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# Talk is Cheap, But Texting While Driving Shouldn't Be

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## Talk is Cheap, But Texting While Driving Shouldn't Be

NOVEMBER 8, 2013 BY [KRISTINA MAALOUF](#) 1 COMMENT

Why do so many people still text while driving?

According to the [U.S. Government](#), texting while driving is the most dangerous distraction for a driver because it requires visual, manual, and cognitive attention. In a [2009 Virginia Tech Transportation Institute \(VTTI\)](#) study sponsored by the U.S. Department of Transportation, VTTI reported that drivers who texted were 23.2 times more likely to be involved in "safety-critical events," defined as crashes, near-crashes, crash-relevant conflicts, and unintentional lane deviations.

On January 1, 2009, the [Wireless Communications Device Law](#) came into effect in California, making it an infraction to write, send, or read text messages while driving. While California should be applauded for taking the issue seriously and creating laws to discourage drivers from texting, the fines associated with violating the law are relatively low compared to the potential costs to life in the event of a crash. The California Department of Motor Vehicles website lists a \$20 base fine for the first offense and a \$50 base fine for subsequent violations (though the base fine can more than triple when penalties are attached).

These fines and penalties are simply not high enough to discourage drivers from texting. Unless larger fines and harsher penalties are imposed, drivers who text will continue to disregard the law. Moreover, the means for detecting texting violations appear to be inadequate, leading many drivers to believe that they will get away with it. California should increase its fines and penalties for texting while driving, but it should also find innovative ways to deal with the problem in order to send the message to drivers that they will be caught.

New York, for example, has done just that. On September 23, 2013, [New York Governor Andrew Cuomo](#) announced the introduction of 91 "texting zones" on his state's highways to encourage drivers to pull into a texting zone to text instead of committing the act while driving. Nearly 300 signs were strategically placed along the highways to notify drivers of upcoming zones.

The governor also announced that due to the state police crackdown on cell phone use while driving, 365% more tickets were issued in the summer of 2013 compared to the summer of 2012. Texting violations accounted for 5,553 of the tickets issued. To assist in identifying texting drivers, state police used [Concealed Identity Traffic Enforcement \(CITE\)](#) vehicles, unmarked SUVs that have higher-than-average platforms and allow police officers to get a better view into vehicles.

[New Jersey](#) has taken a more stringent approach. In September 2009, a driver on a rural highway was texting with a friend when he swerved into oncoming traffic and collided with a married couple on a motorcycle. The couple each lost a leg and brought a negligence [lawsuit](#) against both the driver *and* the friend who had been texting him.

After settling with the driver, the couple pursued the negligence claim against the friend on appeal. In a controversial decision, the court held that a person who texts a driver *can* be held liable if the person 1) knows that the recipient is driving and 2) knows that the recipient would violate the law by viewing and responding to the text. The friend in this case was ultimately found not liable because the couple failed to prove that she knew the recipient of her text message was driving and that he would violate the law by viewing and responding to her text.

In addition, New Jersey recently [increased its fines](#) for texting while driving. The first offense now carries a fine of up to \$400, and subsequent offenses can cost a driver up to \$800. Drivers who are convicted of three or more offenses also face the possibility of a 90-day driver's license suspension

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and an assessment of three motor vehicle points. Under another [new law](#), if a distracted driver (a driver who is texting, for example) causes an accident, the driver could face fines of up to \$150,000 and up to 10 years of jail time, in addition to other criminal and civil liability.

Alaska, however, has some of the toughest anti-texting laws in the country. According to [Alaska's Department of Public Safety](#) website, texting while driving is a Class A misdemeanor, with penalties of up to \$10,000 in fines and 1 year in prison. Furthermore, if a texting driver injures or kills someone, the violation would constitute a felony. The driver could face maximum penalties of between \$50,000 and \$250,000 in fines and between 5 and 20 years in prison.

In California's defense, [convictions](#) for texting violations increased 47% from 2010 to 2011, from 7,924 convictions to 14,886. But California still has a long way to go in addressing the texting-while-driving problem. Alaska's approach may be too extreme, but the New York and New Jersey models strike the right balance. In particular, New York's approach provides an ideal compromise between achieving safety on the road and offering drivers an alternate way to text on the go. If California adopts one of these models, drivers will be more motivated to refrain from texting than they are under the current enforcement regime, resulting in a safer driving experience for all.

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