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**Shut Up and Drive**

By David A. Giacalone

  
ADVOCATE THIS!

There oughtta be a law.

Car phones have turned America into a nation of teenagers. Not thoughtful, curious teens either — but the glued-to-the-phone, risk-denying, “whatever”-type adolescents willing to put everyone’s life at peril for their own convenience, fun and even profit.

It’s only going to get worse. Cheaper rates encourage hours of car phoning a month, while new devices are adding Web distractions such as e-mail, stock quotes and e-shopping.

The facts are scary. More than 100 million Americans now use cell phones. Of those, 87 percent say they use the phone while driving — even though most agree that driving while on the phone is distracting and increases the likelihood of accidents. Studies have confirmed the risk of telecommunicating.

**Drinking and Phoning**

A study by Toronto researchers, reported in *The New England Journal of Medicine* in 1997, found that the risk of having an accident is four times greater if the driver is using a cell phone — the same risk as driving at the legal drinking limit.

Recent British and Japanese studies turned up similar results, finding that drivers on the phone were significantly worse at judging safe stopping distances, anticipating hazards and choosing when to change lanes.

Robert Hahn, a supporter of drivers with cell phones, wrote an opinion piece in *The New York Times* on the results of his 1999 American Enterprise Institute study. He predicted “only” 10,000 serious accidents and 100 deaths per year from those driving while on the phone. He seriously suggested that we “would take the small risk of becoming one of those few fatalities” for the convenience of calling our bosses, spouses or the cops when there’s an emergency — such as, well, an accident.

Of course, driving while on a cell phone is dangerous. But those who do it use the excuses that parents might hear from rebellious teens: “Why don’t you ban radios or talking to passengers or eating in cars?” Well, radios and

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excuses that parents might hear from rebellious teens: "Why don't you ban radios or talking to passengers or eating in cars?" Well, radios and hamburgers don't talk back, expect answers, make demands or require intense concentration. Fellow passengers, unlike phone buddies, can see when traffic demands your attention.

Driving while on a cell phone is an added risk that's easy to eliminate, but no state as yet bans it. Though all states forbid reckless and careless driving, only a few specifically prohibit inattentive or careless driving, which could cover not paying attention while on a cell phone.

### **Flesh-and-Blood Victims**

In November 1999, Patti and Rob Pena in Pennsylvania discovered that there were no legal penalties beyond two traffic tickets and a \$50 fine for a negligent driver who was on a cell phone when he ran a stop sign, broadsided their car and killed their 2-year-old daughter, Morgan Lee. The couple has mounted an educational campaign and is calling for legislation.

In contrast to the current American indulgence in car phones, at least 12 nations — including Australia, Spain, Israel, Portugal, Brazil and Japan — ban or restrict the use of cellular phones in a moving vehicle. So far in the United States, only the town of Brooklyn, Ohio, and two villages in Pennsylvania restrict drivers using hand-held cell phones in moving cars.

Drivers armed with cell phones shouldn't feel confident too much longer, even as they proclaim, "Isn't this America?" Yes, freedom of speech and freedom of travel are in the U.S. Constitution, but they haven't morphed into an inalienable right to phone while driving.

In 1999 alone, bills were proposed in 15 states restricting cell phone use in motor vehicles. Legislators in seven states (Texas, Oregon, Ohio, Nevada, New York, New Jersey and Maryland) tried to ban all phoning while driving. The telecommunications lobby and the right-to-cell-phone supporters prevailed in every state; not even one of the bills made it out of committee. Even proposals to collect accident information concerning cell phones were easily quashed.

In the 2000 legislative year, nine more states have bills pending which would ban cell phones in moving vehicles — Arizona, Indiana, Iowa, Kentucky, Mississippi, New Hampshire, Pennsylvania, Rhode Island, Wyoming.

### **Curing an Addiction**

Are we really a nation of egocentric drivers addicted to cell phones? Will the convenience of wireless communication (and the "need" to do business or socialize) win out over the need for driving safety? As with most consumer problems, a better-informed public may be the key to finding a solution.

Recent polls suggest that the public may already favor banning hand-held cell phones in cars. But I hope politicians reject this relatively easy compromise, which avoids a larger confrontation with the telecommunications industry. Banning hand-held phones might help prevent some accidents because of one-handed driving, but it will do nothing to lessen the inherent distraction of telephone conversations.

Studies show no safety advantage using hands-free phones. Banning hand-held phones may make the problem worse by encouraging more car phone calling. Judging from its many ads for hands-free devices, the car phone industry might actually favor a ban on hand-held devices, as it would force millions to buy new models to make billions of additional phone calls from their cars.

Serious citizens need to start the serious work to ban drivers from using cell

phones. They should face heavy fines, loss of points on their licenses and criminal responsibility if they cause an accident while on the phone. Where a ban isn't politically feasible, insurers should be required to make cell phone use a risk factor in setting auto insurance premiums and law enforcement agencies should be required to keep statistics on car phone use in accidents.

The reality, however, is that politicians don't need more data on car phoning; they need more backbone.

*David Giacalone practiced law for more than 20 years — a decade at the Federal Trade Commission, then as a divorce mediator and children's lawyer. He recently hung up his lawyer's sword, preferring to use pen and PC as a consumer advocate. He currently resides in Rochester, N.Y.*

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