



TEXTING WHILE DRIVING PROHIBITED AFTER JULY 1

The most recent session of the Indiana legislature passed a new law regarding use of telecommunications devices while operating a motor vehicle. A telecommunications device is defined as a wireless telephone, personal digital assistant, pager or text messaging device.

The new law prohibits a person from using such a device to type a text or message or an electronic mail message, transmit such a message, or read such a message while operating a moving motor vehicle. There is an exception for hands-free or voice-operated technology. There is also an exception if the device is being used to call 911 to report a bonafide emergency.

This law goes into effect on July 1, 2011.

A violation of the statute is a Class C Infraction. A Class C Infraction is punishable by a fine up to \$500.

There are some problems with this law, which did pass by a landslide vote in the House of Representatives but by a bare 26-to-24 vote in the Senate. One of the major problems is the difficulty of enforcement. One of those difficulties is that the statute specifically states that a police officer may not confiscate a telecommunications device for the purpose of determining compliance. Also, the officer may not confiscate a your device and retain it as evidence pending trial.

Nonetheless, officers now have the right to take action if they are convinced they have observed a violation of the statute, texting while driving. Texting while driving is a documented problem and distraction for drivers. Driver distractions are a major cause of collisions in Indiana and other states.

In theory the law does not prohibit talking on a cell phone, typing a phone number into a cell phone, or even browsing the internet or surfing through phone apps while driving. Some of those are clearly not distinguishable by an observing police officer, however, and may still result in a ticket.

Clearly the appearance of using a telecommunications device to send a text message coinciding with a vehicle speeding or weaving off the road or across the lane marker will attract the attention of law enforcement.

Ultimately, common sense is the best test, and paying attention to driving is the primary goal. Text messaging can be legally accomplished while a vehicle is parked, stopped at a stoplight or stop sign, or by a passenger. In addition to avoiding a collision or accident, common sense also dictates that text messaging should be performed in a manner to avoid being charged with a Class C infraction along with the related inconvenience and expense of hiring an attorney, going to court, and potentially being fined.

Please feel free to contact us with any questions.

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