



DISTRACTED DRIVING LAWS IN COLORADO

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The rise in distracted driving, often associated with ever-present smart phones and mobile devices, has been identified as a cause and contributing factor to automobile crashes. This *issue brief* gives an overview of state and federal regulations on the issue.

Background

The National Highway Traffic Safety Administration (NHTSA) defines distracted driving as any activity that could divert attention away from the primary task of driving. This includes tuning the radio, eating, talking to a passenger, or using a mobile device. According to the Centers for Disease Control and Prevention, approximately 9 people are killed and more than a 1,000 are injured each day due to distracted driving, while NHTSA reports nearly one-third of all U.S. drivers 18 to 64 read or send an email or text message while driving.

Misuse of a Wireless Telephone

The Colorado General Assembly first adopted legislation addressing mobile device use and text messaging while driving in 2009. The following sections discuss specific provisions of the law.

Minor drivers. Drivers under the age of 18 are prohibited from using a mobile device while operating a motor vehicle. This prohibition

includes phone calls, text messaging, and the use of other applications, such as Snapchat.

Adult drivers. Adult drivers are prohibited from using a mobile device to text message, or send similar forms of transmission, while operating a motor vehicle. Regular cell phone use for voice calls is permitted.

Exceptions. Drivers, regardless of age, may use a mobile device for phone calls or sending and receiving text messages either to contact a public safety entity or during an emergency. An emergency is defined as any situation in which the following may occur:

- a person has reason to fear for his or her life or safety;
- a person believes that a criminal act may be perpetrated against him or her or against another person;
- reporting a serious traffic accident;
- reporting a fire, serious road hazard, medical and/or hazardous materials emergency; or
- reporting a person who is driving in a reckless or unsafe manner.¹

Senate Bill 17-027. Before 2017, a law enforcement officer must have seen the use of a mobile device to transmit data in order to issue a citation. Senate Bill 17-027 added language that the law enforcement officer must see the use of the mobile device to transmit

¹Section 42-4-239 (1)(a), C.R.S.

data *and* that the driver was operating the motor vehicle in a careless or imprudent manner in order to issue a citation.

Penalties. Table 1 below lists penalties assessed for violating the misuse of a wireless telephone law in Colorado. The table indicates fines for both initial and subsequent offenses. In addition to fines set in statute, offenders are assessed a surcharge credited to several state victim rights and law enforcement funds.

**Table 1
Penalties for Misuse of a Mobile Device
While Driving**

Category	Fine	Points
Minors, Class A Traffic Infraction		
<i>Initial Violation</i>	\$50	1
<i>Subsequent Violation</i>	\$100	1
Adults		
<i>Class 2 Misdemeanor Traffic Offense</i>	\$300	4
<i>Bodily Injury or Proximate Cause Of Death to Another, Class 1 Misdemeanor</i>	Up to one year imprisonment, \$1,000 fine, or both	4

Additional Distracted Driving Laws

Careless driving. Colorado law defines careless driving as driving in a careless and imprudent manner without due regard for the width, grade, curves, corners, traffic, and use of the streets or highways and all other attendant circumstances.² Careless driving is a class 2 misdemeanor traffic offense. If the driver is the proximate cause of bodily injury or death to another while driving carelessly, the driver commits a class 1 misdemeanor traffic offense.

Reckless driving. Under Colorado law, reckless driving is driving in a manner that indicates either a wanton or willful disregard for the safety of others or others' property.³ Reckless driving is a class 2 misdemeanor upon the first violation, and any subsequent

violation may result in a \$50 to \$1,000 fine and/or by ten days to six months in jail.

Earphones. Drivers may not operate motor vehicles in Colorado while wearing earphones.⁴ Earphones do not include speakers built into protective headgear or devices that cover a portion or all of one ear that is connected to a wireless telephone. Drivers who use an earphone while driving commit a class B traffic infraction, resulting in a \$15 to \$100 fine.

Distracted Driving Laws in Other States

Currently, no states impose a total ban mobile device use by adult drivers. However, 38 states and the District of Columbia ban all mobile device use by novice or teen drivers. All states except Arizona, Missouri, and Montana prohibit texting while driving for all drivers.

Commercial Motor Vehicles

In September 2010, the Federal Motor Carrier Safety Administration prohibited commercial motor vehicle (CMV) drivers from texting or holding a mobile phone while operating in interstate commerce.⁵ Additionally, motor carriers are prohibited from requiring or allowing their drivers to engage in texting while driving. A driver, including a school bus driver, could lose his or her commercial driver's license if convicted of texting while operating a CMV under state or local traffic laws.

²Section 42-4-1402, C.R.S.

³Section 42-4-1401, C.R.S.

⁴Section 42-4-1411, C.R.S.

⁵49 CFR § 392.80