

DISTRACTED DRIVING LEGISLATION (BILL 16)

Frequently Asked Questions

1) Is this law in effect?

Yes. This legislation came into force on **September 1, 2011**.

2) How does this legislation compare with what other Canadian jurisdictions have done to deal with distracted driving?

Alberta has taken a leadership role to address the important issue of distracted driving. Other jurisdictions have banned cell phones or electronic devices but there are many other activities that people do behind the wheel that take their hands off the wheel and their attention off the road – this legislation addresses those additional distractions. For more information on related laws in Canada, please [click here](#).

3) Why is distracted driving such a growing concern?

Distracted driving is an issue all across North America and around the world. Many factors have contributed to this situation:

- Tremendous technological advances over the last 20 years,
- A perceived need to be connected to work and home at all times,
- A perception that driving is an unproductive, second nature task, and
- People trying to accomplish more in less time.

As a result, too many drivers focus on secondary tasks while driving.

4) Why was it important that Bill 16 be passed into law? Is distracted driving that much of an issue on Alberta's roads?

Nowadays, there are just too many things competing for the driver's attention. To put this in perspective, international research shows that 20 to 30 percent of all collisions involve driver distraction and that goes way beyond just cell phone use. Clearly we have to take action.

Traffic collisions impose enormous costs on our society and anything that we can do to improve safety provides tremendous benefits to all Albertans.

Traffic safety is a complex issue and changing behaviors requires a comprehensive, long-term strategy. Effective legislation is an important component of our overall approach to traffic safety. Education and awareness also play a key role in our strategy.

5) How does this legislation balance the need for safety with the realities of multi-tasking that occur in day-to-day driving?

Sometimes people forget that when you're in your vehicle, your primary focus should be on driving. We seem to treat our vehicles like a second living room, or a couch on wheels, or even a mobile office. That has to change. It's all about traffic safety. Make no mistake: You cannot drive safely when you're distracted.

The goal with this law was to have it be practical, effective and enforceable, and we believe it strikes the right balance. It gives law enforcement some discretion to take action on unsafe driving behaviors in a reasonable manner. For example, if you are just taking a sip of your coffee or simply touching a button on your car stereo, you won't get a ticket. If you're putting on make-up, texting or playing on your laptop, you obviously are distracted so any of these activities would be considered an offence under the law.

6) What activities are not allowed while driving?

- talking on a hand-held cell phone
- texting/e-mailing
- using electronic devices like laptop computers, video games, cameras, video entertainment displays and programming portable audio players (e.g., mp3 players)
- manually entering information on GPS units
- reading printed material like a book or a magazine
- writing, printing or sketching
- personal grooming like combing your hair, applying makeup or brushing your teeth
- using a 2-way radio or what is commonly referred to as a CB (Citizen's Band) radio (some exemptions apply)

7) What activities are allowed?

We are not talking about penalizing drivers for taking a sip of coffee, chatting with passengers or blowing their nose. We are talking about drivers who decide to put themselves and others at risk by watching movies, browsing for and downloading 'apps', applying makeup or shaving all while trying to navigate through traffic.

These activities are not specifically restricted under the law:

- using a cell phone in hands-free mode - this means the device is not held in the driver's hand and is activated by voice or a single touch to the device
- using an earphone — if it is used in a hands-free or voice-activated manner
- drinking beverages, such as coffee, water or pop
- eating a snack
- smoking
- talking with passengers
- listening to a portable audio player – as long as it is set up before you begin driving

- calling emergency services, such as 911 with a hand-held cell phone
- using 2-way radios or hand-held radios, such as those commonly referred to as CB (Citizen's Band) radios, when escorting oversized vehicles, to contact one's employer, or when participating in search, rescue and emergency management situations.
- permitting the display screen of the following:
 - a GPS navigation system – as long as the system is affixed to the vehicle and programmed before you begin driving or the system is voice activated. You cannot hold the unit or manually enter information while driving.
 - a collision avoidance system
 - a gauge, instrument, device or system that provides information about the vehicle's systems or the vehicle's location
 - a dispatch system for transporting passengers
 - a logistical transportation tracking system that tracks vehicle location, driver status or the delivery of goods for commercial purposes

8) Are there any exemptions to this law?

Yes. Drivers who talk on hands-free radios, phones or hands-free radio communication devices won't violate the law. In addition, radio communications, such as those commonly referred to as CB (Citizen's Band) radios, will be allowed for certain commercial purposes, to maintain contact with one's employer and search and rescue services only. All drivers will be able to use hand-held devices to contact 911 emergency services and this law will not interfere with the official duties of emergency service personnel including enforcement, fire and medical services.

9) What is the fine for distracted driving?

The fine is \$172 for this offence. This amount includes a fine of \$150 plus the 15 percent victims' surcharge. This fine is in keeping with the fines for other traffic violations.

10) Are there demerit points for this offence?

No. It is felt that the dollar fine will encourage drivers to focus on driving. Drivers that exhibit what is **deemed to be** more serious or risky behaviors could be charged with 'driving carelessly' under the *Traffic Safety Act*. The penalty for the existing 'driving carelessly' offence carries six demerit points and a fine of \$402.

If a driver does commit a moving violation while engaged in one of these activities, or any other deemed as a distraction, they could receive two tickets - one for distracted driving, and one for the moving violation.

11) Will there still be a driving 'without due care and attention' or 'driving carelessly' charge?

Yes. The new law will complement the current law under the *Traffic Safety Act* - driving without due care and attention - or 'driving carelessly,' which will remain in effect. The penalty for the existing 'driving carelessly' offence is \$402 and six demerit points. This charge will be considered for violations deemed more serious when associated with cell phone use or other distracting behaviors. The new law will provide another tool for law enforcement and the courts so they have flexibility in dealing with the complexities of distracted driving.

12) Can I get a ticket if I am doing one of the restricted activities but have not made any errors in my driving?

Yes. Drivers engaged in any of the identified activities can be charged, even if their driving performance appears unaffected.

If a driver does commit a moving violation while engaged in one of these activities, or any other deemed as a distraction, they could receive two tickets - one for the distracted driving, and one for the moving violation.

13) What happens if a driver commits a moving violation while distracted?

It's possible to get two tickets. A driver who chooses to do things like send a text message or read a novel - things unrelated to driving - could be charged with "distracted driving." In the event that a distracted driver also commits a moving violation, such as running a red light, additional charges may be pursued.

14) Does this law apply to drivers who are eating?

The intent with this legislation was to be practical, effective and enforceable. Drivers can still have a snack while driving. However, the general distracted driving provision is discretionary to allow flexibility for law enforcement. In situations where a driver is, for example, holding a bowl of cereal in one hand and a spoon in the other, police could reasonably argue this activity is comparable to the specifically banned activities of reading, writing and grooming and lay a charge.

15) Can I have a coffee or a cigarette while driving?

Drivers can have a coffee, water, pop etc. This is about being reasonable and practical. Also, they can do things like eat, talk with passengers, smoke, or adjust the vehicle controls. However, drivers must keep their focus on driving and following the rules of the road.

16) Can I drive with my pet in the vehicle?

Yes, as long as the pet is not interfering with the actions of the driver. However, the general distracted driving provision is discretionary to allow flexibility for law enforcement. In situations where a driver is, for example, holding a bowl of cereal in one hand and a spoon in the other or becomes too involved with their pet, police could reasonably argue that the distraction is comparable to the specifically banned activities of reading, writing and grooming and lay a charge.

Also, existing legislation - *Traffic Safety Act* 115(2)(i) - allows police to charge a driver who permits anything, including a pet, to occupy the front seat of the vehicle such that it interferes with the driver's access to the vehicle controls and the safe operation of the vehicle. Further, *Traffic Safety Act* 115(2)(j) - allows police to charge a driver who permits anything, including a pet, to cause any obstruction to the driver's clear vision in any direction. We encourage the continued use of these existing provisions.

If a driver violates the new distracted driving provision and an existing provision in the *Traffic Safety Act* it would be up to the discretion of the officer as to if one or both charges would apply.

For the safety of both pets and road users, it is best if pets are secured in an appropriate pet carrier.

17) What do you mean by grooming and attending to personal hygiene?

This would apply to drivers who are doing things like flossing their teeth, putting on makeup, curling their hair, clipping their nails, or shaving.

18) Can I use a hands-free phone or radio communication device?

Yes. Drivers can still use cell phones or radio communication devices **but only** if they use them in a hands-free or voice-activated manner. This means the device is not held in the driver's hand and is activated by voice or a single touch to the device.

It is important that this legislation be enforceable and our law enforcement partners expressed concerns around the enforceability of a hands-free ban. It's hard to identify someone who is using a hands-free device - No jurisdiction in Canada bans all drivers from using hands-free cell phones.

Also, keep in mind that a person engaged in any type of unsafe driving behaviour while talking on a hands-free device can still be charged under the existing "driving carelessly" law. Again, this is an additional tool for law enforcement.

Alberta Transportation will continue to reinforce the message that drivers should hang up altogether. The bottom line is from a safety perspective; all drivers should put driving first and take care of other business when their vehicle is safely parked.

19) Can I use an earphone?

Yes. You can use an earphone if it is used in a hands-free or voice-activated manner.

20) Can I use my Personal Digital Assistant (PDA) such as a Blackberry or an iPhone?

No. All hand-held electronic devices are covered under this legislation. A PDA can only be used if it has a telephone function - then it can be used in hands-free mode. This means the device is not held in the driver's hand and is activated by voice or a single touch to the device.

21) Can I be charged if I am just holding my cell phone or PDA?

Yes. Drivers who are holding a cell phone or PDA, even if the phone is powered off, can be charged. This applies to ALL hand-held electronic devices, such as laptop computers, video games, cameras, video entertainment displays and portable audio devices, like MP3 players.

22) Can I listen to my MP3 player or use my GPS navigation system?

Yes, but they must be programmed or set up in advance of driving so that drivers are not manually typing or inputting information while driving. If the portable audio device, such as an MP3 player or iPod is connected to the vehicle sound system drivers may use the vehicle controls to operate the portable audio device. GPS units must be secured to the vehicle and may only be used in a voice-activated mode while driving.

23) Are dispatch computers like those used in taxicabs or delivery trucks allowed?

Drivers who use dispatch systems for the transport of passengers or logistical transportation tracking devices for commercial purposes can still have mobile data computers installed and activated in their vehicles. All drivers should keep their focus on the road and as such, drivers should not type information into these devices while driving.

24) Why are hand-held 'CB radios' or 'Mike Phones' exempt for commercial purposes and search and rescue services?

This legislation is not intended to interfere with well-established commercial operations or search and rescue efforts. So where this type of communication is required to communicate with the driver's employer or when participating in some type of emergency management situation the use of what are commonly referred to as hand-held CB radios or 'Mike phones' will be allowed.

This law is not about taking away tools for traffic safety. The use of hand-held radios to communicate extreme weather conditions or a hazard on the roadway, such as a collision, could fall under the "emergency" scenario category. Alberta Transportation recognizes that commercial drivers are professionals and anticipates that they will make good safety decisions when choosing to use public radio systems. As with all laws, enforcement officers ultimately have the responsibility to evaluate specific situations to determine if citizens are complying with the law.

25) Can bicycle couriers use hand-held 2-way radios?

Drivers, including bicyclists, who are required by their employer to maintain 2-way radio communication will be permitted to use hand-held 2-way radios to contact their employer.

26) Does this law apply on all roadways in the province?

Yes, it applies to all roads in both urban and rural areas. The *Traffic Safety Act* uses the term highway to refer to any urban or rural street, road, parking lot, or alley, etc, where the public is normally permitted to drive, including adjacent sidewalks and ditches.

27) Under what conditions can I make a phone call?

To be compliant, drivers may only engage in the restricted activities when they are not driving on a **highway** or when the vehicle is legally parked.

A **highway** refers to any street, road, parking lot, or alley, etc, where the public is normally permitted to drive, including adjacent sidewalks and ditches.

28) Can I park on the shoulder of a highway to make a call?

On **provincial highways**, outside of an urban area, section 43 of the Use of Highway and Rules of the Road Regulation applies and vehicles are not permitted to park on the shoulder of a provincial highway except in an emergency. This is also for safety. If you have to make a phone call, do so at a rest area, or when you stop for gas or for a bathroom break. Alternately, have your passenger make the call.

Provincial highways are typically numbered roadways (e.g., Highway 2), but they may also be known by other names (e.g., Queen Elizabeth II or the Trans-Canada Highway). Municipal parking bylaws vary from place to place. You will need to consider the parking bylaws for that area before pulling over.

29) Can I send a text message or comb my hair when I am stopped at a red light?

No. You cannot engage in distracting activities when stopped at a red light, delayed in traffic or waiting for a train. You are still driving and engaged in a traffic situation. To be compliant with the law drivers need to be legally parked before engaging in the restricted activities.

30) When can I make a call, send a text or put on makeup etc.?

To be compliant with this legislation, a driver's vehicle must be off the roadway or legally parked before engaging in any of the specified activities.

31) To what types of vehicles does this law apply?

It will apply to all vehicles as defined by the *Traffic Safety Act*. It will include vehicles like cars, motorcycles, motor homes, truck tractors, farm vehicles and bicycles.

32) What types of emergency vehicles are exempt?

Under the *Traffic Safety Act*, an emergency vehicle includes, police service vehicles, fire response units, ambulances and gas disconnection units. Drivers of emergency vehicles will be able to use hand-held communication devices or other electronic devices only when acting within the scope of their employment.

33) How do you respond to individuals who say that this law is just a cash grab?

Traffic safety is a complex issue and this is about changing driver attitudes and behaviors. It's also important to keep in mind that traffic collisions impose enormous costs on our society. Anything collected in fines is just a tiny fraction of these actual costs. The fine for this law is consistent with similar traffic safety infractions.

Revenue generated from a surcharge on Criminal Code and Provincial Statute fines goes to the Alberta Victims of Crime Fund to provide programs and services to victims of crime. The fund provides direct assistance in the form of a financial benefit to individual victims and grants to organizations that help crime victims. The remaining funds go to the body responsible for providing the policing service that issued the violation.

There is no single approach to address distracted driving – legislation across the country varies in its approach to fines and demerits.

If you obey the law, you don't have to pay any fines. It's that simple.

34) Will this law reduce the number of collisions?

This law is fundamental to good driving practice and an important part of our overall strategy to take action on this dangerous trend. **Safety is a choice.** Since 90 percent of all collisions are due to driver error, it's crucial that we change driver attitudes and behaviours.

We have a number of integrated initiatives underway through the [Traffic Safety Plan](#). Impacting collision frequency calls for ongoing coordinated activity by all traffic safety partners through strategic communication and education, community mobilization, targeted and strategic enforcement, and implementing engineering strategies – and of course, effective legislation.

35) Who was consulted for the development of this law?

This law is based on current research, consultations with Alberta law enforcement agencies and traffic safety stakeholders including the Alberta Motor Association, City of Edmonton Office of Traffic Safety, University of Alberta and University of Calgary. As well as the public's viewpoint, Alberta Justice and Attorney General and Alberta Solicitor General and Public Security expertise, and the experiences of national and international jurisdictions with related legislation. We also received positive feedback on Bill 16 from Albertans during the summer of 2010.

36) Is there public support for this law?

Yes, there is tremendous public support for a distracted driving law in Alberta. Between April 14-when Bill 16 was introduced-and October 2010, Alberta Transportation, Transportation Safety Services Division received several hundred letters, e-mails and phone calls regarding Bill 16. Of the people who indicated support, 72% were in favor of the bill. During 2011, after the bill was passed into law, numerous Albertans indicated that they were eager to see this law take effect.

37) If I received a conviction for a distracted driving offence, will it appear on my driver's abstract?

Tickets for this offence will be issued to the driver of the vehicle (not the registered owner). Distracted driving convictions will not appear on driver's abstracts that are publicly available through registry offices. Also, for carriers authorized to operate commercial vehicles, these convictions will not appear on the carrier profile.

38) Will tour bus drivers be required to use hands-free units?

Tour bus drivers must be in compliance with the law and must not drive distracted. There are hands-free units, available to ensure compliance with the law, as well as innovative technology solutions to provide information to passengers.

Go to www.transportation.alberta.ca/distracteddriving.htm for more information on Alberta's new distracted driving legislation.