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TOP STORY

## EV mayors warn of regional texting ban

By Jim Walsh, Tribune Staff Writer Mar 10, 2019 0



Before the Senate approved the texting bill, Sen. Kate Brophy McGee made an impassioned argument for her measure while Gilbert Sen. Eddie Farnsworth outlined his opposition to it.

Special to the Tribune

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The mayors of Chandler, Gilbert and Mesa are hoping that the State Legislature finally passes a bill to combat texting while driving, but are prepared to study a regional crackdown if lawmakers continue years of failure to set a consistent statewide standard.

Like other city officials throughout Arizona, Chandler Mayor Kevin Hartke and Mesa Mayor John Giles last week told the Tribune they may reluctantly consider ordinances if the state fails to act and pursue a regional approach such as one already in force in the Tucson area. Gilbert Mayor Jenn Daniels on Monday said that while the town likely would not consider its own ban, she'd be open to coordinating with Mesa and Chandler to impose a ban on using handheld devices while driving.

They were buoyed by passage of Phoenix Republican Sen. Kate Brophy McGee's bill, which would only allow motorists to use a cell phone by using Bluetooth or other hands-free methods.

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Amid a sad trail of crashes, injuries and fatalities caused by texting motorists, the State Senate last week voted 20-10 vote to ban the use of a hand-held phone while driving. On Monday, the Senate passed a competing bill submitted by Chandler Republican Sen. J.D. Mesnard that broadens the ban on driving while holding anything in the hands.

Mesnard, David Farnsworth of Mesa and Eddie Farnsworth of Gilbert were among those voting against Brophy McGee's measure.

Mesnard's and Brophy-Magee's bill now go to the State House, where it faces an uncertain future despite the recent death of Salt River Pima-Maricopa Tribal Police Officer Clayton Townsend when his car was struck by a texting motorist on the Loop 101.

"I'm a big supporter of Kate Brophy McGee's bill," Hartke said. "I'm a big supporter of this being a regional solution."

"If, for some reason, the Governor doesn't sign it, we would at least look at it," Hartke said.

Gov. Doug Ducey said he would sign a ban.

Hartke said continuing to do nothing statewide is unacceptable because of the injuries and fatalities caused by distracted driving.

But if the Legislature continues more than a decade of doing nothing about texting while driving, Hartke said he would support reaching out to Mesa, Tempe and other East Valley municipalities to craft a regional approach to combatting the problem.

"Driving needs your attention," Hartke said. "We have a whole generation coming into driving that is so used to the cell phone as a part of life. It is artificial to them to not look at a cell phone."

Giles said the Legislature needs to pass a statewide bill to avoid confusion and promote public safety.

"The state of Arizona needs to lead on. If they don't, you will see local ordinances," Giles said. "I think there is grassroots, public support for addressing the problem of texting while driving."

Giles said Mesa also would consider a local ordinance and working with other local officials on a common East Valley approach, but he hopes it doesn't come to that.

Giles compared today's controversy over addressing distracted driving with the movement in the 1990s to ban smoking inside restaurants, bars and other public places.

He said various cities, including Mesa, passed smoking laws of their own, which created confusion that was only eliminated by the creation of a state law. That measure was enacted, however, by a voter-approved initiative in 2006, not by the Legislature.

Mesnard said he opposes texting bans and has proposed a bill that does not mention cell phones specifically, but would allow police to issue citations if they note any sort of distraction – from eating a cheeseburger, to applying makeup, to the driver taking his or her eyes off the road to yell at misbehaving children in the backseat.

It had been scheduled for a vote last Thursday, but was never called and its fate is uncertain.

Under Brophy-McGee's bill, police would have to wait until 2021 to issue actual civil citations.

But cities like Tempe aren't waiting. The city council recently toughened a hands-free driving law it initially passed in 2015.

As of April, Tempe police can stop someone for holding a cell phone while driving. Previously, they could only stop a motorist if he or she had committed another traffic violation.

The piecemeal approach that Giles and Hartke say must end, already exists throughout Arizona.

Brendan Lyons, executive director of Look! Save a Life in Tucson, said 26 cities, towns and counties in Arizona have some sort of distracted driving law, with 23 of with enforcing hands-free driving and the remainder banning texting.

"What you're telling me about Chandler and Mesa is a very consistent message. Everyone is saying it's time to act," Lyons said.

Lyons, a former firefighter, was nearly killed in 2013 when he was struck by a distracted driver. The collision left him unable to pursue his career, but it also launched him on a statewide mission to pass as many local distracted driving laws as possible after one texting bill after another died in the state legislature.

"Because I'm alive, because I have a voice, it is my duty to speak up for those who do not have a voice," Lyons said, alluding to victims killed in collisions caused by distracted driving.

Even if the House approves Brophy McGee's bill, and Ducey signs it, Tempe and all the other Arizona communities can continue to enforce their local distracted driving laws until the state law takes effect in January 2021.

"I think it's great. It's something that is long overdue in my opinion," said Tempe police Sgt. Steve

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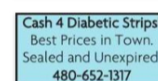


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Carbajal, who has devoted most of his 21-year career to traffic enforcement. "How many lives must be lost until we do something?"

Carbajal and his traffic officers will start looking for people who are holding their cellphones while driving, and will stop and cite them.

"I think they definitely will be looking for it. It's a step to make our streets safer," Carbajal said. "Tempe is not afraid to be the trailblazer. Kudos to our city council for recognizing the dangers and making it a priority."

He said the ultimate goal, however, is to change widespread driver behavior, rather than writing a bunch of tickets.

"I think anything that takes your attention away from the driving task is dangerous. The question is where do you draw the line," Carbajal said. "Put the cellphone down and focus on the driving task."

Marc Lamber, a Phoenix personal injury attorney, said he has noticed a proliferation of injuries and deaths in his practice related to distracted driving. It prompted Lamber to establish a web page listing national statistics on distracted driving collisions.



"The bottom line is texting while driving, using the phone and driving, is bad news," Lamber said. "My advice is keep it simple, don't use it, period."

Lamber considers texting and talking into the cellphone, holding it while driving, as creating the maximum risk. He echoed comments made by Carbajal previously that even speaking wirelessly, without handling the phone, creates a level of distraction.

Lamber applauds Brophy McGee's bill, saying a combination of education, legislation and enforcement is needed.

"We all need to be prepared for and contemplate the unexpected," Lamber said.

At least two Arizona officers, Department of Public Safety Trooper Tim Huffman and Townsend, have been killed in roadside collisions caused by distracted driving.

Huffman was killed in May 2013 on Interstate 8 near Yuma when a truck driver, watching pornography on his cellphone, ran him down. The truck driver later was convicted of negligent homicide.

Townsend had stopped a car on the Loop 101 in January, near the McDowell Road exit, when he was struck by a car that veered across two lanes of traffic. The driver admitted to police he had been texting and was arrested on suspicion of manslaughter.

Former state Sen. Steve Farley, D-Tucson, tried for 12 years to pass bans on driving while texting, but was blocked by former state Sen. Andy Biggs, now a congressman, and others who said a texting ban is unenforceable and unnecessary.

Mesnard blocked Farley's latest attempt last year when he served as House speaker and has since transferred to the Senate.

He said Brophy McGee's bill would be easier for police to enforce than a texting ban, which would have required prosecutors to prove someone was texting during a collision rather than using a smart phone for another of its multiple functions.

But Mesnard said he still voted against Brophy McGee's bill because it focused only on cell phones as a source of distraction, the same reason cited by Sen. Eddie Farnsworth for opposing the measure.

"I believe there is a legitimate, dangerous issue with distracted driving," Mesnard said. "The issue should not be focused as much on the means as by the end."

He said more people are better at multi-tasking than others, and that if his bill is passed, "there's a little bit of a judgment call" by police on whether someone involved in a collision was distracted.

That's one reason why Spring Bemis, a cousin of Townsend's, supports Brophy McGee's approach. She said it's crystal clear sets standards for safe driving and for the police to attack distracted driving.

"Keep it black and white," she said. "Let's end it now."

Bemis said, noting that Townsend's son just turned 1-year-old without his father, added: "Our family does not want any more people to suffer and feel the pain."





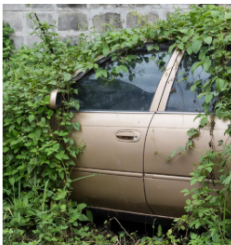
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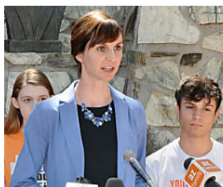
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