in the study were observed at some point manipulating vehicle controls, such as air conditioning or window

controls, and nearly all of the subjects at some point reached for objects in the vehicle. Almost as many (91 percent) manipulated the sound systems or were distracted by objects or events taking place outside the vehicle, and nearly three-fourths of the drivers engaged in eating and drinking, and 77 percent engaged in conversing with passengers in the vehicle. Approximately one-third of the drivers in this study used a cell phone while driving, and 40 percent engaged in reading or writing. Child passengers were about four times and infants about eight times more likely to cause a distraction than adult passengers. For those of you who have children, I'm sure you can verify that. Drivers engaged in some form of distracting activity up to 16 percent of the total time their vehicles were moving.

Another AAA Foundation study identified through crash and field data the major sources of driver distractions that result in crashes or near misses and their relative importance as a cause of crashes. This study confirmed that mobile phones are, indeed, a distraction, but the data also confirmed that other distractions, such as looking at outside objects, tuning the radio or CD player, also can distract drivers, and in decreasing order of magnitude the distractions were, and they're listed in the testimony that I've provided. An outside event was the most common, 29 percent, adjusting the CD, another occupant, and right on down the list through smoking.

A December 2001 report of the Joint State Government Commission noted a similar hierarchy of distracting events. Additionally, a 1997 study in the *New England Journal of Medicine* concluded that hands-free mobile phones are not risk-free and distract drivers the same as handheld phones. It's the conversation that distracts drivers; not the device. AAA has launched education campaigns to urge motorists to stay focused and keep their attention on the road.

AAA places distractions into three categories: physical, mental, or both. Physical distractions like tuning a radio, eating, minding children, or dialing a mobile phone, or text messaging can cause a driver to take his or her hands off the wheel or eyes off the road. Mental activities, such as having a conversation or thinking about what you're going to prepare for dinner, take a driver's mind and attention off the road. How many times have you found your mind wandering while driving? Your eyes are on the road, but perhaps your mind is not. It's difficult to miss a large yellow school bus with red lights flashing, but how many drivers have driven past a loading school bus claiming they didn't see the bus, when, in reality, their mind wasn't on the task at hand?

Then, there's a combination of activities, like reading a map, a newspaper, text messages, or programming a GPS, that take a driver's hands, eyes, and mind off the road. All distractions cause drivers to react more slowly to traffic conditions, such as someone making a turn, yielding, stopping, or suddenly pulling out in front of you or changing lanes. Like earlier innovations, mobile phones and other in-vehicle electronic devices add a significant measure of safety and convenience and security to our lives, but concerns about their safe use are understandably growing.

Among our highest-risk population, teen drivers, the use of electronic communications devices is higher than the national average. According to a study by the AAA Foundation for Traffic Safety, teen drivers are most likely to be involved in distraction-related crashes. Statistically, teens are the most easily distracted drivers, inexperience, immaturity, and the inclination to take risks, lead to teen crashes. Distractions by teen drivers significantly increase the risk for a teen driver crash. A study at Johns Hopkins found that the chance a 16-year-old will die in a crash increases 39 percent with a single passenger, 86 percent with two passengers,

and 182 percent with three or more passengers. A car full of teen passengers driven by a teen has been described as some as a rolling party barge; a crash just waiting to happen. That is why AAA supports stronger teen driving laws that include passenger restrictions for young drivers.

If you're driving your vehicle, you're already multitasking. You're operating a heavy machine at high speed, navigating changing terrain, calculating speeds and distances, and responding to other drivers and obstacles. Putting another activity in the mix, whether a physical distraction that causes you to take your hands and your eyes off the road, or a mental distraction like holding a conversation with a passenger in the vehicle or on a handheld or hands-free cell phone, the result is the same.

The bottom line is that drivers are responsible for keeping their eyes on the road and their minds on the task of driving. Since I put together this written testimony, I came up with a couple other facts that I'd like to relay to the committee. Between 2007-2008, NHTSA figured that about 11 percent of all drivers are on cell phone at any given time, and the split they came up with was that six percent are on handheld and five percent are on hands-free. That's about 45 percent of the drivers that are using a cell phone are on hands-free. I'd be happy to answer any questions.

CHAIRMAN GEIST: Thank you very much. Great testimony. I have no questions. Mr. Chairman? Anybody on the committee? Thank you very much, and Ted, while you're there, we're going to be working very closely in the next couple weeks here on bringing a bunch of bills out of this committee. Highway Safety Day on the committee is going to include Chris Ross's legislation that we've talked about today, it's House Bill 896. We have texting, which is Katherine Watson's bill, which will be House Bill 8. We have young drivers, which is Katherine Watson's bill, which will be House Bill 9, and bicycle safety, which is the House Bill 170,

Representative Ron Miller, and many more. It's going to be a lot of heavy lifting by this committee on these subjects over the next couple months, and we're looking forward to working with AAA and NCSL and everybody else involved in this process, and hopefully, PennDOT.

Thank you very much.

DR. LEONARD: All right. Thank you, Mr. Chairman.

CHAIRMAN GEIST: And thank everybody for coming today. We're adjourned.

Meeting is adjourned.

(Whereupon, the meeting adjourned at 1:58 p.m.)

The above is a full and accurate transcript of proceedings produced by the Archives and Records Center of the Pennsylvania House of Representatives.

Erin E. Miller, Archives