



Cell phone safety going too far?

As a trial lawyer, I was an early advocate of the movement to outlaw hand-held cell phones while driving. Extending these laws to prohibit texting while driving is the obvious next step. But I worry that the recent movement to ban all phone use while driving may be taking a good thing too far.

I have represented dozens of pedestrians who were injured when struck by negligent drivers. So, it was not unusual when my firm was hired in September 2004 by a city of Chicago traffic aide who was run down by a negligent driver while directing traffic in a downtown Chicago intersection.

Likewise, it was not surprising when we were hired four days later by a woman who was crossing Cannon Drive in Chicago's Lincoln Park when she was struck by a pickup truck. Both drivers were talking on hand-held cell phones at the time of the crashes, and it was the cell phones that prevented them from seeing and avoiding their victims.

There was no law in 2004 which made it illegal to use a hand-held cell phone while driving. But in early 2005, in the wake of the injuries suffered by my two clients, and with the cooperation and encouragement of their families, Chicago Alderman Burt Natarus introduced such an ordinance. The bill passed City Council, and on July 1, 2005, Chicago became only the second municipality in the nation to prohibit driving a car while talking on a hand-held cell phone. As of now, 24 states and hundreds of cities have similar laws.

In 2005, text messaging was in its infancy. So few people did it that there were no laws addressing the subject of texting while driving.

Now, five years later, it seems texting is the preferred form of communication. Federal research recently revealed that drivers have their eyes off the road for 4.6 seconds out of every 6 seconds of driving while texting. Fortunately, legislation is keeping up with this changing practice. On Jan. 1, Illinois became the 17th state to ban texting while driving.

In the last several months, Oprah Winfrey has joined this movement and urged her viewers to take a "no phone zone pledge," promising not to talk on the phone, text, or e-mail while driving. This is an admirable initiative led by a credible and powerful person.

But recently, we have heard calls to expand these laws even further, and ban any cell phone conversation, even hands-free, while driving. The argument is that the distraction of talking on the phone is what causes accidents rather than the physical impairment of holding the device or dialing.

Despite the fact that this argument is not supported by safety research, such a broad cell phone ban would be an impractical law for two reasons. First, how would an enforcing police officer know when a driver is engaged in a hands-free telephone conversation in a closed car? Second, if it is truly the "distraction" of a conversation that causes accidents, then why not also prohibit conversations with other passengers in the car? You see, taken to this extreme, such a so-called safety law would be so illogical that it would defeat the benefits of the hand-held and texting bans currently in place.

Let's continue to applaud and support the current safety laws as they are written. But in doing so, we must be careful not to overstep and risk losing all of the benefits we have gained.