

Can You Hear Me Now? Washington State's New Cell Phone Law and You.

By Zosia Stanley*

Did you rent a car while visiting Seattle? While we all know better, many of us equate driving time to cell phone time, using the “down time” to listen to messages, catch up on business calls, or reach out and touch someone. Legally speaking you can use a cell phone while driving in Washington. You can hold a cell phone near your mouth while driving, you can sport that blinking blue earpiece, you can rant and gesture wildly to yourself alone in your car (offering entertainment and/or a cautionary tale to fellow drivers), you can curse the ringing phone buried in the furthest reaches of your bag. However, the act of putting that cell phone or wireless device to your ear while driving could earn you a hefty ticket.

The Offense

As of June 10, 2010 pursuant to Washington state law, “[a] person operating a motor vehicle while holding a wireless communication device to his or her ear is guilty of a traffic infraction.”¹ Use of a phone in “hands-free mode,” including using speaker phone mode, headsets, and earpieces, is permitted. While texting is also a punishable offense, dialing a phone or selecting a name or number is not considered “texting.” However, as searching for a name or number looks an awful lot like texting, drivers should take care. By all accounts, law enforcement officers are allowing no grace period prior to enforcement of the new law.

Following the passage of a 2008 law, texting or talking on a cell phone while driving has been a secondary infraction, punishable only if a law enforcement officer pulled a driver over for another traffic violation. The 2010 expansion has made these activities punishable as primary traffic infractions. Since the 2008 law took effect, state troopers have written about 3,000 cell phone-related tickets and issued approximately 5,900 warnings.² While there has been much news coverage of the mad rush for hands-free devices leading up to June 10, one can imagine numerous tickets will be written as drivers adjust to the new rules of the road. One estimate forecasts over \$100,000.00 in additional annual revenue for state and local governments.³

The Exemptions

There are a number of exceptions to this new law, including a wireless communication device used: (1) to report illegal activity; (2) to summon medical or other

¹ RCW 46.61.667 as amended by SSB 6345

² “State Patrol to enforce phone law on Day 1” The News Tribune, May 16, 2010 <http://www.thenewstribune.com/2010/05/16/1188423/state-patrol-to-enforce-phone.html?storylink=mirelated> (accessed June 14, 2010)

³ Multiple Agency Fiscal Note Summary, available at <https://fortress.wa.gov/ofm/fnspublic/legsearch.asp?BillNumber=6345&SessionNumber=61>

emergency help; or (3) to prevent injury to a person or property. Additionally, truckers, bus and taxi drivers, and emergency responders are generally exempt. Those with hearing aids are also exempted from compliance. GPS positioning and navigation systems affixed to the vehicle are not covered by the law. And CB fans can breathe a sigh of relief – use of a CB radio is not affected the law.

The Punishment

Due in part to the two year advanced notice/grace period drivers have had following the 2008 law, the Washington State Patrol and other law enforcement agencies have begun enforcing the “hands free” law immediately.⁴ The law applies to any public right of way – meaning you can’t sneak a quick call while stopped at a red light or lurking in an alley. The fee for a violation is \$124.00. However, this ticket does not affect your driving record and cannot be reported to an employer or insurance company. Still, you could use that \$124.00 to fund the Washington economy in much more enjoyable ways (there’s a Starbuck’s just around the corner...any corner. And a Tully’s just across the way. And a cool, independent coffee establishment just over there). P.S. – smile and look up if you drive through a red light while visiting. You may on camera! Our local authorities will be in touch later.

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⁴ Id.