

**SENATE FINANCE COMMITTEE
MAY 18, 2023**

**SUB. HB 33: OPERATING BUDGET
§4511.204: DISTRACTED DRIVING
PROPONENT TESTIMONY**

Chairman Dolan, Vice Chairman Cirino, Ranking Member Sykes, and members of the Senate Finance Committee, I'm Sharon Montgomery, a victim of a fatal distracted driving crash in 2000. I'm here to ask that you seriously consider using the budget bill as the quickest way to better protect yourselves and other road users from drivers using e-devices.

PENALTIES

Sub. HB 33 bill currently includes one very important revision to the new distracted driving law. ORC Sec. 4511.204(C)(2) allows violators to successfully complete the state's distracted driving safety course instead of paying a fine and having points assessed against their drivers licenses. I think this is an "easy out" because I have yet to find anyone who can assure me we have evidence the course actually changes behavior. But, if this will be an option, the clarifications in Sub. HB 33 are important so all courts are applying the penalties uniformly and consistently across the state.

The revisions are that

- successful completion of the course must be within 90 days of the violation, and
- successful completion does not dismiss the charges for purposes of counting prior violations to apply the increased penalties for future violations.

Also, I would suggest that 4511.991 be reviewed to see if it needs similar clarifications. And, my reading of both 4511.204(C)(2) and 4511.991 indicates that this option is open to violators for first and future offenses. It has always been my understanding that this was intended for first offenders only. Perhaps this clarification—one way or the other-- should be made, too.

Penalties are not only important for deterring violations but also for victim justice. In our crash, my husband died from his injuries, I had life-threatening injuries from mine, and the third victim is permanently partially disabled. The violator was penalized the same as if he had thrown a candy wrapper out his car window. As outrageous as that is, my case is NOT the only one like that! Psychologists tell us having the person who caused the trauma held accountable is crucial for the victim's emotional healing.

EXCEPTIONS

The new law intends to significantly reduce distracted driving but it assumes holding the device is the greatest distraction. It assumes that as long as drivers are **looking** out through the windshield, they are driving safely. This contradicts the fact that **looking** is merely directing one's eyes at something. **Seeing** happens only when the brain interprets the images received through the eyes. When the brain is busy with another task, such as interacting with an e-device, it is not available to interpret images

coming in from outside the vehicle. A driver who is not **seeing** the traffic situation can't possibly drive safely.

The well-intentioned new law has too many permissive exceptions. The two worst were added so late in the process that the public was given no opportunity to comment. Victims and vulnerable road-users, who were left out of the process of creating this law, would like these two removed. Removing them by means of an amendment to this budget bill is the quickest way to do that. Lives are at stake, and as I heard Sen. Cirino say at a hearing once, even one death is too many.

One of the exceptions that needs to be removed is using an e-device while stopped at a red light. Research clearly shows that the mental distraction—the primary danger—lingers after the actual use ends. So, even drivers who notice the light change and immediately stop their use will enter the intersection mentally distracted. Think about all the many activities that can be going on simultaneously in the relatively small space of an intersection! Do you want to be in that crowded, busy space with an oblivious driver?

The other exception is holding the phone near the driver's ear. The new law is built on the premise that holding the device is dangerous. If holding it is dangerous, then holding it near your ear is dangerous, plain and simple. The sponsor's justification for this to the Senate Judiciary Committee was, unfortunately, misleading. He held his phone right in front of his face and said that would obstruct his vision while driving. He was clearly implying that near his ear or right in front of his face were the only options.

Any law to improve traffic safety should do as much as possible to really improve traffic safety.

Thank you for hearing the perspective of a victim who has spent 20 years becoming well-informed about DUIE--driving under the influence of electronics. I would be happy to answer any questions.

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