



# Massachusetts State Police

## Distracted Driving Initiative



# LIFESAVERS

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## Distracted Driving Enforcement – “What’s New, What’s Working?”

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Presented by Lieutenant Stephen J. Walsh

### ABSTRACT

In response to the dramatic upsurge in distracted driving related motor vehicle crashes, in 2010 Massachusetts enacted *Safe Driving Laws* focused on distracted driving. Among other provisions the laws ban typing, transmitting, or reading electronic messages from a handheld device while operating a motor vehicle. Additionally, the act bans all use of cellphones and handheld electronic devices by junior operators.

In 2013, through a grant provided by the *National Highway Traffic Safety Administration* (NHTSA), the Massachusetts State Police (MSP), in conjunction with the *Highway Safety Division* of the *Massachusetts Executive Office of Public Safety & Security*, initiated a Texting Enforcement Initiative. The primary objective of this two year project is to test the high-visibility enforcement (HVE) model, and determine if law enforcement can effectively observe distracted driver behaviors and successfully enforce current laws through developed enforcement techniques. A secondary goal of the project is to determine whether focused enforcement, preceded by an intense media campaign, is an effective countermeasure to the targeted traffic violations. Specifically, did the campaign increase driver’s perceived risk of receiving a violation for distracted driving offences, and did this perception influence them to stop texting while driving. A resultant decrease in the number of crashes with texting as a causative factor would also be expected.

Currently midway through the initiative, two of the four enforcement waves have been completed. By all accounts the initiatives have been a success and significant strides have been made towards the stated goals. Specifically, the preliminary assessment of both waves established that although Massachusetts laws related to composing, sending, and reading electronic messages, commonly, referred to as ‘texting,’ pose some obstacles to law enforcement, properly equipped, trained, and motivated officers can successfully detect, identify, and cite violators of the Massachusetts ban on texting while driving.

## **PROBLEM STATEMENT**

'Texting' while driving is a contemporary issue challenging the safety of our nation's roadways; however, *distracted driving* is hardly a new safety concern. Distracted driving is any non-driving activity an operator engages in that diverts his/her attention away from the primary task of driving. It can result from internal factors, such as eating, drinking, talking to passengers, adjusting a radio, listening through ear-buds (creating an auditory exclusion), and of course the use of cellphones. It can also result from external factors such as looking at motorists, pedestrians, viewing scenery, and most assuredly visual clutter created by an overabundance or confusing signage.

Distraction occurs when a driver voluntarily diverts his/her attention to something unrelated to driving that uses the driver's eyes, ears, or hands. There are four basic categories of distracted driving: **Visual:** Looking at something other than the road; **Auditory:** Hearing something not related to driving; **Manual:** Manipulating something other than the steering wheel; and **Cognitive:** Thinking about something other than driving. Most distractions encompass more than one category, with both a sensory (eyes, ears, or touch) and a mental or cognitive component.

## **OVERVIEW OF MASSACHUSETTS INITIATIVE**

In 2013, Massachusetts was chosen by NHTSA to conduct a pilot project focused around increased enforcement of the Massachusetts Safe Driving Laws, which ban the composition, sending, or reading of electronic messages from handheld devices while operating a motor vehicle, and a complete ban on the use of all electronic devices by junior operators. This initiative, dubbed "*Text with One Hand, Ticket in the Other*" enables the MSP to test high visibility enforcement (HVE) techniques and develop strategies designed to effectively detect, observe, and cite distracted drivers. The lessons learned and strategies developed will be shared with law enforcement nationwide. The initiative is divided into three components designed to test and assess the impact of the two year operation.

**1) ENFORCEMENT** - Selective enforcement focused on distracted driving occurs in four scheduled waves, each lasting 3-4 weeks, over the two years. The dedicated enforcement is conducted exclusively by the MSP and restricted to the northeast section of Massachusetts, specifically, twelve cities and towns under the jurisdiction of the A-1 barracks, to include: Andover, Dracut, Dunstable, Lawrence, Lowell, Methuen, North Andover, North Reading, Reading, Tewksbury, Tyngsboro, and Wilmington.

**2) MEDIA CAMPAIGN** – Earned media and public education is concentrated on the select communities prior to and during each enforcement wave. The messages are focused on educating the targeted driving public on the dangers of distracted driving and alerting them of the heightened enforcement effort.

**3) PUBLIC SURVEY** – Pre-enforcement and post-enforcement public awareness surveys are conducted to assess the impact of the media campaign combined with the HVE. As a control group the city of Springfield, in the western part of the state, receives parallel media attention but is not part of the focused enforcement effort.

## **OPERATIONAL DETAILS**

As part of roll-call training, Troopers are instructed that while assigned to texting enforcement patrols they are to provide maximum visibility for deterrent purposes and saturate targeted areas using a “zero tolerance” approach to traffic enforcement. Specifically, officers are instructed to take immediate and appropriate action on motor vehicle violations observed, with particular focus on texting, impeded operation and junior operator violations. Both marked and unmarked patrol vehicles are employed. Enforcement is relatively evenly dedicated to major highways and the secondary roads within the twelve cities and towns comprising the jurisdiction of the Andover barracks.

**Wave I** of this campaign spanned three weeks in the spring of 2013. The Massachusetts State Police (MSP) dedicated a total of 190 HVE patrols focused almost exclusively on distracted driving enforcement. Patrols were deployed on weekdays, during the morning and evening rush hours, and mid-day on weekends.

**Wave II** spanned four weeks in the fall of 2013. The MSP dedicated a total of 200 HVE patrols, again focused on distracted driving violations. In this wave patrols were deployed exclusively on weekdays during the morning and evening rush hours.

**APPLICABLE MASSACHUSETTS STATUTES** - It is important to note that Massachusetts does not have an adult ban on hand held cellphone usage while operating a motor vehicle. Consequently, a perceived, or perhaps actual gray area between the legal use of cellphones and the prohibition on texting while driving can cause confusion, create cover for operators, and pose a challenge for law enforcement. The following laws were enacted in Massachusetts in September of 2010 as part of the *Safe Driving Act*:

**Chapter 90, Section 13B:** (a) No operator of a motor vehicle shall use a mobile telephone, or any handheld device capable of accessing the internet, to manually compose, send or read an electronic message while operating a motor vehicle.

**Chapter 90, Section 8M:** No person under 18 years of age shall use a mobile telephone, hands-free mobile telephone or mobile electronic device while operating a motor vehicle on any public way.

The following statute prohibiting *impeded operation* has been part of Massachusetts law for several decades. It is this statute that law enforcement relies on when they establish that a driver’s ability to operate a motor vehicle safely was compromised, but may not have been in violation of the aforementioned newly enacted statutes.

**Chapter 90, Section 13:** No person, when operating a motor vehicle, shall permit to be on or in the vehicle or on or about his person anything which may interfere with or impede the proper operation of the vehicle or any equipment by which the vehicle is operated or controlled.....

## QUANTITATIVE ASSESSMENT

**Wave I** resulted in a total of 1,559 civil motor vehicle infractions and 47 criminal offences. Of those violations, 494 were issued under GLC 90, S.13B: Sending/receiving electronic messages (texting) while operating a motor vehicle; 603 were issued under GLC 90 S.13: Impeded operation; and 4 were issued to junior operators using cellphones while driving under GLC 90 S.8M.

In **Wave II** Troopers were directed to apply an even greater focus on distracted driving. Wave II resulted in a total of 1,654 civil motor vehicle infractions and 23 criminal offences. Of those violations, 599 were issued for texting. This 21% increase over Wave I was significant in that it suggests Troopers were more confident in their ability to evaluate when an operator's actions met the elements of texting. An additional 561 operators were cited for impeded operation; and 9 violations were issued to junior operators. While a combination of marked and unmarked patrol vehicles were deployed, 74% of the violations were written by Troopers in unmarked vehicles.

### MASSACHUSETTS STATE POLICE ENFORCEMENT STATISTICS

	Wave 1			Wave 2		
	Violations	Arrests	Warnings	Violations	Arrests	Warnings
Texting	440	0	54	487	0	112
Impeded Operation	509	0	94	458	0	103
Junior Operator Cellphone Use	4	0	0	8	0	1
OUI Arrests - Drugs	0	1	0	0	0	0
Misdemeanor Arrests	0	1	0	0	1	0
Fugitive Arrests	0	1	0	0	0	0
Suspended Operator	18	3	0	15	0	0
Uninsured Motorist	6	0	0	1	0	0
Negligent Operation	2	0	0	1	0	0
Criminal Summons	15	0	0	5	0	0
Speeding	66	0	29	51	0	13
Seat Belt	115	0	0	69	0	0
Child Restraint	18	0	0	12	0	0
Move Over Law	4	0	0	3	0	0
Traffic Stops Verbal	0	0	17	0	0	43
Other Traffic Violations	92	0	123	0	0	295
<b>TOTAL</b>	<b>1,289</b>	<b>6</b>	<b>317</b>	<b>1,110</b>	<b>1</b>	<b>567</b>

## QUALITATIVE ASSESSMENT

While this two year initiative is only halfway complete, significant insight has been gained into the ability of law enforcement to enforce distracted driving laws and the most efficient and effective enforcement tactics and strategies.

**HIGHWAY ENFORCEMENT** – Highway enforcement proved most effective during times of heavy traffic congestion, however, stopping vehicles on highways during rush hour can create additional safety concerns and increase traffic congestion. Mobile enforcement on highways proved challenging for Troopers, as they needed to position their vehicle so as to afford a view of

the offender's actions, while ensuring that their own attention to driving was not diverted. Unmarked SUVs' with tinted windows proved most effective, as they offered a covert view into the interior of adjacent vehicles. Some would argue that unmarked cruisers detract from the HVE model; however, motorists viewing violators stopped by a Trooper in an unmarked vehicle are alerted to the fact that they may not be able to avoid a violation simply by watching for marked cruisers. This tactic acts as a force multiplier when effectively employed. Stationary patrols on the shoulders of the highway proved effective only during periods of very heavy congestion.

Troopers reported that on the highways instances of operators viewing their 'smartphones' are prolific, but may not always rise to a level of texting under Massachusetts law. Troopers report that on the highway it was often difficult to observe the operator long enough to discern that they were texting; however, it was apparent that their attention was diverted to the electronic device. In these instances, a two second rule of diverted attention, based on a *Virginia Tech Transportation Institute* study, provided a basis for an objective determination that an operator's actions were unsafe. The *VTTI* study concluded that any activity that diverts a driver's eyes from the road for two seconds or more increases crash risk by a factor of three, similar to driving with a blood alcohol concentration of .08.

When confronted by Troopers, some operators admitted that they were texting, while others denied it or said they were entering a phone number or data into a GPS. In some cases the operator allowed the Trooper to view the cellphone history. Troopers felt more comfortable citing offenders under the catchall infraction of *impeded operation* when they could not clearly determine that the elements of the texting statute were met. An abundant number of operators were also cited for impeded operation for wearing dual ear-bud audio devices, creating a dangerous auditory exclusion and distraction.

It was noted that in addition to the safety concerns created by operators viewing electronic devices, traffic congestion on the highways is impacted as operators fall back in the cue of traffic or fail to accelerate immediately in stop and go traffic as they concentrate on their devices.

**SECONDARY ROADWAYS** - Detection of distracted drivers on secondary roadways, particularly at traffic signals, proved to be relatively easy. At intersections the less significant offenders viewed their devices only after coming to a full stop, while others drove into or accelerated out of the intersection while viewing or entering data on the devices. Proving a texting violation remained somewhat challenging, as the operator must be viewed long enough to discern that they were entering, viewing, or sending, or receiving electronic data. Unmarked vehicles overwhelmingly proved to be more effective.

**TWO OFFICER ENFORCEMENT** - Troopers found that partnering up with another Trooper in the vehicle enabled the operating officer to concentrate on safe driving while the passenger made the observations. While this method is manpower intensive, productivity did not suffer as there was a greater opportunity for the observing Trooper to determine that the elements of the offence were met and a greater number of offenders were identified.

**SPOTTER TECHNIQUE** – ‘Spotter’ techniques were employed at intersections during the evening rush hour. Specifically, an officer stood on the shoulder of a busy four-way intersection observing traffic. The spotter was covert in plain clothes; however, the truly distracted drivers were oblivious his presence. From this vantage the spotter is able to easily view into stopped and slowing vehicles. Consequently, instances of texting and distracted driving are apparent. The spotter radios ahead to uniformed Troopers who stop and cite the operators a short distance from the intersection. Although very effective, this method of enforcement is manpower intensive. With four Troopers citing operators, there were instances that operators could not be stopped because all Troopers were engaged with other stops.

**STATIONARY VERSUS ROVING ENFORCEMENT** - Activity was recorded in four enforcement modes: Roving patrols on limited access highways and ramps accounted for **37%** of the violations, while roving patrols on secondary roads accounted for **27%** of the violations. Stationary patrols on secondary roads also proved effective, accounting for **30%** of the violations. However, stationary patrols on limited access highways and ramps proved ineffective, accounting for only **6%** of the violations.

**JUNIOR OPERATORS** - Only 13 junior operators were cited for cellphone usage in the two waves. This number in all probably significantly underreports the percentage of junior operators violating the cellphone/texting ban. Without significant indicators that an operator is under eighteen years of age Troopers were reluctant to stop the operator simply for talking on a cellphone while operating. In Wave II enforcement was conducted in both inner city and suburban high school zones at the end of the school day. Troopers reported that the enforcement was problematic because most of the students departed from the school in one mass, making it difficult to stop more than one or two violators. Troopers also indicated that they observed minimal violations of the junior operator restrictions as the student departed.

## **SUMMARY**

As this initiative progresses Troopers continue to hone their skills and develop strategies for detecting and identifying violators of the distracted driving laws and increase confidence in their ability to enforce the laws. The quantitative and qualitative analysis of the two enforcement waves to date affirmed that while the Massachusetts statute banning composing, transmitting, or receiving and reading electronic messages while operating a motor vehicle is less than ideal from an enforcement viewpoint, when provided with the proper equipment, training, and motivation, law enforcement officers can successfully detect, identify, and cite offenders of the current distracted driving laws. The mobilizations further established that the best enforcement model is dedicated one or two officer patrols in unmarked SUVs’, as well as the ‘spotter’ technique.

Yet to be determined is the initiatives secondary goal, establishing if selective enforcement, preceded by an intense media campaign, increases a driver’s perceived risk of receiving a citation for violating the law, and if this perception influences drivers to stop texting while driving.

## BIOGRAPHY

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Massachusetts State Police Lieutenant Stephen J. Walsh has 34 years of law enforcement experience principally focused on the performance and administration of traffic investigations, enforcement, and highway safety initiatives. He is a U.S. Army veteran and holds a Masters Degree in Criminal Justice. As the Chief of Staff to the Commander of the Division of Field Services, his duties included the Officer in Charge of the Department's Traffic Program Section. There he was responsible for formulating and instituting policies associated with the deployment of highway safety mobilizations using *Compstat* models via *Intelligence Led Policing* and *Data Driven Approaches to Crime & Traffic Safety*. As the NHTSA liaison to the Massachusetts State Police, his duties included grant procurement and management, resource allocation, mobilization assessment, and after action reporting. These initiatives included training, operational planning, deployment, and reporting on the state's highway safety initiatives, including the highly successful sobriety checkpoint program. He further served as the liaison to several private and public partners, including MADD, AAA, NSC, CARE, and the state's *Strategic Highway Safety Plan* and *Traffic Incident Management Committee*. He was the key author to three award winning *IACP National Law Enforcement Challenge* submissions, as well as the *2009 Martha Irwin Award for Highway Safety Initiatives*. As a Trooper and later Executive Officer to the Collision Analysis and Reconstruction Section, Lieutenant Walsh conducted and supervised thousands of fatal crash investigations and prosecutions. Currently the Commanding Officer of the Andover barracks, Lieutenant Walsh is overseeing a two year NHTSA coordinated *Distracted Driving* pilot initiative aimed at determining if law enforcement can effectively enforce current laws focused on distracted driving and if high visibility enforcement combined with an effective media campaign will reduce instances of distracted driving.