

What you need to know about Arizona's new texting-and-driving ban

By Marc Lamber

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After Ducey's signature yesterday, Arizona has officially banned texting and driving.



VIDEO

New distracted driving law means major adjustments for AZ drivers

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PHOENIX (3TV/CBS 5) -- A ban on hand-held cell phones while driving is now the law of the land in Arizona with Gov. Ducey signing HB 2318 on April 22.

The new law prohibits operating a motor vehicle while holding or supporting with any part of the person's body a smartphone or other portable wireless device, or writing, sending or reading any text-based communication on a wireless device unless it is voice-based and/or hands-free.

[VIDEO: Arizona bans texting and driving]

Attorney Marc Lamber, from the Arizona law firm Fennemore Craig, is a personal injury litigation attorney with nearly 30 years of experience and has seen a proliferation of car accidents due to motorists being distracted by their smartphones as the devices have become extensions of one's self-consciousness.

[RELATED: Arizona now bans hand-held cellphone use while driving]

As a [public safety advocate](#), Lamber is passionate about stopping distracted driving and has reviewed the new law that allows police officers to pull over motorists and issue warnings with full enforcement with citations beginning Jan. 1, 2021. Lamber answers some burning questions about what Arizona's new cell phone ban while operating a motor vehicle means as a practical matter.

Q: Will it be hard to fight a traffic ticket issued under this new law?

A: I think it will be very difficult to fight. I think the way the HB 2318 was drafted makes it clear that if you've got a phone in your hand or if it's on your body, it's a violation.

[RELATED: Distracted driving bill passes Arizona House, goes to Ducey's desk (April 18, 2019)]

Q: What are the "portable wireless devices" that motorists are not allowed to hold or have resting on their bodies while driving a motor vehicle?

A: These include a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a GPS or a substantially similar portable wireless device that is used to initiate or receive communication, information or data.

[WATCH: New distracted driving law means major

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Q: What about smartwatches like the Apple Watch? Can a motorist look at a text if they feel a haptic notification on their wrist?

A: No, they cannot read, write or send a text, email on their smartwatch or smartphone. However, if the device allows voice activation for these functions, I believe that is permitted.

Q: Historically, where did Arizona fit among states with legislation outlawing texting while driving or banning portable wireless devices while one is driving?

A: Arizona was only one of three states that didn't have these kinds of restrictions. We've now gone from the back of the pack to one of the 16 states that fully ban handheld devices while driving. Missouri and Montana are the only states left in the nation that don't have laws that restrict texting on the books.

Q: How does being distracted by a cell phone compare to driving under the influence of alcohol?

A: According to a study from the National Highway Transportation Safety Administration, texting and driving is six times more dangerous than driving while intoxicated.

Q: Why will it take until January 2021 for this law to take effect and couldn't the governor sign an emergency declaration requiring the law to take effect within 90 days?

A: HB 2318 is actually being characterized as an emergency measure. Police officers can begin issuing warnings right now, but no citations until Jan. 1, 2021. So, you can be pulled over right now anywhere in Arizona if you have a phone in your hand. The lengthy period before citations will be issued is likely to provide time to educate the public. This will be a huge change for many people.

[RELATED: [Arizona House Republicans look for compromise on texting ban](#)]

Q: What if you have the phone in a dash-mounted dock? Are you allowed to touch it?

A: It's going to depend. If the function you are trying to enable is voice activated, it's OK.

Q: AZ's new law does not allow the police officer to inspect or confiscate a person's portable wireless device, but are we headed down a slippery slope? A technology called the textalyzer already exists, doesn't it?

A: A police officer cannot confiscate or inspect your portable wireless device under the new law. There is technology on the horizon, however, called the textalyzer, that someday would enable a police officer to connect to a motorist's smartphone and see whether they were "typing or swiping" at a particular time prior to the traffic stop or accident. This technology is currently not permitted in Arizona or elsewhere.

Q: There are many cities and towns across Arizona that have some form of texting while driving ban on the books already. What will happen to those laws?

A: The state law now permits police officers to pull people over and give them warnings for any conduct that will be prohibited under the new law. At the same time, local police can still issue citations enforcing existing use of cell phone restrictions in their municipalities. Once the state law becomes enforceable in January 2021, it will supersede all local ordinances and render them void.

Q: So what else do we need to know about using our phones in our cars?

A: Essentially, unless you are parked or stopped at a red light, don't hold your phone or balance it on any part of your body and, even if it is docked or in your cup holder, don't write, send or read text-based communications. If you want to talk on the phone, use an earpiece, answer the phone in hands-free mode from a docking station or through Bluetooth.

Mr. Lamber, a Martindale Hubbell AV Preeminent-rated trial attorney (highest peer-review rating) specializes in plaintiff's

attorney (highest peer review rating), specializes in pursuing catastrophic injury and wrongful death litigation. Lamber has been featured in national and local media, including the following: AZFamily, USA Today, ABC News, The Wall Street Journal, Forbes, the ABA Journal, the Arizona Republic and many others. Mr. Lamber was featured by Newsweek as one of the "20 Leaders Plaintiffs' Trial Lawyers." He was profiled on Apple.com for innovative uses of the iPad. Reach him directly at mlamber@fclaw.com.





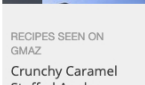
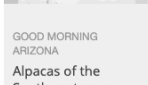
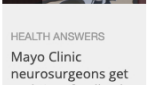
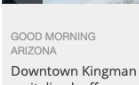




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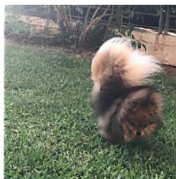







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