



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
HARRISBURG, PENNSYLVANIA 17120

OFFICE OF  
SECRETARY OF TRANSPORTATION

April 20, 2011

The Honorable Richard A. Geist  
144 Main Capitol Bldg.  
PO Box 202079  
Harrisburg, PA 17120-2079

Dear Representative Geist:

The Pennsylvania Department of Transportation (PennDOT) has been asked to provide comment to the House Transportation Committee regarding distracted driving legislation as presented in House Bill 896, Printer's Number 952 (Ross).

H.B. 896 would amend Title 75 (Vehicles) to add to the offense of careless driving (Section 3714) a provision that, if the offense is committed while driving distracted, an additional fine of \$50 shall be imposed upon conviction. No person may be convicted under this section unless also convicted of careless driving and the offense shall not constitute a moving violation. By definition, "Distracted" would mean "having a person's attention diverted from the operating a vehicle by a radio, recording and playback device, telephone device, citizens band radio, television, computer and any other device."

The current language in Section 3714 includes: a) a general rule, b) a provision for a fine of \$500.00 if the 3714 conviction resulted in a fatality, and c) a provision for a fine of \$250.00 if the 3714 conviction resulted in a serious bodily injury. As noted above, the legislation would provide for an additional \$50.00 fine if the conviction also included distracted driving.

Distracted driving accounted for 10% of the crashes and 5% of the fatalities in Pennsylvania over the last 5 years (2006-2010). The number of Pennsylvania distracted driving fatalities in 2010 was 66 and the most recent five-year average for the period 2006-2010 is 68. During the period 1998 to 2010, distracted driving crashes in Pennsylvania ranged from a low of 25 in 2001 and a high of 81 in 2005. Overall, the fatality number rose about 3.5 deaths per year over the period.

Major injuries in 2010 due to distracted driving totaled 245. The average from 2006-2010 was 243 per year with a general downward trend over the period.

PennDOT expresses caution about taking the above numbers at face value. Studies from other states suggest they could be low by a factor of two or more. We cite two reasons for the possible under-reporting of distracted driving crashes:

- 1) Self reporting by those involved in the crash (crash vehicle occupants probably under-report distractions)

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- 2) Reluctance on the part of the investigating officer(s) to speculate if distracted driving was a causal factor if the officers(s) did not observe distracted driving behavior or if that information was not obtained from a reliable witness.

House Bill 896 is a commendable effort, despite the above-noted data quality concerns, distracted driving is perceived to be a significant problem on Pennsylvania highways.

Defining distracted driving in Title 75 will provide law enforcement a tool to address this emerging safety focus area. The National Highway Traffic Safety Administration (NHTSA) has concluded that high visibility enforcement programs are one of the most proven countermeasures to reduce traffic crashes and resulting injuries and fatalities. Public education combined with visible law enforcement initiatives are only possible by defining distracted driving and establishing penalties.

However, there are problems with this legislation as written.

Identifying distracted driving will remain a difficult challenge for law enforcement officers.

The distracted driving penalty is secondary offense, meaning a driver must be convicted of careless driving in order for the additional penalty to apply. A conviction under the proposed amendment would not constitute a moving violation and would not be eligible for additional fees and court costs by the judiciary.

In general discussions with the state and local police, it has been relayed to PennDOT that law enforcement officers are often reluctant to issue a second violation (or ticket) to motorists as separate violation ticket is required for a secondary law.

Verbal conversations with NHSTA regarding this proposal revealed that the language (due to it being a secondary offense) may not bring Pennsylvania into compliance with future distracted driver grant funding requirements to be proposed in future reauthorization for transportation incentive funding.

The proposed language will also not bring Pennsylvania into compliance with the Federal Motor Carrier Safety Administration (FMCSA) requirement to ban texting in commercial vehicles.

In conclusion, a secondary law is a step forward, but a primary law would make a more significant impact on saving lives in Pennsylvania

Sincerely,



Barry J. Schoch, P.E.  
Secretary of Transportation