

Distracted driving: under the influence of electronics - AvvoStories

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No, they are not going to take your coffee away. Washington state's [new distracted driving law](#) has sparked confusion and consternation across the state and attracted attention nationwide. But the facts behind the frenzy are relatively straightforward, and given the data on distracted driving, the new rules do make sense.

[What exactly is Washington's new driving law?](#)

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"Washington is at the forefront of distracted driving laws," says Dan Samas, a Seattle-area attorney who specializes in traffic offenses. Washington was one of the first states to take action on the relationship between cell phone use and traffic fatalities, passing a law in 2007 that banned talking on a handheld phone or texting while driving.

At the time, those were the only distractions related to cell phone use. "Once smart phones came on the scene it was hard to enforce," says Shelly Baldwin, spokesperson for the [Washington Traffic Safety Commission](#). Because the law only banned "texting," officers could not issue a ticket for other behavior that was obviously distracting, like using Snapchat. Today, 14 states and the District of Columbia [ban](#) the use of handheld phones while driving and 44 states and D.C. ban texting while driving.

Washington's [new law](#) is designed to address distracted driving itself, rather than specific distractions. The first part of the law updates the previous legislation, making the use of any handheld electronic device while behind the wheel a primary offense, often referred to as a DUI-E. This means an officer can [ticket you](#) if he sees you holding a phone or tablet when driving, even when you're stopped at a red light.

"An observational survey found that 10 percent of drivers are distracted, and 70 percent of the distractions are cell phones," says Baldwin. The second part of Washington's law breaks new ground in addressing the remaining 30 percent by categorizing non-electronic distractions as a secondary offense. [Examples](#) could include drinking coffee, applying makeup, and shaving. While none of these behaviors are illegal, what *is* illegal is driving while distracted, and the measure of that distraction is whether you commit a traffic infraction.

What this means is that safe drivers won't get ticketed for doing any of these things. But if drivers commit a traffic violation (such as speeding or running a red light) while engaging in these behaviors, they can receive two infractions—one for the primary offense and a second for distracted driving.

Another difference from the old law is that these infractions do get recorded. "The old law didn't go on anyone's DOL [Department of Licensing] record, so for drivers there wasn't a lot at stake with regards to their insurance," says Samas.

Is the distracted driving law really necessary?

"From 2014 to 2015, there was a 30 percent increase in distracted driving-related fatalities in Washington," says Baldwin. This is much greater than the overall increase in traffic fatalities, which was about 8 percent. According to the [CDC](#), nearly 10 people are killed and over 1,000 injured every day in the United States due to distracted driving. Although this is only about [one third](#) the number of fatalities of alcohol-impaired driving, distracted driving is now the number one leading cause of car accidents in America.

To put distracted driving in perspective, reading a text takes your eyes off the road for about 5 seconds—long enough to cover a football field at 55 mph. According to Baldwin, the cognitive distraction can last even longer—up to 30 seconds.

The Washington State Department of Health legislation [health impact review](#) couldn't provide specific estimates for the results of the new law (in part because few, if any, existing distracted driving laws have the same provisions as Washington's). However, the review concluded, "Evidence indicates that SSB 5289 [the new law] has the potential to decrease distracted driving, improve health outcomes by reducing injuries and fatalities caused by distracted driving accidents, and decrease health disparities experienced by young drivers."

An additional, unintended benefit to the new law is that it may help with traffic flow. We have all had the experience of getting stuck through an extra cycle at a traffic light because a driver in front of us was paying more attention to a phone than the light.

Another common scenario involves highway crashes during rush hour. Traffic backs up, people pull out their phones, and soon there are multiple fender benders to clear up. "I'm super hopeful we could see improvements in traffic," says Baldwin.

Is there a problem, officer?

Despite the potential to save lives, the new law has faced criticism. In a region driven by coffee, more than 35,000 people have signed an online Change.org petition urging the state to drop the section on non-electronic distractions, claiming that “eating, drinking, and/or grooming should be a citizens (sic) right when behind the wheel.”

Legally, the petition doesn't have much to support it, and it seems to reflect a fundamental misunderstanding of the law. Many people don't understand that driving itself is a revocable legal privilege, for which the state can set standards. “There are no Constitutional concerns with this law,” notes Samas.

There is even some evidence that the new legislation may in fact be too lenient. According to the [National Safety Council](#), even drivers using *hands-free* cell phones fail to see up to 50 percent of the information in their driving environment. During the call, they enter an impaired cognitive state of “inattention blindness” in which they fail to process the details they need to drive safely (such as changing road conditions and the behavior of other drivers).

Primarily, the new law simplifies enforcement. If an officer sees someone holding an electronic device while driving, the law has been broken—they don't need to know if the person is talking on the phone or playing Tetris.

However, there are grounds for concern that this law could be used to [harass](#) minorities. In Seattle, for example, the police have an unfortunate history of [uneven enforcement](#). Samas sees another potential issue with enforcement. “Because the law does allow for minimal contact with a phone, we could see instances where it becomes a question of the officer's word against the motorist's.”

Avoiding trouble

Despite all the talk about what is, and is not, allowed under the new law, it's not that hard to stay out of trouble. As Baldwin says, “Don't fiddle with your phone [while driving].”

Although it's still distracting to talk on a phone while driving, there are some straightforward ways to make it safer to use your phone in the car.

- **Install a dashboard mount** and learn the voice controls for your apps, including ones that read and dictate text messages.
- **Set up Bluetooth** in your car or add a Bluetooth headset to make voice control more efficient.
- **Load your music playlists** and set your destination before you start the car.
- **Use GPS apps** like Waze that suggest alternate routes based on traffic so that you don't have to reprogram while you are driving.
- If you must pick up the phone, **pull over first**.

For Baldwin, the lives lost in distracted driving accidents are not statistics. She has met families who have lost loved ones to distracted driving-related accidents. “Driving is the most dangerous thing most of us do on a daily basis and it deserves our full attention.”

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