

## Calendar No. 656

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 1938****[Report No. 111–355]**

To establish a program to reduce injuries and deaths caused by cellphone use and texting while driving.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 27, 2009

Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. LAUTENBERG, Mr. SCHUMER, Mr. THUNE, Ms. KLOBUCHAR, Mr. VITTER, Mr. CASEY, Mr. WARNER, Mr. NELSON of Florida, and Mr. UDALL of New Mexico) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

OCTOBER 29, 2009

Committee discharged; referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 30, 2010

Reported by Mr. ROCKEFELLER, with an amendment

[Strike all after the enacting clause and insert the part printed in italic]

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**A BILL**

To establish a program to reduce injuries and deaths caused by cellphone use and texting while driving.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Distracted Driving Prevention Act of 2009”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for  
5 this Act is as follows:

Sec. 1: Short title; table of contents.  
Sec. 2: Distracted driving incentive grants.  
Sec. 3: Distracted driving national education program.  
Sec. 4: Research and data collection.  
Sec. 5: Research program.  
Sec. 6: FCC report on distracted driving technology.  
Sec. 7: Provision of information to States.  
Sec. 8: Commercial motor vehicles and school buses.  
Sec. 9: Funding.

6 **SEC. 2. DISTRACTED DRIVING INCENTIVE GRANTS.**

7 (a) **IN GENERAL.**—Chapter 4 of title 23, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

10 **“§413. Distracted driving incentive grants**

11 “(a) **IN GENERAL.**—The Secretary shall make a  
12 grant under this section to any State that enacts and im-  
13 plements a statute that meets the requirements of sub-  
14 sections (b) and (c) of this section.

15 “(b) **PROHIBITION ON TEXTING WHILE DRIVING.**—  
16 A State statute meets the requirements of this subsection  
17 if the statute—

18 “(1) prohibits the use of a personal wireless  
19 communications device by a driver for texting while  
20 driving;

1           “(2) makes violation of the statute a primary  
2 offense;

3           “(3) establishes—

4                 “(A) a minimum fine for a first violation  
5 of the statute; and

6                 “(B) increased fines for repeat violations;  
7 and

8           “(4) provides increased civil and criminal pen-  
9 alties than would otherwise apply if a vehicle acci-  
10 dent is caused by a driver who is using such a device  
11 in violation of the statute.

12         “(e) PROHIBITION ON HANDHELD CELLPHONE USE  
13 WHILE DRIVING.—A State statute meets the require-  
14 ments of this subsection if the statute—

15                 “(1) prohibits a driver from holding a personal  
16 wireless communications device to conduct a tele-  
17 phone call while driving;

18                 “(2) allows the use of hands-free devices that  
19 enable a driver, other than a driver who has not at-  
20 tained the age of 18, to initiate, conduct, or receive  
21 a telephone call without holding the device;

22                 “(3) makes violation of the statute a primary  
23 offense;

1           “(4) requires distracted driving issues to be  
2       tested as part of the State driver’s license examina-  
3       tion;

4           “(5) establishes—

5               “(A) a minimum fine for a first violation  
6       of the statute; and

7               “(B) increased fines for repeat violations;  
8       and

9           “(6) provides increased civil and criminal pen-  
10      alties than would otherwise apply if a vehicle acci-  
11      dent is caused by a driver who is using such a device  
12      in violation of the statute.

13      “(d) PERMITTED EXCEPTIONS.—A statute that  
14      meets the requirements of subsections (b) and (c) may  
15      provide exceptions for—

16           “(1) use of a personal wireless communications  
17      device by a driver to contact emergency services;

18           “(2) manipulation of such a device by a driver  
19      to activate, deactivate, or initialize the hands-free  
20      functionality of the device;

21           “(3) use of a personal wireless communications  
22      device by emergency services personnel while oper-  
23      ating an emergency services vehicle and engaged in  
24      the performance of their duties as emergency serv-  
25      ices personnel; and

1           “(4) use of a device by an individual employed  
 2           as a commercial motor vehicle driver, or a school bus  
 3           driver, within the scope of such individual’s employ-  
 4           ment if such use is permitted under the regulations  
 5           promulgated pursuant to section 31152 of title 49.

6           “(e) GRANT YEAR.—The Secretary shall make a  
 7           grant under this section to a State in any year in which  
 8           the State—

9           “(1) enacts a law that meets the requirements  
 10          of subsections (b) and (c) before July 1; or

11          “(2) maintains a statute, that meets the re-  
 12          quirements of subsections (b) and (c), enacted in a  
 13          previous year that is in effect through June 30th of  
 14          the grant year.

15          “(f) DISBURSEMENT AND APPORTIONMENT.—Grants  
 16          to qualifying States shall be disbursed after July 1 each  
 17          year according to the apportionment criteria of section  
 18          402(c).

19          “(g) USE OF GRANT FUNDS.—A State that receives  
 20          a grant under this section—

21          “(1) shall use at least 50 percent of the  
 22          grant—

23                  “(A) to educate and advertise to the public  
 24                  information about the dangers of texting or  
 25                  using a cellphone while driving;

1           “(B) for traffic signs that notify drivers  
2           about the distracted driving law of the State;

3           “(C) for law enforcement of the distracted  
4           driving law; or

5           “(D) for a combination of such uses; and

6           “(2) may use up to 50 percent of the grant for  
7           other projects that improve traffic safety and that  
8           are consistent with the criteria in section 402(a).

9           “(h) DEFINITIONS.—In this section:

10           “(1) DRIVING.—The term ‘driving’ means oper-  
11           ating a motor vehicle on a public road, including op-  
12           eration while temporarily stationary because of traf-  
13           fic, a traffic light or stop sign, or otherwise. It does  
14           not include operating a motor vehicle when the vehi-  
15           cle has pulled over to the side of, or off, an active  
16           roadway and has stopped in a location where it can  
17           safely remain stationary.

18           “(2) HANDS-FREE DEVICE.—The term ‘hands-  
19           free device’ means a device that allows a driver to  
20           use a personal wireless communications device to ini-  
21           tiate, conduct, or receive a telephone call without  
22           holding the personal wireless communications device.

23           “(3) PERSONAL WIRELESS COMMUNICATIONS  
24           DEVICE.—The term ‘personal wireless communica-  
25           tions device’ means a device through which personal

1 wireless services (as defined in section  
 2 332(e)(7)(C)(i) of the Communications Act of 1934  
 3 (47 U.S.C. 332(e)(7)(C)(i))) are transmitted. It does  
 4 not include a global navigation satellite system re-  
 5 ceiver used for positioning, emergency notification,  
 6 or navigation purposes.

7 “(4) PRIMARY OFFENSE.—The term ‘primary  
 8 offense’ means an offense for which a law enforce-  
 9 ment officer may stop a vehicle solely for the pur-  
 10 pose of issuing a citation in the absence of evidence  
 11 of another offense.

12 “(5) PUBLIC ROAD.—The term ‘public road’  
 13 has the meaning given that term in section 402(e).

14 “(6) TEXTING.—The term ‘texting’ means  
 15 reading from or manually entering data into a per-  
 16 sonal wireless communications device, including  
 17 doing so for the purpose of SMS texting, e-mailing,  
 18 instant messaging, or engaging in any other form of  
 19 electronic data retrieval or electronic data commu-  
 20 nication.”.

21 (b) CONFORMING AMENDMENT.—The table of con-  
 22 tents for chapter 4 of title 23, United States Code, is  
 23 amended by adding at the end the following:

“413. Distracted driving incentive grants.”.

1 **SEC. 3. DISTRACTED DRIVING NATIONAL EDUCATION PRO-**  
 2 **GRAM.**

3 (a) IN GENERAL.—The Administrator of the Na-  
 4 tional Highway Traffic Safety Administration shall estab-  
 5 lish and administer a program under which at least 2  
 6 high-visibility education and advertising campaigns related  
 7 to distracted driving will be carried out for the purpose  
 8 specified in subsection (b) for fiscal years 2010 and 2011.

9 (b) PURPOSE.—The purpose of an education and ad-  
 10 vertising campaign under this section shall be to educate  
 11 the public about the risks associated with distracted driv-  
 12 ing, including those associated with—

13 (1) texting (as defined in section 413(h)(6) of  
 14 title 23, United States Code) while driving; and

15 (2) the use of personal wireless communications  
 16 devices (as defined in section 413(h)(3) of that title)  
 17 while driving.

18 (c) ADVERTISING.—The Administrator may use, or  
 19 authorize the use of, funds available to carry out this sec-  
 20 tion to pay for the development, production, publication,  
 21 and broadcast of electronic and print media advertising  
 22 in carrying out traffic safety education and advertising  
 23 campaigns under this section. The Administrator—

24 (1) shall give consideration to advertising di-  
 25 rected at non-English speaking populations, includ-



1       ing those who listen, read, or watch nontraditional  
2       media; and

3           ~~(2)~~ may use a portion of the funds available for  
4       this program to target local jurisdictions that have  
5       enacted laws prohibiting texting or the use of per-  
6       sonal wireless communications devices while driving.

7       ~~(d) COORDINATION WITH STATES.—The Adminis-~~  
8       trator may coordinate with the States to carry out the  
9       education and advertising campaigns under this section to  
10      coincide with high-visibility enforcement of State laws pro-  
11      hibiting texting while driving or the use of personal wire-  
12      less communications devices while driving.

13      ~~(e) ANNUAL EVALUATION.—The Administrator shall~~  
14      conduct an annual evaluation of the effectiveness of the  
15      education and advertising campaigns under this section,  
16      and report the results to the Senate Committee on Com-  
17      merce, Science, and Transportation, and the House of  
18      Representatives Committee on Energy and Commerce.

19   **SEC. 4. RESEARCH AND DATA COLLECTION.**

20      ~~(a) IN GENERAL.—Section 408(e)(2) of title 23,~~  
21      United States Code, is amended to read as follows:

22           ~~“(2) DATA ON USE OF ELECTRONIC DEVICES.—~~  
23           ~~“(A) The model data elements required~~  
24           ~~under paragraph (1) shall include data ele-~~  
25           ~~ments, as determined appropriate by the Sec-~~

retary, in consultation with the States and appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

“(B) In order to meet the requirements of subparagraph (A), State and local governments shall—

“(i) require that official vehicle accident investigation reports include a designated space to record whether or not the use of a personal wireless communications device (as defined in section 413(h)(3)) was in use at the time of the accident by any driver involved in the accident;

“(ii) require that all law enforcement officers, as part of a vehicle accident investigation, inquire about and record the information required by clause (i); and

“(iii) incorporate the information collected under clause (i) into its traffic safety information system.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to grants under section 408 of title 23, United States Code, for fiscal years beginning after fiscal year 2010.

1 **SEC. 5. RESEARCH PROGRAM.**

2       (a) ~~IN GENERAL.~~—The Secretary of Transportation  
3 shall establish a research program to study distracted  
4 driving by passenger and commercial vehicle drivers.

5       (b) ~~SCOPE.~~—The program shall include studies of—

6           (1) driver behavior;

7           (2) vehicle technology; and

8           (3) portable electronic devices that are com-  
9 monly brought into passenger or commercial vehi-  
10 cles.

11       (c) ~~RESEARCH AGREEMENTS.~~—

12           (1) ~~IN GENERAL.~~—In carrying out this section  
13 the Secretary may grant research contracts to non-  
14 governmental entities to study distracted driving.

15           (2) ~~LIMITATIONS.~~—The Secretary may not  
16 grant a research contract under this section to any  
17 person that produces or sells—

18               (A) electronic equipment that is used in ve-  
19 hicles;

20               (B) portable electronic equipment com-  
21 monly brought into passenger or commercial ve-  
22 hicles; or

23               (C) passenger or commercial vehicles.

1 **SEC. 6. FCC REPORT ON DISTRACTED DRIVING TECH-**  
 2 **NOLOGY.**

3 Within 180 days after the date of enactment of this  
 4 Act, the Federal Communications Commission shall sub-  
 5 mit a report to the Senate Committee on Commerce,  
 6 Science, and Transportation and the House of Represent-  
 7 atives Committee on Energy and Commerce that identi-  
 8 fies—

9 (1) data the Commission can collect and ana-  
 10 lyze that will assist in understanding and reducing  
 11 the problem of distracted driving involving the use of  
 12 personal communications devices;

13 (2) existing and developing wireless communica-  
 14 tions technology that may be used to reduce prob-  
 15 lems associated with distracted driving; and

16 (3) existing authority that the Commission may  
 17 use to assist in reducing those problems.

18 **SEC. 7. PROVISION OF INFORMATION TO STATES.**

19 Section 30105 of title 49, United States Code, shall  
 20 not apply to providing government-sponsored research and  
 21 highway safety data; or providing technical assistance; re-  
 22 lating to legislative proposals addressing the dangers or  
 23 potential dangers of—

24 (1) texting while driving a passenger vehicle;  
 25 school bus; or commercial vehicle; or

1           (2) the use of personal wireless communications  
 2           devices (as defined in section 413(h)(3) of title 23,  
 3           United States Code) while driving a passenger vehi-  
 4           cle, school bus, or commercial vehicle.

5 **SEC. 8. COMMERCIAL MOTOR VEHICLES AND SCHOOL**  
 6 **BUSES.**

7           (a) IN GENERAL.—Subchapter III of chapter 311 of  
 8 title 49, United States Code, is amended by adding at the  
 9 end the following:

10 **“§31152. Regulation of the use of distracting devices**  
 11 **in commercial motor vehicles and school**  
 12 **buses**

13           “(a) IN GENERAL.—No later than 1 year after the  
 14 enactment of the Distracted Driving Prevention Act of  
 15 2009, the Secretary of Transportation shall prescribe reg-  
 16 ulations on the use of electronic or wireless devices, includ-  
 17 ing cell phones and other distracting devices, by an indi-  
 18 vidual employed as the operator of—

19           “(1) a commercial motor vehicle while that indi-  
 20 vidual is engaged in the performance of such individ-  
 21 ual’s duties as the operator of the commercial motor  
 22 vehicle; or

23           “(2) a school bus (as defined in section  
 24 30125(a)(1)) that is a commercial motor vehicle (as  
 25 defined in section 31301(4)(A)) while that individual

1 is engaged in the performance of such individual's  
 2 duties as the operator of the school bus.

3 “(b) BASIS FOR REGULATIONS.—The Secretary shall  
 4 base the regulations required by subsection (a) on accident  
 5 data analysis, the results of ongoing research, and other  
 6 information, as appropriate.

7 “(c) PROHIBITED USE.—The Secretary shall prohibit  
 8 the use of such devices in circumstances in which the Sec-  
 9 retary determines that their use interferes with the driv-  
 10 er's safe operation of a school bus or commercial motor  
 11 vehicle.

12 “(d) PERMITTED USE.—Under the regulations, the  
 13 Secretary may permit the use of a device, the use of which  
 14 is prohibited under subsection (c), if the Secretary deter-  
 15 mines that such use is necessary for the safety of the driv-  
 16 er or the public in emergency circumstances.”.

17 (b) CONFORMING AMENDMENT.—The table of con-  
 18 tents for chapter 311 of title 49, United States Code, is  
 19 amended by inserting after the item relating to section  
 20 31151 the following:

“31152. Regulation of the use of distracting devices in commercial motor vehi-  
 cles and school buses.”.

21 **SEC. 9. FUNDING.**

22 Section 2001(a) of Public Law 109–59 is amended—

23 (1) by striking “and” in paragraph (4);

1           (2) by striking “2009.” in paragraph (4) and  
 2           inserting “2009, \$94,500,000 for fiscal year 2010,  
 3           and \$94,500,000 for fiscal year 2011. If any amount  
 4           of the funds authorized by this paragraph has not  
 5           been allocated to States meeting the criteria of sec-  
 6           tion 406 of title 23, United States Code, by July 1  
 7           of a fiscal year beginning after fiscal year 2009, the  
 8           unallocated amount shall be allocated to States  
 9           meeting the criteria of section 413 of that title.”;  
 10          and

11          (3) by redesignating paragraph (11) as para-  
 12          graph (12) and inserting after paragraph (10) the  
 13          following:

14               “(11) DISTRACTED DRIVING PROGRAM.—For  
 15               carrying out section 3 of the Distracted Driving Pre-  
 16               vention Act of 2009, \$30,000,000 for each of fiscal  
 17               years 2010 and 2011.”.

18 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

19          (a) *SHORT TITLE.*—*This Act may be cited as the “Dis-*  
 20 *tracted Driving Prevention Act of 2010”.*

21          (b) *TABLE OF CONTENTS.*—*The table of contents for*  
 22 *this Act is as follows:*

- Sec. 1. Short title; table of contents.*
- Sec. 2. Distracted driving incentive grants.*
- Sec. 3. Distracted driving national education program.*
- Sec. 4. Research and data collection.*
- Sec. 5. Research program.*
- Sec. 6. FCC report on distracted driving technology.*
- Sec. 7. Provision of information to States.*

*Sec. 8. Commercial motor vehicles and school buses.*

*Sec. 9. Funding.*

*Sec. 10. Prohibition on electronic visual entertainment in driver's view.*

1 **SEC. 2. DISTRACTED DRIVING INCENTIVE GRANTS.**

2       (a) *IN GENERAL.*—Chapter 4 of title 23, United States  
3 Code, is amended by adding at the end the following:

4 **“§413. Distracted driving incentive grants**

5       “(a) *IN GENERAL.*—The Secretary shall make a grant  
6 under this section to any State that enacts and implements  
7 a statute that meets the requirements of subsections (b) and  
8 (c) of this section.

9       “(b) *PROHIBITION ON TEXTING WHILE DRIVING.*—A  
10 State statute meets the requirements of this subsection if  
11 the statute—

12               “(1) prohibits the use of a personal wireless com-  
13 munications device by a driver for texting while driv-  
14 ing;

15               “(2) makes violation of the statute a primary of-  
16 fense;

17               “(3) establishes—

18                       “(A) a minimum fine for a first violation  
19 of the statute; and

20                       “(B) increased fines for repeat violations;  
21 and

22               “(4) provides increased civil and criminal pen-  
23 alties than would otherwise apply if a vehicle acci-



1       *dent is caused by a driver who is using such a device*  
 2       *in violation of the statute.*

3       “(c) *PROHIBITION ON HANDHELD CELLPHONE USE*  
 4 *WHILE DRIVING.*—*A State statute meets the requirements*  
 5 *of this subsection if the statute—*

6               “(1) *prohibits a driver from holding a personal*  
 7       *wireless communications device to conduct a telephone*  
 8       *call while driving;*

9               “(2) *makes violation of the statute a primary of-*  
 10       *fense;*

11               “(3) *requires distracted driving issues to be test-*  
 12       *ed as part of the State driver’s license examination;*

13               “(4) *establishes—*

14                       “(A) *a minimum fine for a first violation*  
 15       *of the statute; and*

16                       “(B) *increased fines for repeat violations;*  
 17       *and*

18               “(5) *provides increased civil and criminal pen-*  
 19       *alties than would otherwise apply if a vehicle acci-*  
 20       *dent is caused by a driver who is using such a device*  
 21       *in violation of the statute.*

22       “(d) *PERMITTED EXCEPTIONS.*—*A statute that meets*  
 23 *the requirements of subsections (b) and (c) may provide ex-*  
 24 *ceptions for—*

1           “(1) use of a personal wireless communications  
2           device by a driver to contact emergency services;

3           “(2) allows the use of hands-free devices that en-  
4           able a driver, other than a driver who has not at-  
5           tained the age of 18, to initiate, conduct, or receive  
6           a telephone call without holding the device;

7           “(3) manipulation of such a device by a driver  
8           to activate, deactivate, or initialize the hands-free  
9           functionality of the device;

10          “(4) use of a personal wireless communications  
11          device by emergency services personnel while oper-  
12          ating an emergency services vehicle and engaged in  
13          the performance of their duties as emergency services  
14          personnel; and

15          “(5) use of a device by an individual employed  
16          as a commercial motor vehicle driver, or a school bus  
17          driver, within the scope of such individual’s employ-  
18          ment if such use is permitted under the regulations  
19          promulgated pursuant to section 31152 of title 49.

20          “(e) GRANT YEAR.—The Secretary shall make a grant  
21          under this section to a State in any year beginning fiscal  
22          year 2011 in which the State—

23                 “(1) enacts a law that meets the requirements of  
24                 subsections (b) and (c) before July 1; or

1           “(2) maintains a statute, that meets the require-  
 2           ments of subsections (b) and (c), enacted in a pre-  
 3           vious year that is in effect through June 30th of the  
 4           grant year.

5           “(f) *DISBURSEMENT AND APPORTIONMENT.*—Grants  
 6 to qualifying States shall be disbursed after July 1 each  
 7 year according to the apportionment criteria of section  
 8 402(c).

9           “(g) *USE OF GRANT FUNDS.*—A State that receives a  
 10 grant under this section—

11           “(1) shall use at least 50 percent of the grant—

12           “(A) to educate and advertise to the public  
 13 information about the dangers of texting or  
 14 using a cellphone while driving;

15           “(B) for traffic signs that notify drivers  
 16 about the distracted driving law of the State;

17           “(C) for law enforcement of the distracted  
 18 driving law; or

19           “(D) for a combination of such uses; and

20           “(2) may use up to 50 percent of the grant for  
 21 other projects that improve traffic safety and that are  
 22 consistent with the criteria in section 402(a).

23           “(h) *DEFINITIONS.*—In this section:

24           “(1) *DRIVING.*—The term ‘driving’ means oper-  
 25 ating a motor vehicle on a public road, including op-

1        *eration while temporarily stationary because of traf-*  
 2        *fic, a traffic light or stop sign, or otherwise. It does*  
 3        *not include operating a motor vehicle when the vehicle*  
 4        *has pulled over to the side of, or off, an active road-*  
 5        *way and has stopped in a location where it can safely*  
 6        *remain stationary.*

7                “(2) *HANDS-FREE DEVICE.*—*The term ‘hands-*  
 8        *free device’ means a device that allows a driver to use*  
 9        *a personal wireless communications device to initiate,*  
 10        *conduct, or receive a telephone call without holding*  
 11        *the personal wireless communications device.*

12                “(3) *PERSONAL WIRELESS COMMUNICATIONS DE-*  
 13        *VICE.*—*The term ‘personal wireless communications*  
 14        *device’ means a device through which personal wire-*  
 15        *less services (as defined in section 332(c)(7)(C)(i) of*  
 16        *the Communications Act of 1934 (47 U.S.C.*  
 17        *332(c)(7)(C)(i))) are transmitted. It does not include*  
 18        *a global navigation satellite system receiver used for*  
 19        *positioning, emergency notification, or navigation*  
 20        *purposes.*

21                “(4) *PRIMARY OFFENSE.*—*The term ‘primary of-*  
 22        *fense’ means an offense for which a law enforcement*  
 23        *officer may stop a vehicle solely for the purpose of*  
 24        *issuing a citation in the absence of evidence of an-*  
 25        *other offense.*

1           “(5) *PUBLIC ROAD*.—The term ‘public road’ has  
2           the meaning given that term in section 402(c).

3           “(6) *TEXTING*.—The term ‘texting’ means read-  
4           ing from or manually entering data into a personal  
5           wireless communications device, including doing so  
6           for the purpose of SMS texting, e-mailing, instant  
7           messaging, or engaging in any other form of elec-  
8           tronic data retrieval or electronic data communica-  
9           tion.”.

10          (b) *CONFORMING AMENDMENT*.—The table of contents  
11       for chapter 4 of title 23, United States Code, is amended  
12       by adding at the end the following:

          “413. Distracted driving incentive grants.”.

13       **SEC. 3. DISTRACTED DRIVING NATIONAL EDUCATION PRO-**  
14                                       **GRAM.**

15          (a) *IN GENERAL*.—The Administrator of the National  
16       Highway Traffic Safety Administration shall establish and  
17       administer a program under which at least 2 high-visibility  
18       education and advertising campaigns related to distracted  
19       driving will be carried out for the purpose specified in sub-  
20       section (b) for fiscal years 2011 and 2012.

21          (b) *PURPOSE*.—The purpose of an education and ad-  
22       vertising campaign under this section shall be to educate  
23       the public about the risks associated with distracted driving,  
24       including those associated with—

1           (1) *texting (as defined in section 413(h)(6) of*  
 2           *title 23, United States Code) while driving; and*

3           (2) *the use of personal wireless communications*  
 4           *devices (as defined in section 413(h)(3) of that title)*  
 5           *while driving.*

6           (c) *ADVERTISING.—The Administrator may use, or*  
 7           *authorize the use of, funds available to carry out this section*  
 8           *to pay for the development, production, publication, and*  
 9           *broadcast of electronic and print media advertising in car-*  
 10          *rying out traffic safety education and advertising cam-*  
 11          *paigns under this section. The Administrator—*

12           (1) *shall give consideration to advertising di-*  
 13           *rected at non-English speaking populations, including*  
 14           *those who listen, read, or watch nontraditional media;*  
 15           *and*

16           (2) *may use a portion of the funds available for*  
 17           *this program to target local jurisdictions that have*  
 18           *enacted laws prohibiting texting or the use of personal*  
 19           *wireless communications devices while driving.*

20           (d) *COORDINATION WITH STATES.—The Adminis-*  
 21           *trator may coordinate with the States to carry out the edu-*  
 22           *cation and advertising campaigns under this section to co-*  
 23           *incide with high-visibility enforcement of State laws pro-*  
 24           *hibiting texting while driving or the use of personal wireless*  
 25           *communications devices while driving.*

1       (e) *ANNUAL EVALUATION.*—*The Administrator shall*  
 2 *conduct an annual evaluation of the effectiveness of the edu-*  
 3 *cation and advertising campaigns under this section, and*  
 4 *report the results to the Senate Committee on Commerce,*  
 5 *Science, and Transportation, and the House of Representa-*  
 6 *tives Committee on Energy and Commerce.*

7 **SEC. 4. RESEARCH AND DATA COLLECTION.**

8       (a) *IN GENERAL.*—*Section 408(e)(2) of title 23,*  
 9 *United States Code, is amended to read as follows:*

10               “(2) *DATA ON USE OF ELECTRONIC DEVICES.*—

11                       “(A) *The model data elements required*  
 12 *under paragraph (1) shall include data elements,*  
 13 *as determined appropriate by the Secretary, in*  
 14 *consultation with the States and appropriate ele-*  
 15 *ments of the law enforcement community, on the*  
 16 *impact on traffic safety of the use of electronic*  
 17 *devices while driving.*

18                       “(B) *In order to meet the requirements of*  
 19 *subparagraph (A), State and local governments*  
 20 *shall—*

21                               “(i) *require that official vehicle acci-*  
 22 *dent investigation reports include a des-*  
 23 *ignated space to record whether or not the*  
 24 *use of a personal wireless communications*  
 25 *device (as defined in section 413(h)(3)) was*

1                   *in use at the time of the accident by any*  
 2                   *driver involved in the accident;*

3                   “(ii) *require that all law enforcement*  
 4                   *officers, as part of a vehicle accident inves-*  
 5                   *tigation, inquire about and record the infor-*  
 6                   *mation required by clause (i); and*

7                   “(iii) *incorporate the information col-*  
 8                   *lected under clause (i) into its traffic safety*  
 9                   *information system.”.*

10           (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
 11           *section (a) shall apply with respect to grants under section*  
 12           *408 of title 23, United States Code, for fiscal years begin-*  
 13           *ning after fiscal year 2010.*

14   **SEC. 5. RESEARCH PROGRAM.**

15           (a) *IN GENERAL.*—*The Secretary of Transportation*  
 16           *shall establish a research program to study distracted driv-*  
 17           *ing by passenger and commercial vehicle drivers.*

18           (b) *SCOPE.*—*The program shall include studies of—*

19                   (1) *driver behavior;*

20                   (2) *vehicle technology; and*

21                   (3) *portable electronic devices that are commonly*  
 22           *brought into passenger or commercial vehicles.*

23           (c) *RESEARCH AGREEMENTS.*—



1           (1) *IN GENERAL.*—*In carrying out this section*  
 2           *the Secretary may grant research contracts to non-*  
 3           *governmental entities to study distracted driving.*

4           (2) *LIMITATIONS.*—*The Secretary may not grant*  
 5           *a research contract under this section to any person*  
 6           *that produces or sells—*

7                     (A) *electronic equipment that is used in ve-*  
 8                     *hicles;*

9                     (B) *portable electronic equipment commonly*  
 10                    *brought into passenger or commercial vehicles; or*

11                    (C) *passenger or commercial vehicles.*

12 **SEC. 6. FCC REPORT ON DISTRACTED DRIVING TECH-**  
 13 **NOLOGY.**

14           *Within 180 days after the date of enactment of this*  
 15 *Act, the Federal Communications Commission shall submit*  
 16 *a report to the Senate Committee on Commerce, Science,*  
 17 *and Transportation and the House of Representatives Com-*  
 18 *mittee on Energy and Commerce that identifies—*

19                    (1) *data the Commission can collect and analyze*  
 20                    *that will assist in understanding and reducing the*  
 21                    *problem of distracted driving involving the use of per-*  
 22                    *sonal communications devices;*

23                    (2) *existing and developing wireless communica-*  
 24                    *tions technology that may be used to reduce problems*  
 25                    *associated with distracted driving; and*

1           (3) existing authority that the Commission may  
2           use to assist in reducing those problems.

3   **SEC. 7. PROVISION OF INFORMATION TO STATES.**

4           Section 30105 of title 49, United States Code, shall  
5           not apply to providing government-sponsored research and  
6           highway safety data, or providing technical assistance, re-  
7           lating to legislative proposals addressing the dangers or po-  
8           tential dangers of—

9           (1) texting while driving a passenger vehicle,  
10          school bus, or commercial vehicle; or

11          (2) the use of personal wireless communications  
12          devices (as defined in section 413(h)(3) of title 23,  
13          United States Code) while driving a passenger vehi-  
14          cle, school bus, or commercial vehicle.

15   **SEC. 8. COMMERCIAL MOTOR VEHICLES AND SCHOOL**  
16           **BUSES.**

17          (a) *IN GENERAL.*—Subchapter III of chapter 311 of  
18          title 49, United States Code, is amended by adding at the  
19          end the following:

20    “**§31152. Regulation of the use of distracting devices**  
21           **in commercial motor vehicles and school**  
22           **buses**

23          “(a) *IN GENERAL.*—No later than 1 year after the en-  
24          actment of the Distracted Driving Prevention Act of 2010,  
25          the Secretary of Transportation shall prescribe regulations

1 *on the use of electronic or wireless devices, including cell*  
 2 *phones and other distracting devices, by an individual em-*  
 3 *ployed as the operator of—*

4           “(1) *a commercial motor vehicle while that indi-*  
 5 *vidual is engaged in the performance of such individ-*  
 6 *ual’s duties as the operator of the commercial motor*  
 7 *vehicle; or*

8           “(2) *a school bus (as defined in section*  
 9 *30125(a)(1)) that is a commercial motor vehicle (as*  
 10 *defined in section 31301(4)(A)) while that individual*  
 11 *is engaged in the performance of such individual’s*  
 12 *duties as the operator of the school bus.*

13           “(b) *BASIS FOR REGULATIONS.—The Secretary shall*  
 14 *base the regulations required by subsection (a) on accident*  
 15 *data analysis, the results of ongoing research, and other in-*  
 16 *formation, as appropriate.*

17           “(c) *PROHIBITED USE.—The Secretary shall prohibit*  
 18 *the use of such devices in circumstances in which the Sec-*  
 19 *retary determines that their use interferes with the driver’s*  
 20 *safe operation of a school bus or commercial motor vehicle.*

21           “(d) *PERMITTED USE.—Under the regulations, the*  
 22 *Secretary may permit the use of a device, the use of which*  
 23 *is prohibited under subsection (c), if the Secretary deter-*  
 24 *mines that such use is necessary for the safety of the driver*  
 25 *or the public in emergency circumstances.”.*

1       (b) *CONFORMING AMENDMENT.*—*The table of contents*  
 2 *for chapter 311 of title 49, United States Code, is amended*  
 3 *by inserting after the item relating to section 31151 the fol-*  
 4 *lowing:*

*“31152. Regulation of the use of distracting devices in commercial motor vehicles and school buses.”.*

5   **SEC. 9. FUNDING.**

6       (a) *IN GENERAL.*—*Section 2001(a)(4) of Public Law*  
 7 *109–59 is amended by striking “2010.” and inserting*  
 8 *“2010, of which \$7,500,000 shall be for carrying out section*  
 9 *3 of the Distracted Driving Prevention Act of 2010. If any*  
 10 *amount of the funds authorized by this paragraph has not*  
 11 *been allocated to States meeting the criteria of section 406*  
 12 *of title 23, United States Code, by July 1 of a fiscal year*  
 13 *beginning after fiscal year 2009, the unallocated amount*  
 14 *shall be allocated to States meeting the criteria of section*  
 15 *413 of that title. Unallocated amounts from sections 406*  
 16 *and 413 in a fiscal year shall be carried over to the next*  
 17 *fiscal year for use under sections 406 and 413.”.*

18       (b) *CONFORMING AMENDMENT.*—*Section 406 of title*  
 19 *23, United States Code, is amended by striking subsections*  
 20 *(c) and (d).*

21   **SEC. 10. PROHIBITION ON ELECTRONIC VISUAL ENTER-**  
 22                                   **TAINMENT IN DRIVER’S VIEW.**

23       (a) *VISUAL ENTERTAINMENT SCREENS IN DRIVER’S*  
 24 *VIEW.*—*The Secretary of Transportation shall initiate a*

1 rulemaking proceeding to prescribe a Federal motor vehicle  
 2 safety standard that would prohibit electronic screens from  
 3 displaying broadcast television, movies, video games, and  
 4 other forms of similar visual entertainment that is visible  
 5 to the driver while driving. The standard shall allow elec-  
 6 tronic screens that display information or images regarding  
 7 operation of the vehicle, vehicle surroundings, telematic  
 8 functions such as the vehicle's navigation and communica-  
 9 tions system, weather, time, or the vehicle's audio system.

10 (b) *DEADLINE.*—The Secretary shall issue a final rule  
 11 under subsection (a) within 2 years after the date of enact-  
 12 ment of this Act.

13 (c) *DEADLINE FOR RULEMAKING.*—If the Secretary de-  
 14 termines that a deadline for a final rule under this Act  
 15 or an amendment made by this Act cannot be met, the Sec-  
 16 retary shall—

17 (1) notify the House of Representatives Com-  
 18 mittee on Energy and Commerce and the Senate  
 19 Committee on Commerce, Science, and Transpor-  
 20 tation and explain why that deadline cannot be met;  
 21 and

22 (2) establish a new deadline for that rule.

Calendar No. 656

111<sup>TH</sup> CONGRESS  
2D Session

**S. 1938**

[Report No. 111-355]

**A BILL**

To establish a program to reduce injuries and deaths caused by cellphone use and texting while driving.

NOVEMBER 30, 2010

Reported with an amendment