



To: House Transportation Committee
From: Kimberly Buddin, ACLU of Michigan
Date: April 30, 2019
RE: HB 4181, 4198, 4199- Distracted Driving
Position: Opposed

The ACLU understands the well-intended reasoning behind HB 4181, 4198, and 4199, but the collateral consequences are significant. We oppose this legislation because it will lower protections for drivers, increase racial disparities, disproportionately impact low income communities, and may decrease roadway safety.

Expanding distracted driving laws reduces drivers' constitutional procedural protections

This legislation lowers the standard for police to stop and cite drivers, which run afoul to the framework for constitutional and procedural protections against law enforcement. It's not time to throw that framework overboard by providing law enforcement with additional reasons to pull people over. Currently, law enforcement must prove that a person is using their phone to text, which can only be done through looking at a driver's text message. This reasonably requires a warrant or the driver's consent. However, activities under this legislation such as talking on the phone—which is visible to an officer—would only require an officer to simply say they witnessed (or believed they witnessed) a driver doing so, thus eliminating the higher burden of proof.

This problem is further exacerbated by the fact that the legislation does not prohibit the funds from any fines associated with a violation from going directly to law enforcement. If these bills pass, the legislature must remove any incentive for over policing, especially where it explicitly creates a primary justification for traffic stops.

Distracted driving laws disproportionately impact low income people and communities of color

This legislation will exacerbate the occurrence of racial profiling by police. The incidence of racially discriminatory traffic stops has been well documented across the country and in Michigan. Where studies of traffic stop data have been conducted, African Americans and Latinos are far more likely to be pulled over than are whites for the same behaviors and offenses. Results from a FOIA request to Michigan State Police showed that during the first three months of 2017 (on six randomly selected Fridays), of the 82 individuals who were stopped 48% were black, Hispanic, or Asian, while only 24% were white, and 24% of unknown racial identity but with Spanish surnames. Once stopped, minorities are far more likely to be subsequently subjected to a police search.

This legislation will also have a disparate impact on low income people. Hands free phone technology is a fairly recent development. Many low income individuals who are unable to afford vehicles with this technology or an accessory to bring them into compliance with this legislation. Thus, this legislation both unreasonably presumes that people have an alternative to using their phones and places the financial burden on them to do so.

This legislation is likely only to further perpetuate racial disparities and biases leading to an increase in poor minorities having suspended licenses and creating unnecessary involvement with the justice system. Any such legislation MUST be accompanied by laws to address racial profiling.



Distracted driving laws do not reduce crashes

Additionally, there are several studies and other states we can look to for guidance on the implications of distracted driving legislation. A study conducted by the Insurance Institute for Highway Safety of the highway Loss Data Institute found texting bans to be ineffective.¹ Rather than not texting while driving, drivers tend to engage in more dangerous texting by lowering their hands (and thus eyes) to avoid detection by police. This leads to an increase in accidents, rather than reducing them.

Ultimately, this legislation creates more problems that it purports to resolve. We urge this legislature not to pass HB 4181, 4198, or 4199.

Respectfully submitted,
Kimberly S. Buddin
Policy Counsel
American Civil Liberties Union of Michigan
kbuddin@aclumich.org
(734) 945-2636

¹Insurance Institute for Highway Safety, *Texting bans don't reduce crashes; effects are slight crash increases*, HLDI News, Sept. 2010, <https://www.iihs.org/iihs/news/desktopnews/texting-bans-dont-reduce-crashes-effects-are-slight-crash-increases>.