

# Distracted Driving: Cell Phone Use While Driving

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In 2019, the Minnesota Legislature passed a “hands free” law making it illegal for drivers to use hand-held cell phones while driving. While it was previously illegal to text while driving, the new law also increased restrictions on using all electronic communication devices.

## **“Hands free” means it is generally illegal to hold a cell phone while driving.**

When a motor vehicle is in motion or a part of traffic, it is illegal for a driver to use a cell phone or other electronic device while holding it. A vehicle stopped at a stop sign, traffic light, or in a traffic jam is still a part of traffic. Use is only permitted if a vehicle is not obstructing traffic and is fully stopped in a location that is not ordinarily used for vehicular travel.

Other distracting actions are also illegal. The law prohibits reading from a phone, tablet, laptop, or similar device. In addition, the driver cannot use a hand to type or access content from the internet or device, including video or audio, pictures, games, or software applications. It is also illegal to dial a phone number or engage in a cell phone call while holding a phone.

## **It is legal to use a phone in hands-free mode or a device that is not a “wireless communications device.”**

A driver can participate in a phone call and send or receive electronic messages as long as the driver can activate the device with a verbal command or single touch and perform any other necessary actions without touching the phone. However, hands-free mode cannot be used for actions that involve looking at the device, such as accessing video content or gaming data, live-streaming, or reading messages.

The law limits the use of wireless communications devices, and drivers can continue to use other items. A driver can use a radio; a device or feature that is permanently physically integrated into the vehicle; a navigation system that is only capable of being used for navigation purposes; and a two-way radio, citizens band radio, or amateur radio equipment.

## **There are some exceptions for GPS, audio content, and emergency situations.**

The law allows drivers to:

- view or operate a phone used as a GPS in a manner that does not require the driver to type or hold a device;
- listen to audio content in a way that does not involve scrolling, typing, or holding a device;
- obtain emergency assistance for an accident or medical emergency, or to prevent a crime that is about to be committed; or
- send or read an electronic message in the reasonable belief that a person’s life or safety is in immediate danger.

Drivers of authorized emergency vehicles can send or read an electronic message while driving as part of official duties. [Minn. Stat. § 169.475](#).

## **Violations of the law are punished with a fine.**

Violations of the law are payable offenses, which means that, like a speeding ticket, they are punished by a fine. The law allows the Judicial Council to set the fine amount. Payable offenses are not technically crimes under Minnesota law and do not require a court appearance. A person receiving a ticket may pay the citation online. Failure to pay a fine can result in the suspension of a driver's license.

The current fine for a first offense is \$50. A second offense results in a fine of \$275. Tickets for violating the law are also subject to the surcharge on all criminal and traffic offenses, which increases the amount an offender must pay by at least \$75.

## **Causing an accident while distracted can result in more serious charges.**

If using an electronic device results in some other dangerous driving conduct, prosecutors can charge a more serious crime. For example, if composing or reading an electronic message while driving endangers another person, it could rise to the level of careless or reckless driving.

Driving a vehicle carelessly in a manner likely to endanger another person is careless driving. Driving while aware of a substantial risk to another's safety and in disregard of that risk is reckless driving. Both careless driving and reckless driving are misdemeanors, which can be punished by up to 90 days in jail, a \$1,000 fine, or both. If a person driving recklessly causes the death of another, the penalty increases to up to a year in jail, a \$3,000 fine, or both. [Minn. Stat. § 169.13](#).

## **Most states ban texting and driving and more are restricting all cell phone use.**

Currently, 48 states and the District of Columbia ban texting while driving. The only exceptions are Missouri and Montana. Nineteen states and the District of Columbia also ban using a hand-held phone.

In every state that bans texting or use of a hand-held phone, the initial penalty is a fine. Fines for a first violation range from \$20 to \$500 and, like Minnesota, most states include an escalated penalty for subsequent violations. A few states also suspend a violator's license and, in Oregon, a person cited for texting or talking on a hand-held phone for the third time in ten years is guilty of a misdemeanor.

Several states, including Alaska, Illinois, Maryland, Pennsylvania, and Utah explicitly state that a person who is texting and causes an accident resulting in serious injury or death is guilty of a criminal offense that can be punished with jail or prison.

