



## Michigan's New Texting Ban Effective July 1, 2010

Patricia Scott & Nichole J. Derks

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As you may know, Michigan's new texting ban went into effect July 1, 2010.<sup>1</sup> The new law prohibits reading, manually typing, or sending a text message or email on a "wireless 2-way communication device" located in a person's hand or lap while operating a motor vehicle that is moving on a Michigan highway or street.

A "wireless 2-way communication device" does not include navigation or global positioning systems affixed to the motor vehicle, but does include a cell phone.

Because the text ban is incorporated into the motor vehicle code, it is automatically adopted by most municipalities, so although it is possible there is likely no need to create a new ordinance. Importantly, the law states "[t]his section supersedes all local ordinances regulating the use of a communications device while operating a motor vehicle in motion on a highway or street, except that a unit of local government may adopt an ordinance or enforce an existing ordinance substantially corresponding to this section."<sup>2</sup>

Additionally, there are several exceptions to the ban. The following activities are allowed according to the new law:

1. reporting a traffic accident, medical emergency, or serious road hazard;
2. reporting a situation in which the individual believes his or her personal safety is at risk;
3. reporting or averting the commission of a crime; and
4. carrying out official duties as a police officer, law enforcement official, member of the fire department, or operator of an emergency vehicle.

A violation is a civil infraction. The penalty for a first offense carries a \$100 fine, and a \$200 fine is assessed for any subsequent offenses.

Currently, it is unknown how the ban will be enforced. As a practical matter, given the economic climate, it may be difficult to collect the steep fines. Police officers may have difficulty proving that a driver was

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### **AUTHORS/ CONTRIBUTORS**

Nichole Jongsma Derks

Patricia J. Scott

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in fact reading or sending a text message given how many functions and features a cell phone offers. This raises legal questions about the police's ability to search one's cell phone.

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<sup>1</sup>MCL 257.620b.

<sup>2</sup>*Id.*

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