

Time to Hang Up



Ministry of Public Safety and Solicitor General Public Consultation on
“Distracted Drivers: Use of Cell Phones and other Technologies while Driving”

BCMA Submission | July 2009



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Introduction

BC physicians believe that efforts to improve road safety and reduce unnecessary injuries and fatalities on BC's roads must continue. In keeping with their interest in public health and safety, BC physicians believe that BC should introduce legislation to ban the use of cell phones and texting while driving.^a Despite individuals who believe it is their right to use a cell phone while driving, BC physicians believe driving should be considered a privilege, and individuals should not have the right to put someone else's safety in jeopardy. The increasing use of cell phones by drivers gives urgency to this matter, and it is prudent that we act now to minimize risk to British Columbians. We therefore welcome the opportunity to provide input to the Office of the Superintendent of Motor Vehicles (OSMV) on the use of cell phones while driving.

The BCMA submission will provide answers to the following questions posed by the OSMV:

1. *Do you think government should pass additional laws restricting the use of electronic devices while driving, or should emphasis be placed on increased public education and awareness and the enforcement of existing laws governing driver distraction (e.g., Driving Without Due Care and Attention)?*
2. *Which electronic devices should be considered under this framework?*
3. *Should hands-free devices be treated the same or differently as hand-held devices?*
4. *What would be the appropriate penalties for drivers disobeying such a law (e.g., failure to wear a seatbelt is a fine of \$167)?*
5. *Should any proposed laws apply to all drivers, or only specific categories of drivers (i.e., new drivers)?*
6. *Should exemptions be provided to any class of drivers (i.e., emergency responders, professional drivers, etc.)?*

^a Since 1999, the BCMA Board of Directors has passed several resolutions regarding this issue. In 2006 and 2008, the BCMA called on the appropriate provincial government ministries to enact legislation prohibiting cellular telephone use while driving a motor vehicle and urged the Minister of Public Safety and the Solicitor General to prohibit drivers from using hands-free cellular phones while operating a motor vehicle.

BCMA Response

1. *Do you think government should pass additional laws restricting the use of electronic devices while driving, or should emphasis be placed on increased public education and awareness and the enforcement of existing laws governing driver distraction (e.g., Driving Without Due Care and Attention)?*

BC Compared to Other Jurisdictions

The BCMA calls on government to pass additional laws restricting the use of electronic devices, in particular cell phones and other mobile communication devices, while driving. The current laws governing driver distraction (e.g., Driving Without Due Care and Attention) are not adequate to minimize cell phone use while driving because they are a reactive, rather than a preventative, measure. They are often enforced when another traffic offense has taken place (e.g., such as after an accident has occurred or speeding). BC needs legislation that is preventative as well as allowing primary enforcement against cell phone use while driving in order to effectively reduce the number of collisions, injuries, and fatalities associated with distracted driving. BC now lags behind several jurisdictions that have implemented restrictions on the use of cell phones while driving. Even with these changes, Canada and the U.S. are now the only members of the G8 who do not have nationwide restrictions on cell phone use while driving.

Bans on the use of hand-held devices while driving have been implemented in over fifty countries, the Canadian provinces of Newfoundland, Quebec, Nova Scotia, and Ontario, and the U.S. states of California, Connecticut, New Jersey, New York, Washington, and the District of Columbia. The U.S. states of Illinois, Massachusetts, Michigan, New Mexico, Ohio, Pennsylvania, and Hawaii allow cities or regions to implement their own bans. Alberta and Manitoba each have legislative bills or proposals in progress on this issue. Thirteen states in the U.S. have moved to implement bans on text messaging while driving, and twenty-one states have introduced bans on cell phone use by novice drivers. Prince Edward Island prohibits new drivers from using cell phones or any hand-held electronic devices while driving.^{1,2}

Public Opinion

There is considerable public support for additional government regulation restricting cell phone use while driving.

A July 2009 poll conducted by Ipsos Reid, on behalf of the BCMA, of 800 British Columbians revealed that an overwhelming majority of British Columbians believe that cell phone use by drivers has become a serious road safety issue and that most would support a complete ban on cell phone use by drivers.

More than nine-in-ten (92%) British Columbians think that cell phone use by drivers in BC is a serious road safety issue. This includes six-in-ten (62%) who think it's a "very serious" road safety issue and three-in-ten (29%) who think it's a "somewhat serious" issue. The perceived seriousness of this issue is consistent across regions and other demographics.

There is also strong support in British Columbia for a complete cell phone ban. Three-quarters (76%) of British Columbians say they would support a complete ban on all cell phone use by drivers in the province. This includes a majority (56%) who "strongly support" a complete ban and two-in-ten (20%) who "somewhat support" a complete ban. Support for a complete cell phone ban is also consistent across regions and other demographics.³

Recently both the *Vancouver Sun* and *The Province* editorials echoed the public's view that it is time for a ban in British Columbia, and that driver distraction is a serious road safety issue that places other road users at risk for injury or fatality.^{4,5} Similar editorials and articles appeared in other regional and local newspapers.

A July 2009 survey conducted by the BCAA found strong support among British Columbians for restrictions on talking and texting on a cell phone while driving. Among the 7,311 survey respondents:⁶

- 91% said there should be restrictions on talking on phones while driving;
 - of those, 60% said any use of cell phones while driving should be banned;
 - 40% said talking on hand-held phones should be prohibited, but talking using a hands-free device should be allowed;
- 97% said texting while driving should be prohibited.

Evidence of Driver Impairment and Harm

Restricting the use of cell phones while driving can potentially lower the frequency of traffic collisions, injuries, and fatalities caused by driver distraction. Numerous studies show that using communication devices while driving significantly impairs the skills of the driver:

- The use of cell phones while driving has been reported to increase the risk of a collision by four times⁷ and has been compared to driving with a blood alcohol content of 0.08 units (legal limit).⁸
- Those talking on a cellular phone (hand-held or hands-free) are more likely to miss traffic signals and more likely to be involved in a rear-end collision.^{9,10}
- Those using cell phones while driving have slower reaction times and other decreases in driving performances.¹¹
- Mobile-phone ownership is significantly associated with higher traffic fatality rates in bad weather and on wet roads.¹²

The societal costs incurred by motor vehicle collisions are significant. Based on a convergence of various studies, it is estimated that driver distraction is involved in 25% of motor vehicle collisions.¹³ In BC, driver distraction of all types is associated with approximately 117 deaths per year and 1,400

hospitalizations, generating a social cost of about \$1 billion per year.¹⁴ It is noteworthy that Newfoundland recorded a 20% decrease in injuries caused by driver inattention between 2003 and 2006 after a cell phone ban was introduced.¹⁵ Additional laws restricting the use of cell phones while driving would reduce the number of preventable deaths and injuries for drivers, cyclists, and pedestrians, reduce health care utilization ranging from emergency to rehabilitative care, and lower costs for ICBC, businesses, and individuals.

Additional Countermeasures

While government and other interested parties should sponsor a comprehensive public awareness campaign to inform the public of the risks of using cell phones and other hand-held devices while driving, this should be in addition to legislative action restricting the use of such devices. Jurisdictions that continue to run post-legislation public awareness campaigns and that have strict, publicized enforcement campaigns tend to have better, longer-term compliance. For example, the District of Columbia, which has strict and well-publicized enforcement standards, experienced a sustained significant decrease in the level of cell phone use while driving compared with pre-legislation levels. In contrast, cell phone use while driving returned to pre-legislation levels within one year in New York, which had no such publicized enforcement campaign.¹⁶ Individuals are more likely to disregard legislation if they believe that there is little chance of enforcement. Therefore, public education about the risks associated with cell phone use and driving and full enforcement (not warnings) would likely lead to a decreased number of collisions and injuries associated with distracted driving.

Any additional laws restricting the use of cell phones while driving will also require evaluation to assess their effectiveness. Such evaluations could include “before and after” data on collisions and fatalities tied to driver use of a cell phone, and on cell phone use rates before and after implementation. Establishing baseline data will assist in evaluating future countermeasures relating to bans on using cell phones while driving.

2. Which electronic devices should be considered under this framework?

Use of all cellular communication devices (e.g., phones, PDAs, Blackberrys) should be banned while the vehicle is being operated. Although much of the discussion has focused on talking on the phone while driving, it is clear that any activity that requires motor reliance or involves visual distraction, such as dialling, typing, or reading a text message or e-mail, is unsafe.

Distracted driving is caused by a driver’s attention to complex and moderate secondary tasks. Complex secondary tasks are defined as things that require multiple steps, eye-glances, or button presses (e.g., dialling a hand-held device, reading, operating, or viewing a PDA). Moderate secondary tasks require at most two eye-glances or button presses (e.g., talking or listening to a hand-held device, inserting or retrieving a CD or cassette). Complex and moderate secondary tasks have been found to increase the odds of collision by 3.1 and 2.1 times, respectively.¹⁷

3. Should hands-free devices be treated the same or differently as hand-held devices?

Hands-free devices should be treated the same as hand-held devices because a number of studies have found no significant differences between the two types of phones as either type can significantly decrease driving performance.^{18,19} Although the use of a hands-free device does allow the driver to maintain both hands on the wheel (except when answering the phone), research suggests that the type of conversation and the attention to the conversation, rather than the type of telephone used, is more likely the primary cause of distraction when using cell phones while driving.^{20,21}

With hands-free devices, reaction time is not significantly different compared to hand-held cell phones. Reaction times for both hand-held and hands-free devices are both significantly slower than when a driver is not using a cell phone. Research has also shown that the use of hands-free cell phones negatively affects both older and younger drivers.²² The BCMA recognizes that a hands-free ban would be harder to enforce; however, the BC Association of Police Chiefs has joined in our call for a full ban on cell phone use while driving based on the risks to the public.²³

4. What would be the appropriate penalties for drivers disobeying such a law (e.g., failure to wear a seatbelt is a fine of \$167)?

Provinces have taken a variety of approaches to fines and penalties. In Newfoundland, fines for hand-held cell phone use while driving range from \$45 to \$180 and also result in four demerit points against the driver, while in Nova Scotia fines for using a hand-held cell phone while driving begin at \$50 and double with every conviction. In Ontario, fines could range from \$60 to \$500 but would not include any demerit points. In Quebec, the penalty is an \$80 to \$100 fine and three demerit points.

All Canadian jurisdictions have legislation to address a general category of “driving without due care and attention” and “driving without consideration.” These charges can be laid when driver distractions, including cell phone use, affect driving performance. Fines typically range from \$100 to \$2000 and include two to six demerit points.

The BCMA supports former Solicitor General, the Hon. Rich Coleman, who acknowledges that the penalty levied by the “driving without due care and attention” legislation could be used as an appropriate fine for drivers disobeying a ban on cell phone use while driving. A ticket issued under this category carries with it a \$368 fine and six demerits. This offence warrants a heavier penalty than driving without a seatbelt because driving while using a cell phone places other individuals, as well as the driver, at risk. As an initial step, the BC government may want to implement only a financial penalty for first-time offenders, and then increase fines and introduce demerit points for repeat offenders.

5. *Should any proposed laws apply to all drivers or only specific categories of drivers (i.e., new drivers)?*

Any proposed laws should apply to all drivers because studies have shown that attention and performance decrements occur across various age groups when cell phones are used while driving.^{24,25,26} One recent Canadian study concluded that the decreased reaction time in detecting hazards when using a cell phone while driving increases the likelihood of a collision for all drivers, regardless of driving experience.²⁷

6. *Should exemptions be provided to any class of drivers (i.e., emergency responders, professional drivers, etc.)*

No exemptions should be provided to any class of drivers because research indicates that using a cell phone while driving impairs driving ability regardless of age or driving experience (see response to Question 5). However, exceptions could be made for critical medical and police emergencies, as opposed to routine calls. Regulations around this issue should be developed in consultation with the appropriate medical and police representative organizations.

The BCMA is concerned about the potential slippery slope regarding the term “professional driver” in this question. For example, does this suggest that anyone with a Class 1 through 4 driver’s license in BC would be exempt?²⁸ Furthermore, would this then be extended to other drivers who do not have those licenses, but use their vehicles everyday for work purposes? There is no evidence to suggest that drivers in these categories are safer than regular drivers when using a cell phone. If anything, the increased amount of time spent on BC roads may only increase their likelihood of causing an accident.

In a June 2009 naturalistic truck study by the U.S. Federal Motor Carrier Safety Administration, researchers found that 81.5% of all critical incidents with truck drivers involved driver distraction, and truck drivers were 2.9 times more likely to be involved in a safety-critical event when the total time their eyes were off the roadway facing forward was greater than 2 seconds.²⁹ The study found that texting, which involved truck drivers looking away from forward for 4.7 seconds, had the highest risk for a critical incident.^b In fact, jurisdictions have begun to introduce legislation restricting the use of cell phones by some professional groups. For example, seventeen U.S. states and the District of Columbia have banned the use of cell phones by school bus drivers when passengers are present.³⁰

Jurisdictions are also moving away from providing exemptions to drivers as employers face increased liability as a result of their employees’ use of electronic devices while driving. For example, U.S. employers are increasingly being sued and found guilty for allowing their employees to talk on cell phones while driving on company business. In several high-profile cases involving deaths and serious injuries, U.S. employers were successfully sued for amounts in the \$1 to \$2 million range.³¹ BC employers who have taken the initiative to prohibit the use of cell phones by employees while driving on work-related business include WorkSafeBC and BC Hydro.

^b Odds ratio calculations on the frequency of safety-critical events were performed for text messaging using a cell phone, other complex tasks (e.g., cleaning side mirror, rummaging through a grocery bag), interacting with/looking at a dispatch device, writing on a pad/notebook, using a calculator, looking at a map, and dialling on a cell phone.

Conclusion

The BCMA firmly believes that it is time for the government of British Columbia to introduce restrictions on the use of cell phones while driving. BC must catch up to other jurisdictions and introduce legislation to protect British Columbians on our roads and highways. Research around the impact of the use of cell phones while driving is conclusive: The use of a cell phone while driving is associated with a significantly increased chance of causing an accident.

This issue has also resonated with the public and media. People are fed up with the constant barrage of near misses and swerving drivers who are preoccupied with calls or texting. Whether a person has the right to use a cell phone is no longer the issue; the issue is that a person does not have the right to risk the safety of others. This is an opportunity for British Columbia to show clear leadership on this issue, and the BCMA will fully support changes that help improve the safety on our roadways.

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