

POLICY STATEMENT
of
ARRL, THE NATIONAL ASSOCIATION FOR AMATEUR RADIO
Adopted by the ARRL Executive Committee, October 4, 2014

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 more than 720,000 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-amateur 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.”

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 and to prohibit text messaging via mobile broadband devices, ranging from prohibitions on mobile use of hand-held telephones to prohibitions on all forms of electronic devices. Most recently, the specific emphasis of these statutes is the prohibition of mobile text messaging. These statutory proposals 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.

Some such statutes prohibit the use of cellular telephones while driving unless they incorporate “hands-free” peripheral attachments, and most now prohibit use of text messaging functions on mobile broadband devices entirely while driving a motor vehicle. 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. In the past there have been enacted *exemptions* to the general prohibition of the use of mobile electronic or communication devices while driving. Some legislation specifically exempts devices that are operated on a hands-free basis except that mobile text messaging is prohibited. 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.

In a letter to ARRL dated August 24, 2009, the National Safety Council stated as follows:

We are not aware of evidence that using amateur radios while driving has significant crash risks. We also have no evidence that using two-way radios while driving poses significant crash risks. Until such time as compelling, peer-reviewed scientific research is presented that denotes significant risks associated with the use of amateur radios, two-way radios or other communication devices, the NSC does not support legislative bans or prohibition on their use.

There is thus a reasonable basis for excluding Amateur Radio communications from the prohibitions on mobile telephone operation and mobile text messaging while operating a motor vehicle.

In 2012, Congress enacted the “Moving Ahead for Progress in the 21st Century Act” (MAP-21), Public Law 112-141 (2012). MAP-21 provides in part that in order to qualify for grant funds under a Federal grant program to discourage distracted driving, a State must enact and enforce statutes prohibiting “texting through a personal wireless communications device while driving” and any use of such a device by a driver under the age of 18. States whose statutes don’t include these provisions do not qualify for grant funds under the program. **The definition of “personal wireless communications devices” is a device through which “commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services” are transmitted.** That definition is sufficient to exclude Amateur Radio from the prohibitions, but not all States use that precise definition in existing statutes. ARRL encourages the use of the language in MAP-21 in State statutes and municipal ordinances dealing with mobile telephone and mobile text messaging limitations.

In some State legislation, exemptions from the mobile cellular/mobile texting prohibitions specifically identify Amateur Radio as an *exempt* activity.

The ONLY permitted exemptions under MAP-21, however, are as follows:

- ▶ a driver who uses a personal wireless communications device to contact emergency services;
- ▶ emergency services personnel who use a personal wireless communications device while operating an emergency services vehicle and engaged in the performance of their duties as emergency services personnel; and
- ▶ an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is permitted under the regulations promulgated pursuant to section 31152 of title 49.

Therefore, providing an exemption for Amateur Radio from State mobile cellular/mobile texting statutes (in lieu of a definition which on its face excludes Amateur Radio two-way communications) is no longer possible.

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; and there is no text messaging in normal Amateur Radio mobile operation. 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 and devices capable of mobile wireless text messaging in terms of function and the capacity for driver distraction. 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 and mobile text messaging to 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.

Suggested statutory language for state motor vehicle codes follows:

(Definition)

“Personal Wireless Communications Device” as used herein means a device through which commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services are transmitted. Such devices include 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, and devices for text messaging or paging, but do not include two-way radio communications equipment such as that used in the Amateur Radio Service.

(Prohibited Acts)

Section _____ **Use of Personal Wireless Communications Devices prohibited.** No person shall use a Personal Wireless Communications Device in any manner, including the reading or sending of text or electronic messages on the telephone, while operating a motor vehicle unless the device 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 device: (a) While the vehicle is lawfully parked; or (b) To contact or receive calls from an emergency response vehicle or agency.