

MEMORANDUM

DATE: March 13, 2009

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell
Chairperson
State Council for Persons with Disabilities

RE: H.B. 40 [Cell Phone Use in Motor Vehicles]

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 40 which would allow mobile telephones to be used while operating a moving motor vehicle only when equipped with built-in speakers or a hands-free accessory. The bill is similar to H.B. 78 from the 144th General Assembly.

Under current law, drivers with a Level 1 Learner's Permit may not operate a vehicle while using a cell phone. See Title 21 Del.C. §2710(c)(8). Likewise, school bus drivers are banned from using a cell phone unless communicating with a central dispatch or school transportation department when the bus is not equipped with a functioning 2-way radio. See Title 21 Del.C. §4176B. H.B. 40 would prohibit hand-held cell phone use by all drivers. Violation would be a "primary" offense for which a driver could be stopped by police. A violation would result in a \$50 civil penalty. This is also the model adopted for violations of Delaware's seat belt law and camera-based enforcement of traffic signals. See Title 21 Del.C. §§801, 4101(d), and 4808. No criminal fine or points would be assessed. Consistent with the attached Committee report on the prior bill, this type of legislation is supported by the Delaware State Police, AAA Mid Atlantic, the Office of Highway Safety, and Verizon. Consistent with the attached March 30, 2007 editorial, the News Journal endorsed the prior bill.

Bans on hand-held mobile phones while driving are now in place in 6 states (California; Connecticut; New Jersey; New York; Utah; Washington) and the District of Columbia. See attached compilation. Consistent with the attached article discussing "DWY" (driving while yakking), international studies have correlated cell phone use with accidents.

SCPD endorses the proposed legislation since it will deter distracted driving and thereby reduce traffic accidents, injuries and incidences of disabling conditions (e.g. traumatic brain injury, spinal cord injury). In addition, this letter has been formally endorsed by the Disabilities Law Program, Developmental Disabilities Council, Governor's Advisory Council for Exceptional Citizens, and Brain Injury Association of Delaware.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position on the proposed legislation.

cc: The Honorable Jack Markell
Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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