



ARRL The national association for
AMATEUR RADIO

Office of the President
225 Main St.
Newington, CT 06111

July 30, 2009

Janet P. Froetscher
President and Chief Executive Officer
National Safety Council
1121 Spring Lake Dr.
Itasca, IL 60143

Dear Ms. Froetscher:

We would like to commend the National Safety Council's initiative on "distracted driving" and your efforts to make our roads safer for everyone traveling on them. The American Radio Relay League (ARRL) – the national association for Amateur Radio, representing the interests of more than 650,000 federally licensed volunteer Amateur (sometimes called "Ham") Radio operators throughout the United States, would like to bring a few important issues to the attention of the NSC regarding the use of amateur radio emergency communications devices in vehicles. Perhaps you and your staff might consider these issues as you support state legislation in the 2009 and next year's 2010 Sessions.

Amateur radio operators provide essential emergency communications when regular communications channels are disrupted by disaster. Through formal agreements with federal agencies such as the National Weather Service, FEMA, and private relief organizations, the Amateur Radio volunteers protect lives using their own equipment without compensation. The ability of Hams to communicate and help protect the lives of those in danger would be seriously hindered if the federal, state, and local governments do not ensure that Amateur Radio operators can continue the use of their mobile radios while on the road. As ARRL Chief Executive Officer David Sumner has observed based on more than 40 years of experience, "Simplex, two-way radio operation is simply different than duplex, cell phone use. Two-way radio operation in moving vehicles has been going on for decades without highway safety being an issue. The fact that cell phones have come along does not change that."

In order to create the least amount of restrictions on this community of emergency and disaster volunteers, the following should be taken into consideration when creating highway legislation/policy:

Does the language prohibit the use of "wireless electronic devices" or similar? If so, either (1) that term must be defined by statute so as to exclude two-way mobile or portable radios including Amateur Radio or (2) there must be a specific exemption for (perhaps among other two-way radio users) federally licensed Amateur Radio operators when using two-way Amateur Radio equipment.

Does the language prohibit electronic devices that are described more narrowly, e.g. handheld cellular telephones and text messaging devices? If so, is the description sufficiently clear that law enforcement personnel will be able to distinguish between devices that are prohibited and those that are permitted, including Amateur Radios?

I am sure you know there are currently several bills on the state level that exempt amateur radio operators from the prohibition on the use of wireless devices while driving. These include, but are not limited to the following:

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- GA SB 218, which relates to the penalties for harmful acts while driving which result in accidents, exempts the proper use of radios, citizens band radio, or mobile telephone;
- IA SF 190, which would prohibit the use of handheld cellular telephones and other wireless communication devices by motor vehicle operators, does not apply to the use of an amateur radio by a federally licensed amateur radio operator;
- OK HB 1782, which relates to full time attention while driving, prohibits use of certain devices by operators of motor vehicles and provides exceptions for a person who is operating an amateur radio and who holds a current, valid amateur radio station license issued by the Federal Communication Commission; and
- TX HB 55, which was signed into law in June 2009, relates to the offense of using a wireless communication device (narrowly defined as “a device which uses a commercial mobile service as defined by 47 USC Section 332”) while operating a motor vehicle and exempts an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.

We would welcome the opportunity to review further these issues and explain the important role of amateur radio operators in emergency communications operations to save lives and property in disasters and severe weather. Attached is a policy statement adopted by the ARRL explaining this issue in more detail.

Sincerely,

Joel Harrison
President

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POLICY STATEMENT
of
ARRL, THE NATIONAL ASSOCIATION FOR AMATEUR RADIO
Adopted by the ARRL Executive Committee, January 30, 2009

Mobile Amateur Radio Operation

ARRL, the national association for Amateur Radio, formally known as the American Radio Relay League, Incorporated (ARRL) is the principal advocate for the interests of FCC-licensed Amateur Radio operators in the United States. Obtaining an FCC Amateur Radio license requires the passing of a written examination on regulations, operating practices, electronics theory, and safety. There are approximately 680,000 licensed Amateur Radio operators in the United States. Amateur Radio operators provide emergency and public service communications on a volunteer, uncompensated basis. Amateur Radio is an avocation, which is intended by the Federal Communications Commission to encourage and promote technical self-training, international goodwill, non-commercial communication service (particularly with respect to emergency communications), advancement of radio technology, and expansion of the existing reservoir of trained operators, technicians, and electronics experts. Amateur Radio operators are responsible for many advances in electronics and telecommunications technology over the past 100 years.

In the course of preparing for and conducting emergency, disaster and other public service communications, Amateur Radio operators routinely equip their motor vehicles with two-way radios, operated most often with hand-held microphones. The radios are typically installed in the vehicles and utilize fixed mounted speakers. Unlike cellular telephones, the speakers are not held to the face; the radios remain in the receive mode most of the time; transmissions typically are brief and infrequent. The microphone is held only when a transmission is being made or is imminent, and otherwise is stowed in a position where the operator can reach it without removing his or her eyes from the road. Amateur operators often conduct mobile communications as participants in networks of stations, controlled often by a fixed station, not unlike commercial dispatch mobile radio systems. Radio amateurs have regularly used mobile two-way radio systems for the past 70 years. The ARRL is aware of no evidence that such operation contributes to driver inattention. Quite the contrary: radio amateurs are public service-minded individuals who utilize their radio-equipped motor vehicles to assist others, and they are focused on driving in the execution of that function.

The States encourage mobile amateur radio operation as a public benefit. Every State issues license plates to motor vehicles of licensed radio amateurs showing their FCC-assigned call letters, in order to identify a particular vehicle as a mobile-radio equipped vehicle. The United States Congress, in 1994, in a Joint Resolution (S.J. Res. 90/H.J. Res. 199 (1994)), in “recognizing the achievements of radio amateurs, and to establish support for such amateurs as national policy” found and declared, among other things, that: “reasonable accommodation should be made for the effective operation of

amateur radio from residences, private vehicles and public areas, and that regulation at all levels of government should facilitate and encourage amateur radio operation as a public benefit.”

The ARRL acknowledges numerous and increasing instances of state legislative proposals (and occasionally municipal ordinance proposals) to curb the use of cellular telephones while operating motor vehicles, ranging from prohibitions on hand-held telephones to prohibitions on all forms of electronic devices. These statutory proposals would supplement the more generalized motor vehicle code requirements that exist in various forms in virtually all States, which require operators of motor vehicles to pay full time and attention to the operation of the vehicle while driving. ARRL understands that driver inattention is a leading cause of automobile accidents, and it is not unreasonable to be concerned about substantial distractions to drivers of motor vehicles.

Typically, the intention of this type of legislation is to prohibit the operation of cellular telephones specifically, and devices incorporating full duplex wireless telephones, while operating a motor vehicle. Some such statutes prohibit the use of such devices while driving unless they incorporate “hands-free” peripheral attachments. There is substantial variation in the definition of the devices regulated by the legislation. Often, the proposed statutory language broadly prohibits operation of “mobile communication devices” or “mobile electronic devices” while driving. Whether or not intentionally, some of these proposed statutes or ordinances would in fact, or could be interpreted to prohibit the operation of Amateur Radio equipment by drivers of motor vehicles. Often, there are exemptions to the general prohibition of mobile electronic or communication devices while driving. Some legislation specifically exempts devices that are operated on a hands-free basis. Other exemptions reference specific types of devices or radio services (such as public safety land mobile radio, Citizen’s Radio Service or business and industrial land mobile radio) which are not intended to be restricted. Some legislation specifically exempts licensed Amateur Radio mobile operation; some does not.

Amateur Radio mobile operation is ubiquitous, and Amateur Radio emergency and public service communications, and other organized Amateur Radio communications activities and networks necessitate operation of equipment while some licensees are driving motor vehicles. Two-way radio use is dissimilar from full-duplex cellular telephone communications because the operator spends little time actually transmitting; the time spent listening is more similar to, and arguably less distracting than, listening to a broadcast radio, CD or MP3 player. There are no distinctions to be made between or among Amateur Radio, public safety land mobile radio, private land mobile radio, or citizen’s radio in terms of driver distraction. All are distinguishable from mobile cellular telephone communications in this respect. Nevertheless, ARRL encourages licensees to conduct Amateur communications from motor vehicles in a manner that does not detract from the safe and attentive operation of a motor vehicle at all times.

Given the necessity of unrestricted mobile Amateur Radio communications in order for the benefits of Amateur Radio to the public to continue to be realized, ARRL urges state and municipal legislators considering restrictions on mobile cellular telephone

operation to (I) narrowly define the class of devices included in the regulation so that the class includes only full duplex wireless telephones and related hand-held or portable equipment as defined below; or alternatively (II) specifically identify licensed Amateur Radio operation as an excluded service.

Suggested statutory language for state motor vehicle codes follows:

(Definition)

“Cellular Telephone (or Mobile Communications/Electronic Device)” as used herein means hand held or portable electronic equipment capable of providing full duplex, wireless voice or data communications via the public switched telephone network between two or more people. Also included are devices for text messaging or paging, personal digital assistants, laptop computers, equipment capable of playing video games or video disks, or equipment on which digital photographs are taken or displayed.

(Prohibited Acts)

Section _____ **Use of cellular telephones or mobile communications/electronic devices prohibited.** No person shall use a cellular telephone (or mobile communications or electronic device) in any manner, including the reading or sending of text or electronic messages on the telephone, while operating a motor vehicle unless the telephone is specifically designed to allow hands-free operation and the telephone is so used. This section shall not apply to a person who is using the cellular telephone (or mobile communications/electronic device): (a) While the vehicle is lawfully parked; or (b) To contact or receive calls from an emergency response vehicle or agency.

(Exclusion)

A mobile (electronic/communication) device does *not* include audio equipment or any equipment installed in the vehicle to provide navigation or emergency information to the driver, or video entertainment exclusively to passengers in the back seat. Nor does it include two-way mobile radio transmitters or receivers used by licensees of the Federal Communications Commission in the Amateur Radio Service.

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