



Karen Tam

Driving
While Talking
on the
Telephone:
How Risky the Mix?

by David Rice

Executive Summary

How serious is the problem of talking on the phone while driving as it relates to highway safety? Does using a cell phone while driving a car represent a dangerous diversion of attention or merely a mild distraction? Should the practice be banned, regulated, or left alone?

Traffic fatalities involving cell phone use and numerous studies of cell phone use and driving are helping to fuel the call for regulation. While only one state has actually banned the practice of driving while talking on a hand-held phone, many states now are taking up the issue. So far, none have gone so far as New York, which actually outlawed telephone conversations involving motorists using hand-held phones who are driving on the highway. New Yorkers who wish to make a phone call must pull over on the shoulder of the road. However, more states are considering regulation. A total of 43 state legislatures had bills before them in 2001 to ban or regulate driving while talking on the telephone. Besides action on the state level, a dozen U.S. municipalities and 24 countries have regulated the use of cell phones in cars, including Brazil, Germany, Great Britain, Israel, Japan, and Switzerland.

Meanwhile, evidence continues to accumulate on whether cellular telephone conversations represent a significant driver distraction. A study by the Highway Safety Research Center at the University of North Carolina at Chapel Hill found cell phone conversations to be the eighth most likely cause of accidents blamed on driver distraction—behind spotting a person or object outside the vehicle, adjusting the radio or cassette controls, other vehicle occupants, a moving object inside the vehicle, adjusting temperature controls, and eating or drinking. A separate study by the Highway Safety Research Center found 3.1 percent of drivers talking on a cellular phone at any given time, while yet a third study—this one in Utah—found drivers to be as distracted by the telephone conversation as by manipulation of the phone itself. This study calls into question the most frequently mentioned legislative solution—mandated use of hands-free telephone technology so both the driver's hands can remain on the steering wheel. But critics of this study argue that it was based on simulated driving rather than an actual highway experiment.

The most frequently cited research among those who favor cell phone regulation is a 1997 Canadian study published in the *New England Journal of Medicine* that found driving while using a hand-held telephone quadrupled the risk of an accident, creating a risk level comparable to that of driving while legally impaired by alcohol. Additional research concerning driver performance points to slowed reaction time in braking, weaving in lanes, and speeding up and slowing down while talking on the phone.

Some legislators continue to call for more study, while others say it's a matter of common sense that driving while talking on the telephone is dangerous and ought to be regulated. Even one cellular telephone company, Verizon Wireless, says it favors requiring drivers to use hands-free devices as long as there is (1) a two-year phase-in of the law, (2) cell phone use is not treated more harshly than other driver distractions, and (3) the state law preempts local laws and regulations. Yet Verizon stands virtually alone in its embrace of state-level legislation. The Cellular Telecommunications and Internet Association, a trade association representing cell phone companies and others, argues that driving while talking on the telephone is only one distraction among many, and the focus needs to be on driver inattentiveness generally. It also should be noted that cell phones are often used for good purpose on the highways, such as reporting auto accidents or drivers who seem to be impaired by alcohol or drugs.

Indeed, there is little agreement on the magnitude of the problem of driving while talking on the telephone, much less agreement on the proper solution. Still, it seems clear that state legislatures will increasingly be called upon to deal with the issue in the months and years ahead. In North Carolina, a legislative study committee has been asked to examine proposals to require the use of speaker-phones and headsets and report to the 2003 General Assembly.

If anyone knows how dangerous a distracted driver can be, it's Melda Smith. On Nov. 9, 1999, Smith's 25-year-old sister, Shannon Smith, was on her job as a prison guard at Johnston Correctional Center. She was standing by the road watching a crew of inmates working along U.S. 70 between Clayton and Smithfield when along came a vehicle driven by Laura Elena Reyes.

Reyes later testified that she was driving her sister's sport-utility vehicle, with her sister in the front passenger seat and her 4-year-old son in the back, when her cell phone rang.¹ She reached for the phone. But it slipped from her hand and fell, and she began fishing for it on the floor. She looked up and realized she'd driven off the road. As she tried to pull back onto the highway, she lost control. In an instant, Shannon Smith was hit and killed.

Accidents such as the one that claimed the life of Shannon Smith provide strong anecdotal evidence of the dangers of driving while distracted by cellular telephones. Increasingly, such episodes have led to cries for regulating or even banning driving while talking on the telephone. But is the

issue as straightforward as it seems? How prevalent is the distraction of driving while talking on the telephone? How often does talking on the telephone lead to accidents? How serious is the distraction relative to other driver distractions, such as screaming babies, dropped CDs or cassette tapes, or even a fast food meal consumed while driving? Should driving while talking on the telephone be regulated or even banned outright? These are questions without ready or simple answers.

Even Melda Smith, who lost her sister, has questions about how far the state should go to regulate cellular telephone use in the car. These days, however, Melda leans toward a law that forbids the use of hand-held cellular phones in cars—a measure such as the one lawmakers in New York have already adopted. She believes such a law might prevent accidents in North Carolina.

"I think it'd help," Smith says. "If you use common sense while you're using a cell phone, if you're in heavy traffic, you can lay the phone down or cut the conversation short. . . . I've had people sit in my driveway and use a cell phone and I don't say anything to them, because I know that at least they're not out killing somebody."

David Rice is the state capital correspondent for the Winston-Salem Journal.

Smith, an assembly technician at a Caterpillar plant in Clayton, says that until the accident that killed her sister, she talked on a cell phone herself while driving. But since the accident, she no longer owns a cell phone. And while she favors a law that would require drivers to use a speakerphone or headset while driving, she warns that even a law against using hand-held phones in cars wouldn't be a cure-all for distracted driving. "In one aspect you will help it, but in another, it really won't help at all," she said. "You have some folks who are so in tune to the conversation—it's not so much the phone but the conversation [that distracts]. . . . It takes your mind off the road."

Calls for Legislation Grow

As their use spreads and more people notice their fellow drivers driving erratically, support has grown for limits on cell phone use in cars and "driving while distracted," in North Carolina and elsewhere. Impacts of driving while talking on the telephone recorded in a Consumers Union study include weaving in traffic lanes, slowing down to dial and then speeding up again, or slowing down while talking on the phone.² These observations were consistent with the findings in a University of Utah study using driving simulators. "When you're talking, you're impaired," notes David Strayer, a psychologist at the University of Utah and the principal author of the Utah study.

Further fueling the interest in cell phone legislation is the mention of cell phone use in newspaper articles about traffic accidents, including an April 2001 car crash that severely injured supermodel Niki Taylor.³ More recently, a teenage driver in Taylorsville, N.C., blamed cell phone distraction for an April 2002 accident that killed a 64-year-old passenger in another car.⁴ Kelly Mitchell, 19, of Claremont told police she was checking her cell phone for messages and had to lay the phone in her seat. When she looked up there was another car in the intersection. Authorities said Mitchell had run a red light before striking the vehicle.

Citing a survey that found that 80 percent of its members favor a ban on hand-held phones while driving, AAA Carolinas Motor Club called for such a law in August 2000,⁵ and the organization continues to pursue the issue aggressively. Eighty percent of respondents to a mail-in survey on the group's 2002 legislative priorities say they favor a ban on the use of hand-held cell phones in automobiles except in emergency situations.⁶ "There's not a driver on the road who has not seen a driver weav-

ing or altering his behavior while talking on the phone," said Tom Crosby, the vice president for communications at AAA Carolinas. "There's not a single honest driver that wouldn't admit that while they are on the phone and driving, they are a less safe driver. With one hand on the wheel, you cannot respond as effectively as you can with two hands on the wheel."

Crosby says the motor club is particularly concerned about drivers who perform more complicated moves such as turns while chatting on a hand-held phone. "It's very difficult to turn the wheel with one hand when making a 90 degree left or right-hand turn," says Crosby. "You need to have both hands on the wheel."

The motor club stops short of calling for an outright ban on telephone conversations in the car, favoring instead a hands-free approach. "It's clear that while you are talking on the phone, you are dis-

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traced, even with two hands on the wheel," says Crosby. "But banning all cell phone conversations in the car would be like banning conversations with passengers."

Strayer of the University of Utah disagrees that banning cell phone use in cars would be like banning conversation with a passenger in the car. Strayer points to research that shows the likelihood of an accident actually goes down when a passenger is in the car because both the passenger and the driver are aware of the ebb and flow of traffic and both are able to spot potential traffic hazards. On the other hand, he says, "If you own a cell phone you are more likely to have an accident, and the more you use it, the more likely you are to have an accident."

The Cellular Telephone and Internet Association (CTIA), an industry group, reports that there are now more than 130 million cell phone users in the United States.⁷ The National Highway Traffic Safety Administration (NHTSA) estimates that 73 percent of those phone owners use them while driving.⁸ Thirteen counties or municipalities have

banned the use of hand-held phones in cars. And, 140 bills were filed in legislatures in 43 states last year to limit cell phone use in cars.⁹

New York's legislature made it the first state in the nation to ban the use of hand-held phones while driving last year, with a penalty of as much as \$100. The law requires drivers to use a hands-free device or pull over to the shoulder of the road before dialing. A driver seen holding a telephone near his or her ear is presumed to be talking on the telephone unless the driver can produce documentation in court—such as telephone records—proving otherwise.¹⁰ The legislative victory in the Empire State emboldened other state legislatures to consider the issue, though no state has gone as far as New York.

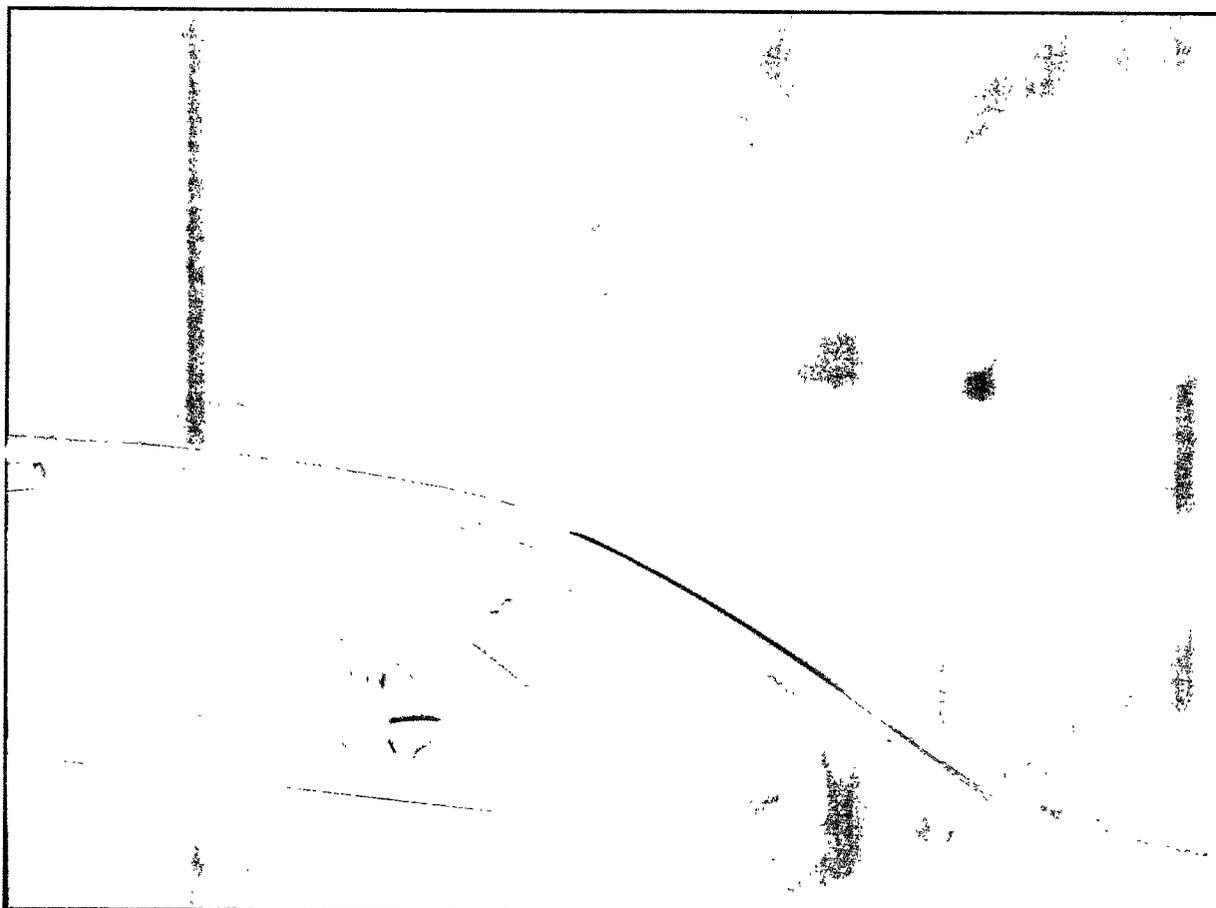
In Massachusetts, phones can be used as long as one hand stays on the steering wheel at all times. But state law bans the use of phones while driving a school bus.

Rhode Island's legislature passed a bill to limit phone use while driving, but the governor vetoed it. Tennessee's state Senate passed a bill to prohibit teen drivers from using cell phones while driving, but the measure died in the state House.

State Rep. Joni Bowie (R-Guilford) sponsored one of two bills¹¹ in the North Carolina House of Representatives to outlaw the use of hand-held phones while driving. Bowie's bill would carry a \$25 fine for violators—but no driver's license or insurance points—and it would allow drivers to use headsets.

Bowie's bill, and a similar one (House Bill 62) sponsored by Rep. Mary McAllister (D-Cumberland) were both routed to a legislative study committee assigned to examine proposals to require the use of speakerphones and headsets and report to the 2003 General Assembly. "My gut feeling is within the next eight years, it's just going to be standard equipment in cars, like a stereo or whatever," Bowie says. "I just am absolutely convinced with the number of people using these on the highway, as crowded as our highways are becoming, the distraction is becoming too big to ignore."

Bowie, too, says that it's not just dialing a phone but the nature of some conversations that can be distracting. "You could be talking to your broker about losing \$100,000 in the stock market. It's a totally different type of distraction than just tak-



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ing your hand off the wheel to sip a Coke," she says.

Like workplace safety rules that weren't enacted until workers at a chicken plant in Hamlet died in a fire, Bowie says, "Nobody cares about it until something happens. I hope it doesn't take a tragedy before the state of North Carolina moves to the forefront on this. It's coming all over the country."

Senate President Pro Tem Marc Basnight (D-Dare) is sympathetic, even though he is a voracious user of cell phones himself. Many legislators rely heavily on cell phones as they make weekly commutes from their home districts to Raleigh. Basnight's Ford Expedition is something of a rolling command post as he makes the 197-mile drive between his home in Manteo and the Legislative Building. Once, when he switched carriers and got a new number several years ago, the customer who was then assigned Basnight's old number was billed for 500 calls the following month.

Basnight says he tries to use a speakerphone in his SUV, but people don't hear him as well when he uses the device. So he tends to hold the phone to his ear. But even Basnight says he thinks legislators should consider regulating the phones' use in cars. "Everybody works in a car. There's just too much going on these days. So I think it'd be a good thing to outlaw the hand-held phones," Basnight said in an interview conducted by cell phone as he headed home from Raleigh to the Outer Banks.

"I know I'm safer without it than with it," he says. "I feel like sometimes I'm an accident waiting to happen. I'm going down the road, I'm getting deeply involved in a conversation, and I'm not checking on my speed. I've been on that phone and really gotten into something and go 10 or 15 miles and really don't recall. With the trucks on the road, that's real scary."

Jack Hawke, a political consultant who worked for Republican gubernatorial candidate Richard Vinroot in 2000, also supports regulation of talking on the telephone while driving. Hawke, a free-market, anti-regulation conservative, had a "Road to Damascus" conversion on the issue on his way to a debate between Vinroot and eventual gubernatorial winner, Democrat Mike Easley, at the State Capitol in October 2000. Hawke was running late for the event when his cell phone rang as he approached an intersection. It was the Vinroot campaign office, wondering where Hawke was.

"I came to a complete stop, and I looked both ways. And I pulled out and never saw the other guy until he hit me," Hawke says. "The only conclusion I can come to is I was preoccupied with my phone call. The guy was obviously right there."

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—SEN. MARC BASNIGHT (D-DARE),
SENATE PRESIDENT PRO TEMPORE

Though no one was hurt, Hawke then used his phone to call the police. The driver of the other car called his wife—and being a good Republican, says Hawke, she gave him a ride to the Capitol for the debate.

The accident changed Hawke's perspective on cell phone regulation. "Before this happened, I would have said I don't want government interfering in my life more than it already has," Hawke says. "But since this happened, I have a little different view because it wasn't just myself I was putting at risk—it was the guy in the other car. It's a little different than a seat belt, where if you don't use it you only hurt yourself. With a cell phone . . . you're putting somebody else at risk."

Studies: Mixed Findings

1997 CANADIAN STUDY LIKENS CELL PHONE USE IN THE CAR TO DRIVING AFTER DRINKING

Those who favor the regulation of cell phones in cars like to cite a 1997 Canadian study by Dr. Donald Redelmeier and Robert Tibshirani published in the *New England Journal of Medicine*. The study examined the phone billing records of 699 drivers who had been in accidents.

"We found that using a cellular telephone was associated with a risk of having a motor vehicle collision that was about four times as high as that among the same drivers when they were not using their cellular telephones. This relative risk is similar to the hazard associated with driving with a blood alcohol level at the legal limit," the study says.¹²

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REPUBLICAN POLITICAL CONSULTANT

"We observed no safety advantage to hands-free compared with hand-held telephones," the authors add. "Our data do not support the policy followed in some countries of restricting hand-held cellular telephones but not those that leave the hands free."

Dr. Redelmeier, one of the study's authors, points out that the study took into account other driver distractions. "When we observed that four-fold increase in risk, it was not in comparison to ideal circumstances when everything is perfect, but in comparison to drivers' usual circumstances," says Redelmeier. "It was above and beyond the usual background noise."

But the study indicates that most calls while driving are brief and infrequent, and the authors caution that their findings shouldn't be used as conclusive proof of the need to restrict use of the phones. "Our study indicates an association but not necessarily a causal relation," they write. "For example, emotional stress may lead to both increased use of a cellular telephone and a subsequent motor vehicle collision. If so, individual calls may do nothing to alter the chances of a collision."

*UNC-CH HIGHWAY SAFETY RESEARCH
CENTER STUDY RANKS CELL PHONE USE AND
OTHER DRIVER DISTRACTIONS*

Other research—including a study last year by the University of North Carolina's Highway Safety Research Center for the AAA Foundation for Traffic Safety—doesn't show a clear association between mobile phones and accidents. In an analysis of data collected on actual crashes nationwide, the UNC study found that just 8.3 percent of drivers were identified as "distracted" in crashes from 1995–99.¹³ Jane C. Stutts, the lead researcher in the UNC study, says it's important to note that in one third of the cases, it was unknown whether drivers were distracted or not. When unknowns were re-

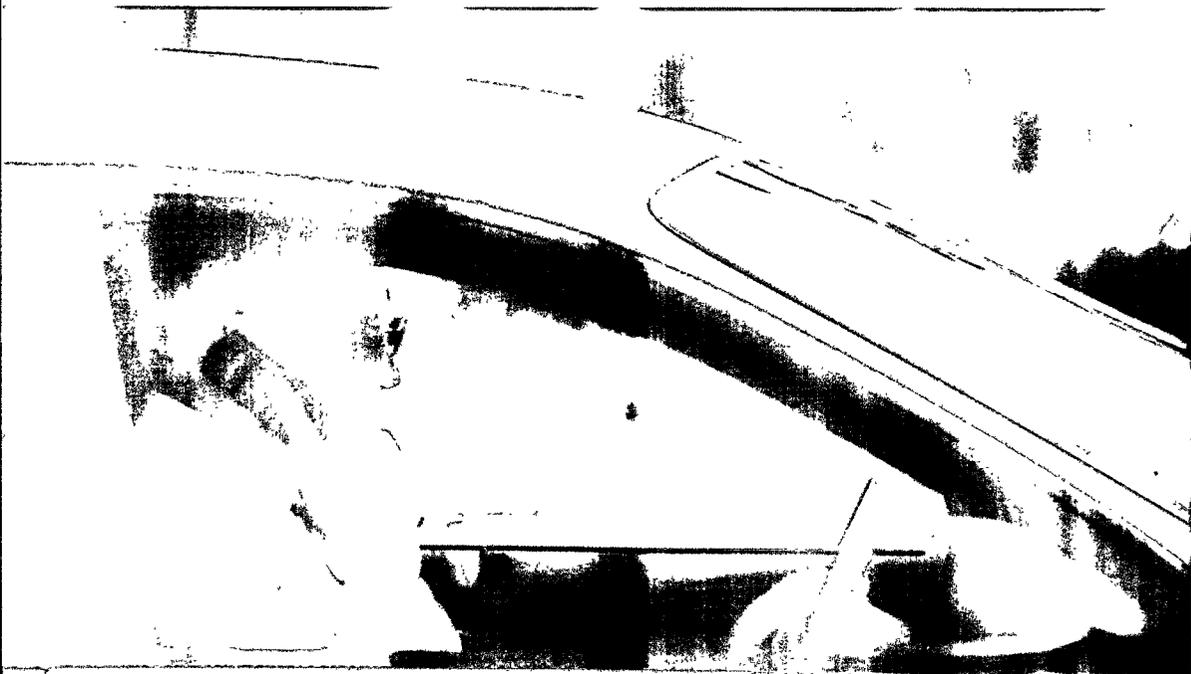
moved from the calculations, 12.9 percent of drivers were identified as distracted, so Stutts says it's fair to assume that 8.3 percent is a low estimate of distracted drivers. In the data from those accidents, cell phones ranked eighth on the list of distractions, ranking behind a person or object outside the vehicle, adjusting the radio or cassette controls, other vehicle occupants, a moving object inside the vehicle, adjusting temperature controls, and eating or drinking.

In sum, cell phones were cited as the distraction for only 1.5 percent of the 8.3 percent of crashes where drivers were labeled "distracted." Still, the study warns, "Safety problems related to driver inattention and distraction are expected to escalate in the future as more technologies become available for use in personal vehicles."

The study found that accidents involving cell phones tend to be more common at night. It also found that drivers in the 30–49 age group were more likely than others to be distracted by a cell phone, while those under 20 were more likely to be distracted by the stereo, and those 20–29 were more likely to be distracted by other vehicle occupants. "Overall, these results suggest that today's drivers are being distracted by a combination of old and new events," the study concludes. "Some of the 'old' distractions that continue to cause problems are children and babies, cigarettes, drinks, radios and tape players, and insects and bugs that find their way into the vehicle. 'Newer' distractions include CDs, pagers, and cell phones.

"We found that using a cellular telephone was associated with a risk of having a motor vehicle collision that was about four times as high as that among the same drivers when they were not using their cellular telephones. This relative risk is similar to the hazard associated with driving with a blood alcohol level at the legal limit."

—DR. DONALD REDELMEIER AND
ROBERT TIBSHIRANI,
NEW ENGLAND JOURNAL OF MEDICINE STUDY



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Stutts says one of her conclusions is that cell phone use is under-reported in traffic accidents. "Given the huge increase in reported ownership and use of cellular phones nationwide . . . one might have expected an increase in the reported number of crashes involving cell phones over the five years covered by the analysis. No such increase was apparent, however. The 'raw' number of reported cases involving cell phones was 8 in 1995, 10 in 1996, 8 in 1997, 10 in 1998, and 6 in 1999."

But, the study indicates, "[I]t must be reiterated that these are reported cases. As more attention has been drawn to the potential role of cellular phones in unsafe driving and crashes, drivers have likely become less willing to reveal this information when involved in a crash. Admitting to cell phone use at the time of a crash may be associated with greater legal and financial (insurance) jeopardy than admitting to spilling a cup of coffee or dropping a CD."

Stutts acknowledges that the data might be suspect. "What we can't say is how reliable the reporting is. We just have trouble getting good data," she says. "Ask yourself—would you report it if you were talking on a cell phone? Probably not."

She notes that an analysis of reporting by the State Highway Patrol found that cell phones were a factor in just 11 crashes out of 6,600, but that infor-

mation on cell phones is not a standard entry on accident reports. Indeed, the National Conference of State Legislatures reports that before 1999, only Oklahoma and Minnesota included check boxes on their accident report forms to indicate whether cell phone use played a role in an accident.¹⁴ The lack of such a check box gave critics an opening to question the study's findings. "The biggest problem was that the on-site accident investigators often didn't have a space to fill in 'cell phone' on their reports of causes. So cell phone use was almost certainly underreported," notes a review of studies on cell phone use and driving appearing in *Consumer Reports*.¹⁵

However, N.C. Highway Patrol accident reports also do not include a checkbox for each of the other distractions ranked in the UNC study. "I don't know of any state that has a good answer to collecting good data," Stutts says. "There are some valid reasons for concern about cell phones—they really are the tip of the iceberg as far as what's coming," she says, citing on-board navigation systems and cell phones with e-mail and Internet access as examples.

Stutts points to another study by fellow UNC researcher Donald Reinfurt that observed drivers at intersections and calculated that at any given time, 3.1 percent of drivers are talking on their phones.¹⁶

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—JANE STUTTS, RESEARCHER,
UNC HIGHWAY SAFETY RESEARCH CENTER

Those findings are similar to a National Highway Traffic Safety Administration (NHTSA) study in the fall of 2000 that found about 3 percent of Americans use their cell phones behind the wheel at any given time.

In that study, NHTSA researchers observed more than 12,000 vehicles at 640 intersections around the nation.¹⁷ As with the UNC study, the NHTSA study found variation in cell phone use according to the type of vehicle driven. For example, 4.8 percent of people driving vans and sport utility vehicles used cell phones on the road compared to only 1.9 percent of pickup truck drivers. Women used cell phones more than men, 3.4 percent to 2.7 percent, and rates of cell phone use were higher in suburban areas than in rural areas, at 3.4 percent to 3 percent. In addition, whites, at 3.7 percent, were more likely to be talking on their cell phones than blacks (2.3 percent) or persons of other races (1.7 percent).

Stutts observes, “It’s not like every driver out there is on the phone all the time. The percent of time they’re using it can be very, very small. We still don’t have 3 percent of crashes related to cell phones. It’s still real small.”

But Stutts says the cell phone issue provides an opportunity to examine an important safety concern—driver distraction. “The cell phone issue has given us an excuse to bring up this much broader issue of what to do when you’re driving,” she says. “You need to pay attention and avoid distraction.”

Other observational studies suggest that drivers do show common sense, Stutts says. They tend to talk more when parked than when driving, or they tend not to dial when heading through a busy intersection. It’s really the distractions that occur invol-

untarily, while you’re in the middle of something, that may be the most distracting to drivers,” she says.

Stutts warns, too, that even though states are considering laws to require hands-free phone use in cars and New York has adopted such a law, such legislation might provide a false sense of security because of the distractions inherent in the conversation itself. “We don’t have any data to show that it’s less risky,” she says.

Indeed, Stutts points to laboratory studies at the University of Utah that showed drivers who talk on the phone hands-free are as likely to be distracted as those using a hand-held phone. “There are a lot of distractions that may take your hand off the wheel for a moment or two, but they identified cell phones because they involve all levels of distraction . . . most importantly, your mind.”

UNIVERSITY OF UTAH STUDY: CELL PHONE USE ENGAGES THE MIND

In a November 2001 study, researchers at the University of Utah tested the ability of 48 undergraduates on a driving simulator while talking on a cell

hands free

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phone. They found that both hand-held and hands-free cell phones distract drivers and attributed the distraction to the mind's focus on the telephone conversation.¹⁸

"The principal findings are that (a) when participants were engaged in cell phone conversations, they missed twice as many simulated traffic signals as when they were not talking on the cell phone and took longer to react to those signals that they did detect; and (b) these deficits were equivalent for hand-held and hands-free cell phone users," the study says. "In sum, we found that conversing on either a hand-held or a hands-free cell phone led to significant decrements in simulated-driving performance. Thus, the available evidence suggests that there are at least two sources of interference with driving associated with concurrent cell phone use: one due to peripheral factors such as manipulating the phone while dialing . . . and one due to the phone conversation itself.

"Our data imply that legislative initiatives that restrict hand-held devices but permit hands-free devices are not likely to reduce interference from the phone conversation, because the interference is, in this case, due to central attentional processes."¹⁹

Researchers have found that when there are other occupants in a vehicle, they tend to modulate their conversation as they observe the challenges that the driver faces. "By contrast, at least one of the participants in a cellular phone conversation is unaware of the current driving conditions (and may even be unaware that the cell phone user is driving)," the Utah study says. "When the driver engages in a cell phone conversation, he or she is no longer solely in control of the dynamics of the conversation."

Other studies dating back as far as 1969 have looked at such issues as driver judgment of road hazards, steering performance while dialing manually versus voice dialing, and brake reaction time while talking on the phone.²⁰ This attention to the issue is helping to fuel calls for regulation, and municipalities, states, and even nations are responding. Besides action on the state level, a dozen U.S. municipalities and 24 countries have regulated the use of cell phones in cars, including Brazil, Germany, Great Britain, Israel, Japan, and Switzerland.

At AAA Carolinas, Crosby questions the data used in the UNC study. But he says the organization stops short of calling for an outright ban on phone conversations over headsets or speakerphones. "It's clear that while you are talking on the phone, you are distracted, even with two hands on the wheel," he says. "But banning all cell phone

Things We Do While Driving

According to a national driving habits survey by Response Insurance, three quarters of all drivers have engaged in at least one activity that would distract from safe operation of a car. Here are the top activities drivers said caused or nearly caused an accident:

■ Spilling Coffee	26%
■ Breaking up fight between kids	26
■ Wiping off cigarette ashes	22
■ Reaching for something	21
■ Racing with another car	21
■ Using a computer	21
■ Drinking alcohol	20
■ Turning head around to speak	18
■ Rubbernecking	17
■ Fighting with a passenger	16
■ Dog jumping around in car	16

Source: Response Insurance 2001 National Driving Habit Survey, as reported in *Govern-ing* magazine, Washington, D.C., September 2001, p. 16

conversations in the car is like banning conversations with passengers."

The Wireless Industry's Position: 3 Percent Use While Driving Doesn't Warrant Regulation

Wireless phone industry spokespersons, in arguing against regulation of driving while talking on the telephone, often cite the UNC studies and other similar studies that have found about 3 percent of drivers talking on their phones at a given moment. "If 3 percent of drivers are using phones, that clearly doesn't meet the threshold for legislation," says Dee Yankoskie, the manager of wireless education programs for the Cellular Telecommunications & Internet Association in Washington, D.C. "It does emphasize the fact that drivers need to be educated

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—DEE YANKOSKIE

CELLULAR TELECOMMUNICATIONS &
INTERNET ASSOCIATION

on the myriad of distractions they face—from eating, changing a CD, talking to passengers, or talking on a wireless phone."²¹

Strayer, the author of the University of Utah study, says that while some who oppose regulation downplay the study finding that roughly 3 percent of drivers are on the phone at any given time, it really is significant given the level of impairment caused by cell phone use. "How comfortable would you be if you knew that 3 percent of the drivers on the road were legally drunk?" asks Strayer. "I personally would be a little concerned about that." What's interesting, says Strayer, is that the 3 percent usage level has not turned up in accident data. "We haven't been able to tell if there is an upswing in accidents," he says. "It's hard to tell if more fatalities are happening or not. It's rarely the case that you

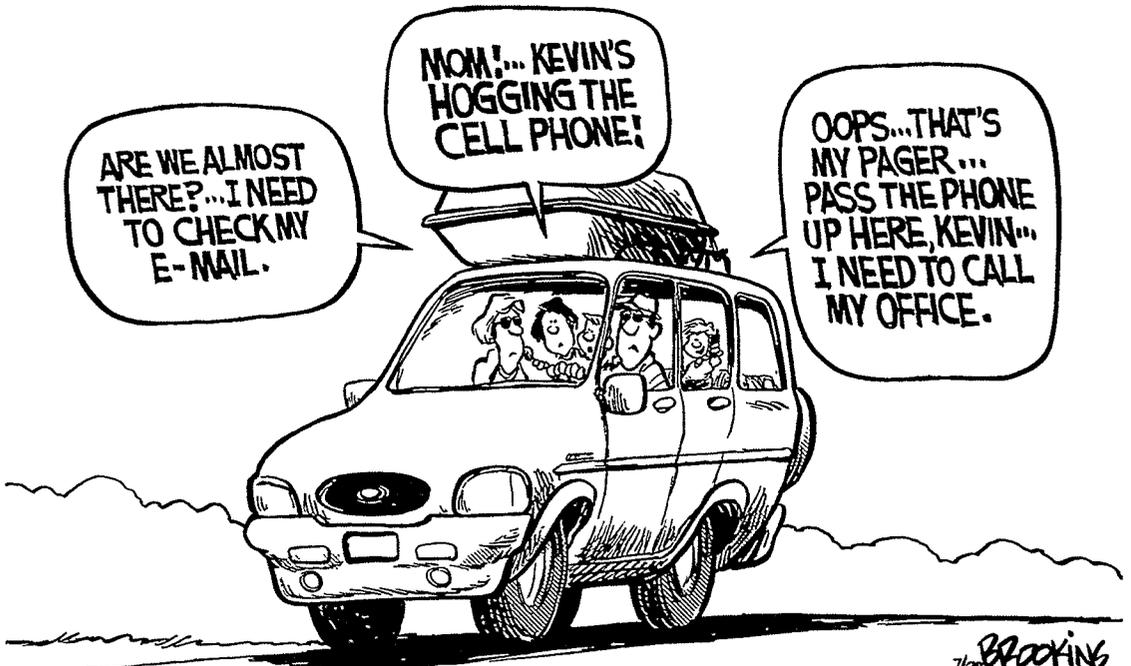
have a time stamp of when someone had an accident and whether they were on the phone or not."

The industry group says that it supports collection of additional data on all driver distractions, the enforcement of existing laws on reckless driving, and education for motorists on all the potential distractions they face. "There needs to be education regardless," says Yankoskie. "What we want is the additional data collection—and that's not just on cell phones but on all or any driver distractions that contribute to a crash. We just feel that if we truly want to have an impact on highway safety, then we need to address the issue in its entirety—and the issue is inattentive driving."

Existing laws already allow police to stop distracted drivers, Yankoskie says, whether the distraction is a cell phone, fast food, reading a newspaper, or putting on make-up. "There are existing laws in every state where if a law enforcement officer sees someone driving erratically . . . they can pull them over.

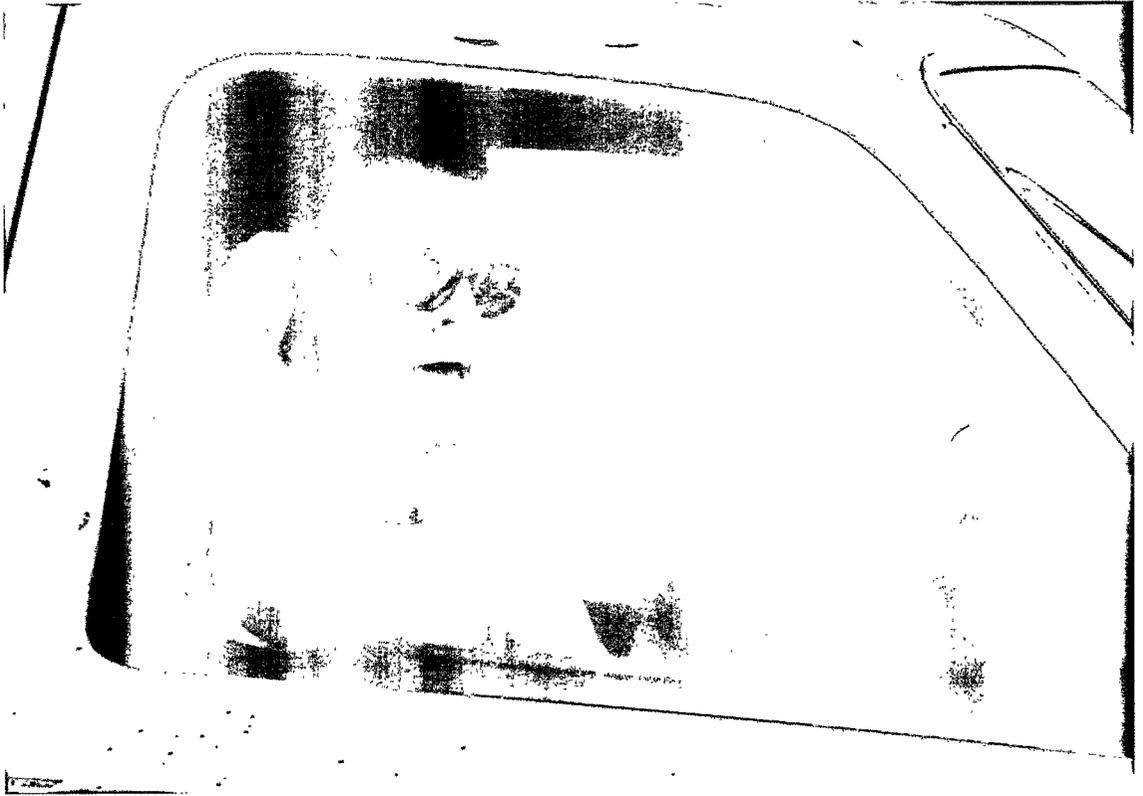
"You can't restrict or regulate everything that a person does in the car. And you shouldn't single out one potential distraction," says Yankoskie. "You can't legislate common sense."

The wireless industry group is also careful to say that some cell phone conversations simply should not take place on the road. "Stressful, emotional conversations—those are conversations that can wait



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Karen Tam

until you're at home or in a parking lot," Yankoskie says. "There are times when you shouldn't be doing anything but driving—school zones, construction zones, inclement weather." Anyone using a phone while driving should let the other talker know that he or she is driving, she says, and should use a hands-free device if one is available.

Opponents of regulation of cell phone use and driving also point out that few studies, including the frequently cited 1997 *New England Journal of Medicine* study by two Canadian researchers, call for an outright ban on use of cell phones in cars. Some studies, in fact, cite the good cell phones do in allowing drivers to report accidents and traffic hazards.²² Thomas Morrow, North Carolina director of government affairs for Sprint—a leading wireless phone service provider, says the Canadian study "shouldn't be treated as the gospel" when studies such as that conducted by the Highway Safety Research Center show cell phone use to be far down the list in terms of driver distraction.

Verizon Wireless has appeared somewhat more open to the regulation of hand-held phones in cars as long as (1) there is at least a two-year phase-in of the requirement, (2) the penalties aren't harsher than those for other distractions, and (3) the state legislation pre-empts local regulations. "We basi-

cally welcome state legislative review of this issue," says Chris Jones, Verizon's associate director for state public policy in the South. "We welcome legislative review of this issue as long as there is public support for it. We feel that requiring hands-free devices or use is a good reinforcement of safe driving in general. If you have two hands on the wheel, that's better than what you could do with just one hand on the wheel and your head cocked to the side."

Jones questions, though, whether there is a public mandate for rules on cell phones in cars. "That's something I have not seen," he says. Jones also questions the study in Utah, pointing out that the driving "simulator" that researchers used was a joy-

"How comfortable would you be if you knew that 3 percent of the drivers on the road were legally drunk?"

—DAVID STRAYER
UNIVERSITY OF UTAH RESEARCHER

"We welcome legislative review of this issue as long as there is public support for it."

—CHRIS JONES
VERIZON WIRELESS

stick in front of a computer screen. "That's not a person sitting behind the wheel, driving a car," he says.

Strayer notes that Jones' criticism, while accurate concerning his original study, does not tell the whole story. Strayer has since replicated his original findings using a state-of-the-art high fidelity driving simulator with a Crown Victoria cockpit. "The earlier studies have held up with the super high-end simulator, and they extend the basic pattern," says Strayer. "The results are qualitatively the same with the joystick as with the high-end simulator."

If North Carolina or another state adopts a hands-free requirement in vehicles, a 24-month phase-in would allow phone users to cycle out of their current contracts and upgrade to a new phone that is equipped for hands-free use, Jones says. Some companies, in fact, see speakerphones and other hands-free devices as good merchandise to sell. Verizon's stores feature a "Wall of Safety" filled with devices for hands-free use.

"As we are seeing consumer attention and interest in this issue, we are seeing a definite uptick in interest in these devices," Jones says. State legislation also should exempt the use of cell phones from vehicles for emergency calls, he says.

Sprint, while generally taking the position that the issue of cell phone use and driving requires more study, agrees that if cell phone use is regulated, the laws should be consistent from state to state. "It's bad to have variation by state," says Morrow.

State Highway Patrol: Cell Phones One of Several Dangerous Distractions

In the case where corrections officer Shannon Smith was killed in Johnston County, the driver—27-year-old Laura Elena Reyes—was convicted of misdemeanor death by motor vehicle and reckless driving. Reyes received a 45-day suspended prison sentence, two years on probation, a \$500 fine, and a one-year revocation of her driver's

license. The stiff sentence suggests that authorities already have leeway to sanction a driver who commits a dangerous act while talking on a cellular phone.

And because wireless phones have proven to be a boon to law enforcement, officials at the State Highway Patrol aren't particularly anxious to put new restrictions on them. Renee Hoffman, a spokesperson for the N.C. Department of Crime Control and Public Safety, the administrative home of the State Highway Patrol, says that the state's existing statute on careless and reckless driving gives officers a tool to deal with a broad range of distractions, whether the distraction is a cell phone, a hamburger, or lipstick.²³

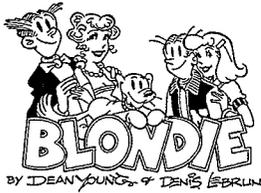
"The research says that cell phones are not any more of a distraction than other things people do in their cars—being distracted by kids, eating, doing make-up, or whatever," Hoffman says. "It gives us an appropriate charge if the situation calls for somebody to be charged with causing an accident. That law is already there," she says. "If you starting writing a statute for everything in a car that can cause a distraction, I'm not sure there's enough paper. Right now, there's nothing that tells us in the data that is available that we absolutely must have a stronger law on cell phones," she says.

Sgt. Everett Clendenin, spokesperson for the State Highway Patrol, agrees that cell phones represent one of several distractions that can interfere with safe operation of a motor vehicle. "Our official stance is that all distractions are a problem," says

Expiring Patent

No. 4,375,881. Portable desk for use with automobile steering wheel. "A portable reversible desk for detachable mounting on and support by the steering wheel of a motor vehicle comprising . . . smooth planar surfaces for the support of writing material . . . a pocket . . . for the holding of writing materials; and [clips] for detachably holding the desk to the rim of the steering wheel. . . ."

Reprinted from "The March Almanac," The Atlantic Monthly, Boston, Mass., March 2000, p. 16.



Clendenin. "The primary focus of the driver should be on driving. We'll leave it up to the General Assembly as to how to address the use of cell phones in cars."

Shannon Smith's mother-in-law, Betty Smith, says that she and Shannon's husband, Scott, view the accident that killed her daughter-in-law as a freak one. And they agree that the accident doesn't necessarily mean new laws are needed for mobile phones. "I agree it's distracting. But you can't have a law for everything," Smith says. "Making 10 laws is not going to change the end result."

Law enforcement officials say that callers with wireless phones have proven invaluable in reporting accidents, drunk drivers, or people who are driving recklessly.

"The advantage that the cell phone gives us for safety is huge," says Hoffman. "Because people have these cell phones, they are able to report things much more quickly. I would not want to see a situation where we lose that tool."

"We've had [civilian] people sitting downtown and witness a bank robbery and follow the bank robber from a safe distance," she says. "The guy was smart enough not to let the bank robber know he was being followed, and he led the law enforcement officers right to him."

Still, she says, motorists should use caution when dialing. "What we always advise people is when you are driving, you want to be paying 100 percent attention," Hoffman says. "That means no eating, no putting on your make-up. If the baby needs changing, pull off to the side of the road and take care of it. The same thing applies with cell phones. If you have to make a cell phone call, pull off the highway and do it safely."

The district attorney's office for the three-county district that includes Johnston County prosecuted Laura Reyes in Shannon Smith's death. District Attorney Thomas Lock says he's still not sure whether more laws are needed. "I think the idea warrants serious consideration," Lock says. "I'm not at this point willing to go so far as to advocate outlawing the use of hand-held cell phones in vehicles, but I could be persuaded very easily if there is empirical evidence that demonstrates that there is a relationship between hand-held cell phone use and accidents."

Smith's death is the only fatality Lock knows of in the district that was caused by a driver using a cell phone. And, he says there is no great groundswell of calls for new regulations. "Not as many as I expected," says Lock. Lock's view is like that of some researchers. "I'm unde-

Law enforcement officials say that callers with wireless phones have proven invaluable in reporting accidents, drunk drivers, or people who are driving recklessly.

cided at this point," he says. "I think we need more research."

Wait for More Results?

State legislators who are currently preoccupied with the state's considerable budget troubles—a \$1.5 billion shortfall as of May 2002—may take a similar wait-and-see stance. Legislative leaders say they don't expect to take up the issue until 2003. Basnight says that although he supports proposals to ban the use of hand-held phones while driving, his focus is elsewhere. "I'm not really giving it much attention now. I'm watching the budget," says Basnight.

After the 2001 session lasted from January until December, "We don't have much time to study," said House Speaker Jim Black. "That's an issue for 2003. Like Basnight, Black admits he depends heavily on his cell phone on his drives between his home in Mecklenburg County and Raleigh. In fact, Black says he once had two phones in his car—one with a 919 area code and one with a 704 area code. As for the headsets that are available, Black says, "The one I've got hurts my ear. We're not far away from technology to be hands-free without legislation."

But Black says that legislators also shouldn't be reluctant to enact restrictions on cell phones just because they use them themselves. "I don't have any preconceived notions about that. It makes good sense to me to have a hands-free phone, because I'm on the phone a lot in the car," he said. "It's just easier. I've got a chicken sandwich in the other hand—it's kind of hard to steer with your knee." ■

FOOTNOTES

¹ Accident testimony by Laura Elena Reyes, as quoted in Adrienne Lu, "Cell phone driver fined in accident," *The News & Observer*, Raleigh, N.C., May 18, 2001, p. 1B.

² "The distraction factor: Studies show that cell phones and driving don't mix. But will cell-phone legislation solve the problem?" *Consumer Reports*, Consumers Union of the U.S., Yonkers, N.Y., February 2002, p. 19.

³ "Model headed home after second hospital stay," unsigned wire service report, *The News & Observer*, Raleigh, N.C., July 19, 2001, p. 2A.

⁴ Megan Ward, "Teen's cell phone use may be to blame in fatal accident," *Hickory Daily Record*, Hickory, N.C., April 12, 2002, p. 1A.

⁵ "AAA Carolinas Supports Banning Cell Phone Use," unsigned news release, AAA Carolinas, Charlotte, N.C., Aug. 30, 2000.

⁶ "AAA Carolina Members Want Crackdown on Aggressive Drivers and Hand-Held Cell Phones," unsigned article, *Go Magazine*, AAA Carolinas, Charlotte, N.C., March-April 2002, p. 1.

⁷ Number of U.S. wireless subscribers taken from the Cellular Telecommunications & Internet Association website at www.wow-com.com/industry/, Feb. 20, 2002.

⁸ Matt Sundeen, "Cell Phones and Highway Safety: 2001 Legislative Update," National Conference of State Legislatures, Denver, Colo., August 2001. Taken from the NCSL website at www.ncsl.org/programs/esnr/2001cellph.htm.

⁹ *Ibid.*

¹⁰ "NY bans driving while on the phone," unsigned wire service report, *The News & Observer*, Raleigh, N.C., June 26, 2001, p. 6A.

¹¹ House Bill 74 of the 2001 Session.

¹² Donald A. Redelmeier, M.D., and Robert J. Tibshirani, M.D., "Association Between Cellular Telephone Calls and Motor Vehicle Collisions," *The New England Journal of Medicine*, Vol. 336, No. 7 (Feb. 1, 1997), pp. 453-458.

¹³ Jane C. Stutts et al., "The Role of Driver Distraction in Traffic Crashes," Highway Safety Research Center, University of North Carolina at Chapel Hill; prepared for AAA Foundation for Traffic Safety, Washington, D.C., May 2001. On the internet at www.aaafoundation.org/projects/index.cfm?button=distraction.

¹⁴ Matt Sundeen, "Driving While Calling—What's the Legal Limit?" *State Legislatures*, National Conference of State Legislatures, Denver, Colo., October/November, 2001, p. 25.

¹⁵ *Consumer Reports*, note 2 above, p. 18.

¹⁶ Donald W. Reinfurt et al., *Cell Phone Use While Driving in North Carolina*, Highway Safety Research Center, UNC-Chapel Hill, Chapel Hill, N.C., November 2001, Executive Summary, pp. i-ii.

¹⁷ Nedra Pickler, "Phone use in vehicles put at 3%," The Associated Press as published in *The News & Observer*, Raleigh, N.C., July 24, 2001, p. 1B.

¹⁸ David L. Strayer and William A. Johnston, "Driven to Distraction: Dual-Task Studies of Simulated Driving and Conversation on a Cellular Telephone," *Psychological Science*, American Psychological Society, Princeton, N.J., Vol. 12, No. 6 (November 2001), pp. 465-466.

¹⁹ *Ibid.*

²⁰ *Consumer Reports*, note 2 above, pp. 18-19. This article surveys a range of studies on cell phone use while driving. The 1969 study by England's Medical Research Council found no driver impairment during routine driving, but poorer judgment when drivers were called upon to make a quick decision, the authors of the article report. A 2001 study by Cambridge Basic Research found poorer steering performance when drivers dialed a phone manually but not when using voice commands. Also in 2001, researchers at Miami University in Ohio concluded that using a phone created longer braking times.

²¹ As stated in "New NHTSA Survey Reinforces CTIA's Call for Education on Distracted Driving," news release, Cellular Telecommunications & Internet Association, Washington, D.C., July 23, 2001. Subsequent quotes appearing in this article from CTIA spokesperson Dee Yankoskie are taken from a telephone interview with Yankoskie.

²² This statement is based on information provided by Thomas A. Morrow, North Carolina Director of Governmental Affairs for Sprint, a leading wireless phone service provider.

²³ North Carolina General Statute 20-140. The statute reads in part:

"(a) Any person who drives any vehicle upon a highway or any public vehicular area carelessly and heedlessly in willful or wanton disregard of the rights and safety of others shall be guilty of reckless driving.

(b) Any person who drives any vehicle upon a highway or any public vehicular area without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property shall be guilty of reckless driving."