Impact of Traffic Safety Laws

2017 Northeast Transportation Safety Conference
October 25, 2017
Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont
• **Texting While Driving** - Prosecutor has to prove texting versus any other type of phone usage.

• **Failure to Maintain Control of a Motor Vehicle** – “Commits either a traffic violation... or commits the crime of driving to endanger ... and, at the time of the traffic infraction or crime occurred, the person was engaged in the operation of a motor vehicle while distracted.”

• **Blood Kits** - The law requires that all materials used in the blood kit be approved by the Department of Health and Human Services Lab. The kit includes a big, low quality needle and many blood drawers will get a butterfly needle from the hospital to draw blood. Not in the original Kit.
• **Distracted Driving** — The prosecutor must prove that the individual was manipulating the phone for a use other than making a phone call.

• **Drugged Driving** — “[U]nder the influence of ... marijuana, narcotic drugs, depressants or stimulant substances, ... or the vapors of glue.” There is no implied consent for drugs in MA.
NEW HAMPSHIRE

SCOTT CHASE, TSRP

• **Distracted Driving** — The law placed a ban on texting (prohibited two hand texting but allowed an exception for dialing the phone). 2014 new law written – air tight.

• **Drugged Driving** - “Or any other chemical substance that can impair your ability to impair.” This is the gold standard!
RHODE ISLAND

JOHN CORRIGAN, TSRP

- **Distracted Driving** – The goal was to prohibit more than just texting but it is currently on appeal.

- **Drugged Driving** - “Whoever operates or otherwise drives... with a **blood presence** of any schedule controlled substance... as shown by analysis of blood or urine sample.”
VERMONT

Lt. John Flannigan, State DRE Coordinator

- **Distracted Driving** — “A person shall not use a portable electronic device while operating a moving motor vehicle in a place open temporarily or permanently to public or general circulation of vehicles.”

- **Drugged Driving** — “[U]nder the influence of a drug” is interpreted to mean that a person’s ability to operate a motor vehicle safely is diminished or impaired *to the slightest degree.*
Keeping the Mistakes to a Minimum
The Impact of Traffic Safety Laws:
Use of handheld mobile telephones and mobile electronic devices by motor vehicle operators and school bus drivers prohibited or restricted.

Exceptions. Penalties. Amounts remitted to municipality. Record of violation.
The Legislation - HISTORY
(P.A. 05-159, 2005)

• 2005 – legislation passed re: use of cell phones and mobile electronic devices

• 2010 – added provision to prohibit texting

• 2010 – deleted suspension of fine for first offenders who purchase hands-free accessories

• 2010 – added subsequent offender penalties

• 2011 – added new provision re: texting and CMV drivers
Section 405 E - MAP-21 v. (C.G.S. § 14-296aa)

- 405E required that the state mobile phone law apply even when the vehicle is at rest (ex. Stopped at a traffic light or stop sign).
Potential Consequences For Failure to Comply With The Federal Requirements of §405E.

FEDERAL FUNDING TIED TO THE TEXTING SECTION OF THE STATUTE § 405E – FFY 2013 was $17,525,000

1. $11,900,00 – Distracted Driving Grants
2. $5,600,000 – 1st Year Texting Ban Grants
(b) (1) No person shall operate a motor vehicle upon a highway, while using a hand-held mobile telephone to engage in a call or while using a mobile electronic device while such vehicle is in motion. An operator of a motor vehicle who types, sends or reads a text message with a hand-held mobile telephone or mobile electronic device while such vehicle is in motion shall be in violation of this section.
§ 14-296aa

Operating a motor vehicle:
operating on a highway, “including being temporarily stationary due to traffic, road conditions or a traffic control sign or signal,“

“but not including being parked on the side or shoulder of any highway where such vehicle is safely able to remain stationary”
The Legislation
(P.A. 05-159, 2005 – §14-296aa)

- 2005 – legislation passed re: use of cell phones and mobile electronic devices
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- 2010 – deleted suspension of fine for first offenders who purchase hands-free accessories
- 2010 – added subsequent offender penalties
- 2011 – added new provision re: texting and CMV drivers
- 2013 – defined “operating a motor vehicle” & deleted provision limiting violation to vehicles in motion
- 2013 - Ham radio exception – Allow the use of a hand-held radios by a person with an FCC amateur radio station license in EMERGENCY situations and for EMERGENCY purposes
- 2013 – Distracted Driving questions added on the knowledge test for CT driver’s license
Consequences For Complying With The Federal Requirements of § 405E

Distracted Driving Grants:

1. 2014 - $2,300,000
2. 2015 - $2,300,000
3. 2016 - $2,300,000

Connecticut was the only state to qualify for these years.
Penalties - §14-296aa (h) & (j)

- First Violation - Fined $150.00
- Second Violation - $300.00
- Third or Subsequent Violation - $500.00

In addition to any penalty or fine imposed the state shall remit to a municipality 25% of the fine amount received with respect to each summons issued by such municipality.
Funding Opportunities

• Up to 50% of the award can be used for activities other than distracted driving (or 75% if MMUCC compliant)
Connecticut's hand held mobile phone law passed in 2005. Connecticut selected to participate in NHTSA's first ever Distracted Driving Enforcement Project (DDEP). This selection was based partially on Connecticut's legislation allowing hand held mobile phone uses to be the primary reason an officer could stop a motor vehicle. The results of this pilot show a pronounced drop in observed mobile hand held phone use in areas where enforcement took place. Connecticut Legislature passes changes to current statutes to make legislation eligible to qualify for specialized distracted driving grant funds from the federal government. Connecticut becomes first and only state to qualify, through legislation (14-296aa and other statutes) for NHTSA 405e funding. These funds, among other things are used to support overtime enforcement mobilizations specifically targeting distracted drivers. Preliminary data from 2017 mobilizations show a 16 percent decrease in mobile phone use by drivers across 9 towns participating in enforcement.
To engaged in a call

(a) For purposes of this element, the following terms have the following meanings:

1. “Engage in a call” means talking into or listening on a hand-held mobile telephone, but does not include holding a hand-held mobile telephone to activate, deactivate or initiate a function of such telephone.

2. “Immediate proximity” means the distance that permits the operator of a hand-held mobile telephone to hear telecommunications transmitted over such hand-held mobile telephone, but does not require physical contact with such operator's ear.
Engage in a call: talking or listening on hand-held phone BUT DOES NOT INCLUDING HOLDING PHONE TO ACTIVATE, DEACTIVATE OR INITIATE A FUNCTION OF PHONE

Engaging?

YES – No Question

Engaging?

Problem??
USING OR USE: HOLDING “HAND-HELD” PHONE “TO OR IN THE IMMEDIATE PROXIMITY OF, THE USER’S EAR.”

*Immediate proximity*: distance that permits operator of hand-held phone to hear communications, DOES NOT require contact with ear
Engaging?
Case Law:
Interpreting “engaging, activate, deactivate or initiate a function of the phone”

The appellate court held that “the state failed to prove beyond a reasonable doubt the defendant was engaged in a call, [talking or listening] as required to prove a violation instead of merely answering his phone.”

• “Most importantly, perhaps, no evidence was presented as to what type of phone the defendant was holding, what speaker feature it may have had, whether any such speaker feature were then engaged, and if so, at what volume they were set...no evidence from which the court could have inferred the phone was held close enough to the defendant’s ear to permit him to hear telecommunications transmitted over it.”
The Legislation

§ 14-100a

• The operator of and any front seat passenger in any motor vehicle shall wear such seat safety belt while the vehicle is being operated on any highway.
14-100a

- TYPE OF LAW PRIMARY – Primary
FINES-14-100a

• MAXIMUM FINE FOR FIRST OFFENSE
  – $15 plus costs & fees total $37

• MAXIMUM FINE FOR FIRST OFFENSE - 2008
  - $92 for riders 18 years old & over
    - ($50 fine plus $7 fee plus $35 surcharge)
14-100a-CT STATEWIDE AVERAGE SEAT BELT USE

- 2010 – 88.2%
- 2011 – 88.4%
- 2012 – 86.8%
- 2013 – 87.0%
- 2014 – 85.1%
- 2015 – 85.4%
- 2016 – 89.4%
- 2017 – 90.3%
QUESTIONS?