



**Statement of Vernon F. Betkey Jr.
Chairman, Governors Highway Safety Association (GHSA)
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House Transportation and Infrastructure Committee
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I. Introduction

Good morning. My name is Vernon F. Betkey Jr. and I am Chairman of the Governors Highway Safety Association (GHSA). GHSA is a nonprofit association that represents state highway safety agencies. Our members administer federal behavioral highway safety grant programs that are authorized under Title II of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Members are appointed by their governors to administer these grant programs and implement statewide behavioral highway safety programs. As part of states' highway safety programs, GHSA members can use a portion of the funds authorized under Title II of SAFETEA-LU to educate the public about the dangers of distracted driving and enforce distracted driving laws in the states that have enacted them.

According to recently released data from the National Highway Traffic Safety Administration (NHTSA), nearly 6,000 people were killed and more than half a million people injured in police-reported crashes involving at least one form of distraction.

This is likely an under-estimate because it is very difficult for law enforcement officials to discern whether or how distractions played a part in a motor vehicle crash. At the same time, it is important to remember that driver distraction is unlikely to be the sole contributing factor to a crash. A distracted driver may also be speeding, following too closely, driving impaired, making frequent lane changes, etc.

Using data from the national observational survey called National Occupant Protection Use Survey (NOPUS), NHTSA estimated that, at any given daylight moment in 2008, approximately 6% of all drivers (812,000 drivers) are using a hand-held electronic device while driving. This increased from 4% in 2002. NOPUS also found that visible manipulation of handheld devices (such as for text messaging) increased from .04% to 1% in that same period. Other NHTSA data sources (Fatality Analysis Reporting Systems, General Estimates System) show similar trends with respect to distractions in general. Clearly, there has been an increase in driver distraction (including but not limited to distraction caused by electronic devices). According to NHTSA data, that has resulted in increased crashes, fatalities, injuries and property damage.

GHSA firmly believes that the problem of distracted driving is significant and is only likely to increase in the future. In order to solve the problem, GHSA feels that distracted driving must be addressed with a comprehensive approach. An effective strategy must include one that focuses on data and research, legislation, education, enforcement and adjudication, employer policies, technology and funding. The remainder of my testimony will address these areas and will discuss the role the federal government could take in each.

II. Data and Research

Determining the nature, scope and impact of driver distraction is very difficult for a variety of reasons. There are different definitions of distractions that have been used in various databases and research reports. Further, it is very difficult for law enforcement officials to detect if someone has been driving distractedly (particularly as a result of electronic device use) because drivers in crashes are not always truthful about their driving behavior. As a result, it is necessary to examine distracted driving data from many sources, using different databases and types of research studies.

The federal government could convene data experts to develop a single definition of distraction that could be used in various federal databases and federally-funded research studies. The federal government could also develop a single definition of serious injuries, work with states to collect improved serious injury data, and develop a national database of serious injuries similar to the Fatality Analysis Reporting System (FARS). That would yield better information on the contributing factors associated with all serious injuries, including those caused by distracted drivers. If the National Accident Sampling System (NASS) were better funded and more crashes

investigated in depth, then much more detailed data could be collected on distracted driving crashes.

Additionally, NHTSA's model crash data element guideline, the Model Minimum Uniform Crash Criteria (MMUCC), could include more detailed data attributes about distraction than it presently does. Changes to the current MMUCC distracted driving data attributes could be considered when MMUCC is next updated. NHTSA could also develop training for law enforcement officials to help them more appropriately code Police Accident Reports to reflect driver distraction.

A number of research studies have been conducted on driver distraction using different research techniques. Each technique – naturalistic driving studies, simulator studies, and epidemiological studies – have their biases, strengths and weaknesses and no one approach “trumps” or is more important than the others. In order to fully understand driver distraction, it is necessary to look at these studies in total.

There are several questions on which further research is needed.

One question relates to the relative riskiness of various distractions, included but not limited to electronic devices. The University of North Carolina Highway Safety Research Center (HSRC) conducted initial research for the AAA Foundation for Traffic Safety on this question in 2001, with a more detailed naturalistic driving study of 70 drivers in 2003. Both studies found that distractions other than cell phone use caused drivers to be at higher risk. Since that time, cell phone use has increased substantially and texting is more prevalent, especially among teens. The use of other potentially distracting nomadic devices (iPods, MP3 players, etc.) also appears to have increased. A federally-funded study (in particular, a naturalistic driving study such as the 2003 HSRC study) would help address the broader issue of the role of different types of distraction.

Research about the safety of hands-free versus hand-held cell phones is not definitive. Studies conducted by the Insurance Institute for Highway Safety (IIHS) and the University of Utah have found that the crash risk for hands-free cell phones is identical to that of hand-held phones. The Virginia Tech Transportation Institute 100-car naturalistic driving study found that hands-free phone were less distracting than hand-held. Virginia Tech has recommended the use of voice-activated hands-free phones. All researchers agree that hands-free phone use is not without risk. More federally-funded research on this topic could help resolve this inconsistency and would be of tremendous value to state legislators contemplating whether to prohibit only hands-held or all cell phone use.

Another major question is the impact of distracted driving legislation on distracted driving. For example, there is relatively little research on the impact of legislation on the use of electronic devices by the general population and target groups such as teens. IIHS has conducted several studies on the impact of hand-held cell phone bans with varying results. Its study of a teen cell phone ban in North Carolina showed that cell phone use actually increased after the ban was enacted. The study of the District of Columbia's hand held ban showed that it did impact cell phone use, primarily because the ban was actively enforced. The study of New York's hand-held ban showed that cell phone use was initially impacted but that a year later, cell phone use was nearly at the level prior to the law's enactment. It is suggested that more federally-funded research on the impact of legislation is needed to properly address this issue.

There are no studies of the effectiveness of text messaging bans, so federally-funded research in this area would be invaluable. Research is also needed on the effectiveness of employer distracted driving policies, educational campaigns, and enforcement activities. Further, there has been no review of the impact of cell phone policies or text messaging bans in European Union countries, Japan, Australia, Israel, two Canadian provinces and a number of other countries. Since those countries have had longer experience with hand-held cell phone bans, it would be illustrative to see what impact those bans have had.

A tremendous amount of research will be needed to evaluate the effectiveness of emerging technologies to eliminate or minimize distractions. The federal government can provide an objective eye with which to determine the cost/benefits of such technology.

Perhaps the most important research question concerns the relative crash risk of various types of distracted driving or the effects of various countermeasures. As noted previously, there is some research on the relative risk of using different types of cell phones. However, there is no research on the relative risk of different types of distractions such as texting, using CD or MP3 players, using navigation systems, etc. There is little data on how much crashes, fatalities or injuries would be reduced if different countermeasures were implemented. As a result, governments and private entities are taking action without knowing whether it will have any impact. Here again, federally-funded research would be invaluable.

III. Legislation

Given the limitations of current data and the absence of definitive research in certain areas, GHSA has taken a more cautious approach in supporting distracted driving legislation. Currently, the Association encourages all states to enact text messaging bans, primarily because the recent Virginia Tech study showed that truck drivers who text message are 23 times more likely to be involved in a crash.

GHSA also supports complete cell phone bans for novice drivers (including teens) and school bus drivers. Research by IIHS and others clearly indicate that teens are easily distracted while driving and that this contributes to a high rate of teen driving crashes. Therefore, it is appropriate that electronic devices that cause teen distractions should be prohibited while the teen learns to drive. Further, the National Transportation Safety Board (NTSB) supports a ban on the use of electronic devices by novice drivers. A ban on teen use of electronic devices can easily be incorporated in a state's graduated driver licensing law and enforced by parents.

Due to the uncertainties about the effectiveness of hand-held versus hands-free cell phone bans, the Association has not supported either a hand-held ban or a complete ban. GHSA believes that a hand-held ban may give drivers a false sense of security that a hands-free device is safe. Furthermore, the type of hands-free devices allowed by states is not the same as the voice-activated hands-free devices recommended by Virginia Tech. As noted previously, hands-free is not risk free.

Currently, 18 states plus the District of Columbia (DC) have enacted text messaging bans for all drivers, 9 states have enacted text messaging bans for novice drivers, 17 states plus DC have enacted novice driver cell phone bans, six states plus the DC and the Virgin Islands have enacted hand-held cell phone bans and 18 states plus DC have enacted school bus driver cell phone bans. Two states – Maine and New Hampshire – have addressed distracted driving more broadly. A summary of current state distracted driving laws can be found on the GHSA website, www.ghsa.org/html/stateinfo/laws/cellphone_laws.html.

According to the National Conference of State Legislatures, 43 states have considered more than 200 pieces of legislation addressing the issue of distracted driving in the past year alone. Clearly, this is an area where state legislatures have been extremely active. Eleven states have enacted text messaging bans in the last year alone. GHSA believes that, given the momentum in the states and within the next two years, nearly all states will have enacted text messaging bans.

Even in those states without specific distracted driving laws, states have sufficient legislative authority regarding reckless or negligent driving with which to address the distracted driving problem. It is important to remember, however, that legislation alone will not solve the problem of distracted driving. Hands-free cell phone and text messaging bans are very difficult to enforce because it is often difficult for the law enforcement official to observe and apprehend a distracted

driver texting or using a hands-free device. Texting is particularly difficult to detect if the driver is texting in his/her lap.

If the legislation is not enforced, then public confidence in the legislation is eroded. A lack of public trust with distracted driving laws may spill over into other traffic safety laws. Experience with speeding laws illustrates what happens when traffic safety laws are not consistently enforced.

One activity that the federal government could undertake is the development of model legislation on distracted driving. This could include appropriate levels for fines or penalties.

IV. Enforcement and Adjudication

As noted in the previous section, legislation alone is insufficient to solve the problem of distracted driving. Distracted driving laws must be properly enforced and adjudicated. When they are properly enforced, as the most recent IIHS research of the District of Columbia's hand held cell phone ban indicates, then cell phone bans can have an impact. If strongly enforced distracted driving laws are not supported by the judiciary and charges are dismissed, then that impact will be significantly reduced.

As shown by the two high visibility enforcement campaigns conducted annually by the states – Click It Or Ticket and Over the Limit, Under Arrest -- enforcement works best in conjunction with paid media that raises awareness about the enforcement. Real gains in seat belt usage nationwide can be largely attributed to this type of high visibility enforcement campaign.

One of the challenges regarding this type of enforcement, however, is that the paid media component is very expensive and there are no new funds with which to conduct additional high visibility enforcement campaigns. In addition, utilizing existing enforcement and media resources for yet another high visibility enforcement campaign may weaken other critical enforcement efforts such as the two previously mentioned.

Furthermore, state and local law enforcement agencies are stretched very thin, partly by competing priorities and partly by recession-related cutbacks. Our experience has shown that, even if additional funds are available for another high visibility enforcement campaign, law enforcement agencies in many jurisdictions would not take advantage of those funds since they have neither the manpower nor interest in more overtime enforcement.

GHTSA believes that the federal government can assist in several ways. Just as NHTSA funded the development, testing and deployment of new low manpower sobriety checkpoints, the Agency could work with law enforcement organizations to develop, test and evaluate special enforcement techniques for apprehending distracted drivers, particularly those drivers using electronic devices. Certain visual cues (such as frequent braking by the driver) could be identified that would aid law enforcement in the recognition and apprehension of distracted drivers.

NHTSA has recently solicited states to participate in a demonstration project involving the enforcement of a hand-held cell phone ban. The results of that demo project should be a valuable first step in the process of assisting law enforcement with appropriately and effectively addressing distracted drivers.

The federal government could also evaluate and document the best practices of states like New York, New Jersey and Washington State that are actively enforcing their distracted driving laws. Additionally, the federal government could develop, pilot test and then disseminate training for law enforcement as well as the judiciary.

V. Education

Research has shown that education efforts alone have little impact in changing driving behavior. Federal and state distracted driving campaigns, by themselves, will raise public awareness about the issue but will not necessarily be effective in changing distracted driving behavior.

NHTSA research, as previously noted, has shown that education in conjunction with high visibility enforcement campaigns is very effective. Research by the Centers for Disease Control and others have shown that education efforts that are part of a larger multi-prong community program can also be effective.

The federal government can assist by developing model educational efforts that are intended to be used with broader community programs. NHTSA has experience in developing “social norming” campaigns whose purpose is to change the normative behavior of drivers in a variety of community settings such as speeding in neighborhoods, school zones or work zones. A similar approach could be taken with distracted driving. Campaigns aimed at specific target populations such as teen drivers or young women could also be developed.

VI. Employer Policies

Employer policies banning the use of electronic devices while driving hold promise. Since employers can be held liable for the dangerous driving behavior of their employees, employers have a self-interest in ensuring that their employees drive safely. According to the National Safety Council, 469 of their member companies have a complete cell phone ban. As the number of work-related cell phone crashes increase, the number of employer bans can be expected to increase as well.

One of the advantages of an employer ban is that it has a greater potential for being enforced than other types of distracted driving policies. An employer can specify that an employee caught violating a company ban will be subject to severe disciplinary action, up to or including dismissal. All it takes is one employee to be caught and the example will be set for others in the company. The recently announced distracted driving policy of the NTSB serves as a model that could be adopted by both public agencies and private sector organizations.

The federal government could develop a model employer policy with input from stakeholder organizations. The model policy could be pilot tested at select companies, revised if necessary and then disseminated through such organizations as the National Safety Council and the Network of Employers for Traffic Safety (NETS).

VII. Technology

There are two types of technology of concern. Devices that are part of the vehicle itself (such as in-vehicle navigational devices, heads up displays, etc.) are regulated by NHTSA. Devices that are not part of the vehicle but are brought in by drivers – so-called nomadic devices -- are regulated by the states. As noted previously, many states are actively exercising that authority.

The federal government should use its authority to ensure that new in-vehicle devices are safe. NHTSA can continue to work cooperatively with the automobile industry as new in-vehicle technology is developed and refinements to the industry’s voluntary guidance on distraction are made. NHTSA could also make certain that the industry is, in fact, following its own guidance.

The federal government can also test the effectiveness of technology that is designed to block the use of nomadic devices under certain circumstances. Although NHTSA does not have specific legislative authority to test breathalyzers, the Agency does so as a courtesy to law enforcement and judicial officials. Once tested, NHTSA then issues a list of certified products. Congress might consider authorizing NHTSA to take a similar approach with respect to emerging technologies

that block the use of cell phones for certain populations, block text messaging, warn drivers of the presence of other drivers using cell phones, etc.

The federal government can also serve as the incubator for the development of new technology that will block or, at least, manage the use of distracting technology. Congress could authorize small incentive grants for inventions that serve this purpose. These grants would hasten development of appropriate technology and bring it to the market as quickly as possible.

As the National Safety Council has noted on several occasions, technology has caused the problem of distracted driving but technology can also be the best solution to the problem. GHSA strongly concurs with this position.

VIII. Funding

Implementation of these recommendations will require additional resources. States need resources to enforce distracted driving laws, purchase paid media to support the enforcement effort, train law enforcement and the judiciary, undertake community campaigns, and enhance their data collection efforts. At present, there are no new federal highway safety grant funds for this purpose. As a result, states will have to dip into their current federal behavioral safety grant funding in order to address the issue. This means that states will divert funding from impaired driving, safety belt, motorcycle safety and child passenger safety programs – all programs that address critical highway safety issues.

The federal government will need considerably more resources to conduct all the necessary research, develop and evaluate model policies and programs, and enhance federal data systems. NHTSA's behavioral research budget lacks sufficient funding to address the various highway safety issues calling for study. The NHTSA cell phone enforcement demonstration project had to be carved out of its current research and demonstration budget for occupant protection. NHTSA does not have the resources to improve the definition of serious injuries, assist states in the collection of serious injuries or create a national database for such injuries. The NASS budget has been reduced from \$20 million to \$12 million, and NHTSA has been forced to use existing funding to support nine separate data systems. If this issue is to be addressed satisfactorily, then, clearly, more federal funding is urgently needed.

The reauthorization of surface transportation programs provides an opportunity to correct the funding problem for both the federal government as well as state governments. The reauthorization provides an opportunity for Congress to address distracted driving in a thoughtful and comprehensive manner

This concludes my statement. The Governors Highway Safety Association appreciates the opportunity to testify on this important issue, and we look forward to working with the Subcommittee on distracted driving and all highway safety issues in the near future.