

May 1, 2019

TO: Mayors, Managers, Attorneys, Intergovs
FROM: Tom Savage, Legislative Associate; Christina Estes-Werther, General Counsel
SUBJECT: **HB2318 TEXTING WHILE DRIVING; PROHIBITION; ENFORCEMENT**

Overview

HB2318 prohibits the use of wireless devices while driving. As an emergency measure, it became effective on April 22 when it was signed by Governor Ducey. Although the law is in effect, the bill established a warning period that began on April 22 and ends on December 31, 2020. During this time, law enforcement may issue warnings to drivers for violating the law but may not issue citations.

Provisions

1. Prohibits a driver from holding or supporting with any part of their body a wireless device or stand-alone electronic device and prohibits a driver from writing, sending or reading any text-based communications or conducting voice-based communications
2. Bans watching or recording a video or movie using a wireless or stand-alone device while driving

Exceptions

3. Using a wireless device while stopped at a red light or railroad crossing
4. Use of voice-based communication, including a wireless device in hands-free mode or with Bluetooth and hands-free accessories for voice-to-text, phone calls, navigation, GPS, or obtaining vehicle information
5. Activating or deactivating a feature on a device using the driver's hand
6. Calling 9-1-1 or summoning emergency help
7. Operators of emergency, law enforcement, or probation vehicles acting in their official capacity
8. Use of specified radio equipment, including amateur and HAM radio and two-way radio
9. Using devices for the sole purpose of recording or broadcasting videos, such as dash-cams

Penalties (Beginning January 1, 2021)

10. Violations will be civil penalties, subject to fines ranging between \$75 and \$149 (plus additional surcharges) for a first offense and between \$150 and \$250 (plus additional surcharges) for second or subsequent offenses.
11. Serious injury or death caused by a violation is a class 1 misdemeanor (presumptive six-month jail sentence and up to \$2,500 fine plus additional surcharges).

Next Steps

The steps to comply with the new law will depend on whether your city or town has a hands-free ordinance that was enacted prior to the bill's effective date of April 22.

Municipalities WITHOUT an existing ordinance may enact one that mirrors HB2318, however, there is no expressed authority to enforce the penalties outlined in the bill prior to January 1, 2021. The city or town is subject to the same warning period as the State without the ability to issue citations until January 1, 2021. **However, it is not necessary to adopt an ordinance that mirrors HB2318 - your city or town may simply enforce the state's law.**

Municipalities WITH an ordinance adopted prior to April 22 may:

1. continue to enforce the ordinance and issue citations; or
2. amend their existing ordinance to mirror HB2318 and levy penalties established by the bill. The warning period does not apply to cities and towns that had a hands-free ordinance in effect prior to April 22.