



## **Regulation of Portable Communication Devices While Operating a Motor Vehicle Frequently Asked Questions**

Update 7-1-14

### **Q: When does this Ordinance take effect?**

**A:** Ordinance No. 2014-03 went into effect on May 22, 2014 with a six month warning/educational period. (Whether a citation is issued is always at the discretion of the officer based upon his or her determination of the most appropriate action for the situation.) The amended Ordinance No. 2014-09 goes into effect on July 24, 2014. The educational period remains in effect until November 22, 2014

### **Q: Why is the Coconino County Public Health Services District involved in this issue?**

**A:** Coconino County is committed to public safety, including achieving public safety outcomes by reducing accidents. Importantly, Public Safety is one of the County's Strategic Priorities. Distracted Driving has been recognized nationally as public safety priority. In the United States, for example:

- 6% of vehicle crashes, causing about 2,600 deaths and 12,000 serious injuries a year, are attributable to cell phone use.<sup>1</sup>
- Drivers who use cell phones are four times more likely to be in a crash while using a cell phone.<sup>2</sup> Drivers who text are 23 times more likely to crash.<sup>3</sup>
- 80% of crashes are related to driver inattention. While there are many types of distraction, cell phone use occurs more frequently and for longer durations than other, riskier behaviors. Thus, the #1 source of driver inattention is cell phones.<sup>4</sup>
- 83% of drivers surveyed nationwide said driving while texting should be illegal.<sup>5</sup>
- The annual cost of crashes caused by cell phone use is estimated to be \$43 billion.<sup>6</sup>
- Talking to a passenger while driving is significantly safer than talking on a cell phone.<sup>7</sup> Texting is more dangerous than talking on a cell phone.<sup>8</sup>

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<sup>1</sup> Cohen, J.T. and Graham, J.D. A revised economic analysis of restrictions on the use of cell phones while driving. *Risk Analysis*. 2003; 23(1):5-17. Harvard Center for Risk Analysis

<sup>2</sup> 1997 *New England Journal of Medicine* examination of hospital records and 2005 Insurance Institute for Highway Safety study linking crashes to cell phone records

<sup>3</sup> Virginia Tech Transportation Institute <http://www.vtti.vt.edu/featured/0413-distracted-driving.html>

<sup>4</sup> Virginia Tech 100-car study for National Highway and Traffic Safety Administration

<sup>5</sup> Vlingo (Mobile Voice Technology Company) survey, May 2008.

<sup>6</sup> Joshua Cohen, Ph.D. Harvard Center for Risk Analysis. *Risk Analysis*. February 2003

**Q: What state or local data exists that prompted this response by Coconino County?**

**A:** Effective November 27, 2013, the Highway Patrol Division of the Department of Public Safety (DPS) added distracted driving fields to the collision and contact forms used by their officers.

Between November 27, 2013 and January 24, 2014, statewide DPS data indicated:

- 38% of all enforcement interventions involved texting, cell phone or other electronic media. This was the highest ranked category.
- 13% of all crashes involved texting, cell phone or other electronic media. This was the third highest ranking category. The two higher ranking categories were “Unknown” (38%) and “Outside Distractions” (21%).
- DPS does not track hands-free vs. hand-held devices.

In addition, between January 1, 2013 and July 31, 2013, the City of Flagstaff Police Department (FPD) investigated 118 motor vehicle accidents. Approximately 8% of accidents were attributed to driver cell phone use.

**Q: Shouldn't the State of Arizona be responsible for this issue?**

**A:** Ideally, yes. However, between 2007 and 2013, 24-related bills (i.e., cell phone use while driving) were introduced in the Arizona House and Senate, respectively. None of these bills became law even though some were supported by the American Automobile Association (AAA) and the Cell Phone companies. In addition, Arizona Revised Statutes (A.R.S.) 28-262(B) and 11.251.05 authorize the adoption of additional traffic regulations that are not in conflict with other state traffic or transportation regulations.

**Q: Why do we need more regulations? I don't want the government to tell me what to do, especially when I'm a safe driver!**

**A:** You can control your own behavior and choose not to text and drive, but can you expect all other drivers to do the same? Just like drinking and driving, we are all safer because the police enforce regulations that protect the rest of us from those who are irresponsible and choose to drink and drive. Issues like texting and driving are public in nature; they demand everyone act in a safe way, and therefore merit public regulation. Besides, if you are a safe driver and never text or use a hand-held mobile device while driving, this regulation will not penalize you.

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<sup>7</sup> Strayer and Johnston. Driven to Distraction: Dual task studies of simulated driving and conversing on a cellular phone. *Psychological Science*. v12, Nov 2001.

<sup>8</sup> Drew et al. Text Messaging During Simulated Driving. University of Utah. *Human Factors*. v51, 2009.

**Q: How is a motorist's use of a cell phone while driving any different than listening to the radio, talking to a passenger or eating/drinking while driving?**

**A:** Over the last decades many new electronic devices have been developed and made their way into vehicles. Research indicates there is good reason to believe that some of these new multitasking activities may be substantially more distracting than the old standards (i.e., talking to passengers, eating, drinking, lighting cigarettes, and listening to the radio) of driver distraction because they are more cognitively engaging and because they are performed over longer periods of time.

**Q: Does this proposed Ordinance apply to all ages?**

**A:** Yes.

**Q: Is it legal to use a Bluetooth or other hands-free device?**

**A:** Yes. Hands free devices are permitted.

**Q: Many people, especially teens and young adults, are consumed with texting and have admitted to texting while driving. How can we convince these drivers that they need to change their behavior?**

**A:** This is Correct. One study found that 3 out of 4 (74.3%) young adults engaged in texting while driving, over half of them on a weekly basis (51.8%). The numbers of texters-while-driving decreased with age of the driver.<sup>9</sup> Some drivers will not change their habits until disaster strikes, but others may react well to social media and other ad campaigns. Education for new drivers can be a good companion to this Ordinance. The County can direct teen drivers and their parents to the "It Can Wait" website, which has many videos and social media links about texting while driving. We can also pass this ordinance. The threat of a fine if caught can deter bad behavior.

**Q: Why does this need to be a law if companies are already encouraging people not to text and drive?**

**A:** A recent poll by AT&T says that 49% of adults and 43% of teens text while driving, even though 98% of those polled said they knew it was dangerous. 40% said they continued to text while driving because it had "become a habit".<sup>10</sup> One way to discourage bad habits is to

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<sup>9</sup> Cook and Jones. Texting and Accessing the Web While Driving: Traffic Citations and Crashes Among Young Adult Drivers. Traffic Injury Prevention. v12, 2011.

<http://www.tandfonline.com/doi/abs/10.1080/15389588.2011.620999>

<sup>10</sup> AT&T Commuter Survey. [http://www.att.com/gen/press-room?pid=23969&cdvn=news&newsarticleid=36217&mapcode=txting\\_can\\_wait](http://www.att.com/gen/press-room?pid=23969&cdvn=news&newsarticleid=36217&mapcode=txting_can_wait)

penalize them, especially if most people aren't choosing to abandon a bad behavior even though they know it's bad.

**Q: Who is exempted from the proposed Ordinance?**

**A:** This Ordinance does not apply to any of the following:

This Ordinance does not apply to any of the following:

- When the driver uses a hands-free mobile device.
- When the purpose of the call is to communicate an emergency to a police or fire department, a hospital or physician's office, or an ambulance corps.
- When operating an authorized law enforcement or emergency vehicle in the performance of official duties.
- When a driver holds a valid amateur radio operator license issued or any license issued by the Federal Communications Commission or the driver uses a two-way radio, including radios used in the Citizens Band (CB) service.
- When a person is driving a school bus or transit vehicle that is subject to Arizona Revised Statutes or United States Department of Transportation regulations.
- When a person is driving a motor vehicle on private property.
- When a driver has pulled off of the traveled portion of the roadway in a safe and legal location and placed the vehicle in park in order to operate a handheld portable communications device.

**Q: Texting or using a cell phone while driving has increased the productivity of my workforce. We can communicate better while they drive from site to site. Are there exceptions for those of us whose businesses will be negatively affected?**

**A:** No. While this Ordinance does not intentionally wish to cause an adverse effect on business communication or delivery speed, it may have that unintended consequence. However, we ask you to consider the safety of your employees and the potential costs of wrecks associated with using portable communications devices while driving. Insurance costs, employee absence due to injury, and legal disputes will also negatively affect your bottom line.

**Q: Are radios and CBs included in the Ordinance?**

**A.** No, see exemptions above.

**Q. What type of response have you received regarding the adoption of the Ordinance?**

**A.** Coconino County management has received feedback from several individuals and groups with questions, concerns as well as praise for enacting Coconino County Ordinance No. 2014-03. Comments are being reviewed and considered by County management.

**Q: What is the fine if I'm convicted?**

**A:** The fine is \$100 if the driver violates the Ordinance and is not involved in a motor vehicle crash.

**Q: Does the fine increase if I'm using a portable communications device and I'm involved in a motor vehicle crash?**

**A:** Yes. If a driver violates this Ordinance and the driver is involved in a motor vehicle crash, the driver is subject to a civil penalty of \$250 dollars.

**Q: If a police officer pulls me over for suspected use of a portable communications device, does he or she have the right to search my text messages or recent calls at that time?**

**A:** No. The officer can request, at a later date, that a warrant be issued to search your device's records if the case proceeds to trial.

**Q: Will I receive a point on my driver license if I'm convicted for a violation of the Portable Communications Device Ordinance?**

**A:** No. The violation is a reportable offense; however, a violation point will not be assigned to one's DMV record.

**Q: Is there a grace period, or will motorists get a warning?**

**A:** Yes, a six month warning/educational period has been instituted beginning May 22, 2014. Whether a citation is issued is always at the discretion of the officer based upon his or her determination of the most appropriate action for the situation.

**Q: Are passengers affected by these laws?**

**A:** No. These laws only apply to the person driving a motor vehicle.

**Q: Do these laws apply to out-of-area drivers whose home communities, states, or countries do not have such laws?**

**A:** Yes.

**Q: Can I be pulled over by a law enforcement officer for using my handheld wireless telephone?**

**A:** Yes. At his or her discretion, a law enforcement officer can pull over a driver for this infraction.

**Q: Can I be pulled over by a law enforcement officer for using a hands-free wireless communication device?**

**A:** Yes. At his or her discretion, a law enforcement officer can pull a driver over if the officer believes the driver is distracted.

**Q: Does the Ordinance only apply to Coconino County?**

**A:** Yes. It applies to all areas of Coconino County, exclusive of sovereign Tribal Nations. At some point in time after the Ordinance goes into effect, each municipality in the County should consider the Ordinance. A City or Town may either approve the County Ordinance or enact its own ordinance.

**Q: Can I dial a number manually or text when stopped at a stop light or stop sign?**

**A:** No. The Ordinance applies both to driving and to being in control of a vehicle, including while being temporarily stopped in the roadway for a traffic control device (i.e., stop light, stop sign, police officer directing traffic, railroad crossing, etc.).

**Q: Does this Ordinance apply to commercial vehicles?**

**A:** Yes. This Ordinance applies to drivers of all types of vehicles as defined in Title 28, Chapter 1, Arizona Revised Statutes, Transportation.