BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE ON LOCAL TRANSPORTATION

PUBLIC HEARING

TO EXAMINE WHAT STEPS NEW YORK STATE CAN TAKE TO MAKE ROADS SAFER AND TO KEEP PEOPLE PROTECTED FROM DISTRACTED-DRIVING CRASHES

Legislative Office Building
Van Buren Hearing Room A - 2nd Floor
Albany, New York

February 13, 2012
10:00 a.m. to 2:00 p.m.

PRESIDING:

Senator Charles J. Fuschillo, Jr.
Chair

SENATE MEMBERS PRESENT:

Senator Ruben Diaz

Senator Owen H. Johnson

Senator William J. Larkin, Jr.

Senator William Perkins

Senator Lee M. Zeldin

ASSEMBLY MEMBERS PRESENT:

Assemblyman David G. McDonough (RM)
NYS Assembly Standing Committee on Transportation

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SENATOR FUSCHILLO: Thank you very much for being here today.

I'm going to try to attempt to read this without my glasses, so, if I say something the DMV may not like, it's just because I don't have my glasses on.

Before we begin today, let me just take this opportunity, first of all, to thank everybody who's attending; and, also, those who appear before the Committee and offer their expertise and testimony.

We're here today to discuss a very real and dangerous problem that's facing everyone on our roadways, and that's distracted driving.

Evolving technology has greatly enhanced our ability to communicate. Smartphones, BlackBerries, and other wireless electronic devices allow us to connect to people and information almost instantaneously. However, using these devices behind the wheel of a car possesses a serious safety risk.

Drivers using cell phones fail to see up to 50 percent of information in their driving environment, according to the National Safety Council.

Other research has indicated that impairment

of using a cell phone while driving can be as profound as driving drunk with a .08 blood-alcohol level.

Texting or e-mailing while driving creates a risk -- crash risk 23 times worse than driving while not distracted. Research has shown that sending or receiving text messages takes the driver's eyes off the roads for an average of 4.6 seconds. That's the equivalent of driving 55 miles per hour down the length of an entire football field, blindfolded.

We've seen all cars -- we've all seen cars swerving and driving erratically because the driver was paying more attention to a phone call, text message, or an e-mail instead of the road. This can have deadly consequences as we know.

One of today's speakers was seriously injured, and lost her parents, in a crash caused by a distracted driving.

For too many other families -- far too many other families know her pain. Every day, more than 15 people are killed, and over 1,200 people are injured in distracted-driving crashes, according to the Center for Disease Control.

The National Highway Traffic Safety Administration states that, in 2009 alone, over

5,400 people were killed, and an estimate of over 440,000 were injured, nationwide, in distracted-driving crashes.

New York State has made great strides over the years in combating distracted driving.

Both, texting while driving, and talking on a cell phone without a hands-free device, are illegal, and carry penalties that include 3 points on the offender's driver's license.

Last year, we also took an important step of making texting while driving a primary offense, giving police a greater ability to enforce the state texting ban -- texting-while-driving ban.

Following the enactment of that law, the New York State Police issued at least 1,000 tickets a month between July and November of 2011.

These are all steps in the right direction but they have not completely solved the problem. That's why we need to explore what else should be done.

The National Transportation Safety Board released the recommendations last December on how states could better combat distracted driving.

Driving -- during the course of today's hearing, we will gather the input on these

recommendations and potential steps New York State can take to prevent distracted driving.

I would like to introduce my colleagues.

To my left is Assemblyman Dave McDonough, the ranking member of the Transportation Committee in the Assembly;

To my right is Senator Owen Johnson, and Senator Lee Zeldin.

Gentlemen, thank you very much for being here.

Our first speaker is Christopher Hart, who's the vice chairman of the National Transportation Safety Board.

Thank you very much for being here.

CHRISTOPHER A. HART: Thank you.

Good morning, Chairman Fuschillo, and members of the Senate Committee on Transportation.

My name, as you heard, is Christopher Hart.

I'm the vice chairman of the National Transportation Safety Board.

And with me today, accompanying me, is Danielle Robert, to answer the really hard questions you might have. She's from our Office of Advocacy.

Thank you for inviting the NTSB to Albany to discuss the recommendation that we issued last

December regarding the use by drivers of cellular telephones and other portable electronic devices while driving.

This recommendation represents the latest in a progression of recommendations that we have issued since 2002 about PED distractions.

By way of introduction, the NTSB is an independent federal agency that investigates transportation accidents, determines what caused the accidents, and then makes recommendations to try to prevent recurrences.

The recommendations that arise from these investigations and our safety studies are the NTSB's most important tools for bringing about lifesaving improvements.

Before discussing this recommendation, I would like to applaud New York for your leadership on this issue, because New York was the first state to ban the use of hand-held phones by drivers, and, you have also prohibited texting while driving, joining almost 40 other states who have also prohibited texting while driving.

Distractions have been a problem for drivers ever since the first driver drove the first car.

So between, landscape and billboards; and,

the rear-view mirror; and, the street sign, "Is this where I turn?"; and, "Wow, look at the '56 Thunderbird," distractions have been a problem for drivers ever since driving started.

But we're becoming increasingly concerned about distractions from PEDs because of the growing number of highway crashes that involve driver distraction, combined with, the increasing use by the general population of cell phones and PEDs, and then combined, also, with the research that shows the adverse effects of distraction on driving.

Our first recommendation regarding cell phones resulted from an accident in 2002, when a Ford Explorer veered off the left side of an interstate, crossed over the median, flipped over a guardrail, and caused a collision that resulted in five fatalities.

Through our investigation, the NTSB determined that the inexperienced driver of the Ford Explorer was distracted by the use of a cell phone at the time of the accident.

Based on this investigation, the NTSB recommended that states prohibit the use of interactive wireless-communication devices by young,

novice drivers.

Two years later, in 2004, an experienced motor-coach driver was distracted by talking on his hands-free cell phone.

He was in a two-bus team, and he failed -- he was the second bus of a two-bus team, and he failed to notice three things:

First, that the bus in front of him changed lanes;

Second, that there were -- that there were signs that indicate that he's about to come under a stone arch bridge, and that the edge lane had a lower clearance than the middle lane;

And, third, that there were signs on the bridge that showed what the clearance was on the edge lane versus the center lane.

So, he was on his hands-free cell phone, failed to notice those three things; and, as a result, he struck the bridge, and injured 11 of the 27 high school students on the bus.

As a result of that, the NTSB recommended that states ban the use of cell phones by commercial driver's-license holders with passenger-carrying or school bus endorsement.

In 2010, a tractor-trailer and its -- a

tractor -- truck, tractor, and its trailer went off the left side of an interstate highway, crossed the median, and collided with a 15-passenger van traveling in the opposite direction.

When we arrived at that accident, we saw what we considered the usual signatures of a "fatigue" accident: falling asleep.

We saw the shallow angle of departure from the roadway, the absence of braking, 5:00 in the morning; these are all signatures of "fatigue" accidents, and that's what we anticipated when we went there.

In the course of the investigation, we discovered that the driver of the truck was actively on his cell phone. There was no fatigue at all. He was very awake and very much on his cell phone the entire time, which caused him to lose attention to -- focus to his driving, and cross the road into the oncoming van, and killed 11 people in the oncoming van, and himself.

As a result of that, we expanded our previous recommendation, that was limited to passenger-carrying- or school bus-endorsement commercial drivers. We expanded that to recommending a ban against cell phone use by all

commercial motor-vehicle drivers.

The accident that resulted in our most recent recommendation regarding PEDs also occurred in 2010, when a pickup truck ran into the back of a truck tractor that had slowed for construction.

The pickup truck, in turn, was struck from behind by two school buses; and, as a result, 2 people died, and 38 people were injured.

The pickup-truck driver sent and received 11 text messages in the 11 minutes immediately prior to the accident.

Given the accelerating pace of these accidents, in conjunction with our awareness of the increasing use of cell phones and PEDs by the general population, as well as the research on distraction, the NTSB recommended a complete ban against the non-emergency use of all portable electronic devices, other than those designed to support the driving task for all drivers, at all times.

As I said, this recommendation is not just based on accident investigations. It's based on the research, and it's based on the increasing use of PEDs in the population.

This is not unique to highways. We've seen

PED distractions in other transportation modes.

In 2008, PED use led to 25 fatalities, when the driver of a commuter train in Chatsworth, California, was texting; and while texting, passed a red signal.

And a "red," of course, means "stop."

And the reason he's supposed to stop, is because, it's a single track; there was an oncoming freight train. And, he's supposed to wait there until the freight train goes on the siding so he can pass.

Well, he did not stop because he was texting; ran into the freight train, and that resulted in 25 fatalities.

In 2010, a barge/tug-boat combination running over an amphibious "duck" in the Delaware River killed two Hungarian tourists.

Now, in that case, that driver was very, very distracted -- the tug-boat operator was very distracted, because, just before he started this run, which was not time-critical --

It was a garbage run; taking an empty barge to pick up garbage from one side of Philadelphia to deposit it at another side of Philadelphia, so, it was not time-critical.

-- just before he embarked on that mission, he learned that his 9-year-old son, in the hospital, having around operation, had suffered an anesthesiological mistake, which resulted in him going 8 minutes without brain -- without oxygen to his brain.

So, this driver was -- truly, he should have asked for a replacement driver.

So, he's on the cell phone continuously during this mission, and the -- because he was distracted, and because he was on his cell phone, he ended up not seeing a boat in the middle of the Delaware River, on a beautiful clear day, and ran over the boat, resulting in two fatalities.

And, we're all aware of the Minneapolis overflight in 2009, in which the flight crew went more than 100 miles beyond their destination, because they were distracted by their laptops.

So, there's no doubt that obtaining PED-free safe-driving behavior will require a cultural shift.

Past safety campaigns have shown that laws aimed at changing behavior are much more likely to enjoy long-term success if they are combined with two other critical elements:

One is, high visibility enforcement; and

two is, an intense public-information and education campaign.

This three-part model involving good laws, good enforcement, and good education has helped with such issues as, increasing seat-belt use, and decreasing impaired driving.

And there's evidence that it can work to decrease driver distractions from cell phones and PEDs too, because, as you may know, last year, the National Highway Traffic Safety Administration initiated demonstration programs to determine the effectiveness of high-visibility enforcement on cell-phone use.

They did it in two cities: one in Hartford, Connecticut; and one here in New York, in Syracuse.

The programs focused on talking or texting using a hand-held device.

Hand-held use dropped 56 percent in Hartford, and 38 percent in Syracuse; and texting dropped 68 percent and 42 percent, respectively.

Recognizing that highway-safety improvements are much more likely to occur with this multi-pronged approach, the NTSB recommendation includes provisions for high-visibility enforcement, as well as education.

We know that there are many questions about how to address this issue, and that there are other driving distractions that may also need to be addressed.

Accordingly, we will be convening a forum on March 27th to explore this issue further.

At this forum, we will be taking a look at this three-pronged process.

We will want to hear from those who are involved in the education process and other traffic-safety-improvement programs, to see how it can help with respect to distracted driving.

Likewise, we know that a ban on using cell phones presents huge enforcement challenges, so, we will be -- we will want to hear from those who helped with the enforcement aspects of other traffic-safety-improvement programs.

In conclusion: The NTSB is especially concerned about distractions from PED use because our accident investigations, the research, and the increasing use of PEDs indicate that this is a growing trend.

With more and more drivers using PEDs instead of focusing on that their driving, everyone on the road is at risk.

I mentioned the leadership that New York demonstrated by being the first state to ban hand-held cell-phone use.

We hope that New York will continue to demonstrate this leadership by expanding its law to include all non-emergency use of PEDs.

It's not just about the distracted drivers, it's about the safety of everyone on the road: you and me.

Thank you for your consideration of this important issue, and, I'll be happy, with Danielle's help, to take any questions you might have.

Thank you.

SENATOR FUSCHILLO: Mr. Hart, thank you very much.

And, we've been joined by Senator Diaz.

Thank you for being here.

And, Senator Larkin as well.

You know, I talked to you briefly.

And, after reading your report, it was really one of the reasons why I wanted to convene this hearing, in seeing the seriousness of this issue in New York State.

But I also mentioned to that you, that, during the holidays, you know, when I was stopped at

a red light in my district, there was a gentleman to my left who had sort of a glow on him, at night.

And I knew it wasn't from above.

And when he raised his hand, he was on an iPad.

And it was quite shocking that, you know, we've gone from a cell phone or an iPhone now, to an iPad in a car.

How would you rate New York State, overall, in their laws, compared to other states in this nation?

CHRISTOPHER A. HART: As I mentioned, New York was the leader in being the first to ban cell-phone use.

We're hoping that it will continue to be a leader with respect to use of hands-free devices.

Also, as I mentioned, you banned texting.

So, in that respect, New York is doing quite well, nationally, relative to the other states.

SENATOR FUSCHILLO: You know, one of the comments you made, is that, in order to change this, we need a cultural shift, where people don't automatically get on their cell phones or iPhones, or whatever other devices they're using.

The question always comes up of enforcement.

How do you foresee, you know, if we strengthen our education laws for first-time drivers, or penalties?

And I think, New York State, as you stated, is a leader in many avenues like this, to give our law enforcement and district attorneys and DMV the right tools necessary to go after those, but, enforcement is always a concern.

Wouldn't you agree?

CHRISTOPHER A. HART: Enforcement is a big issue, and that's why it's one of the areas we'll be talking about in our upcoming forum on March 27th, because we recognize the difficulty of enforcing the cell-phone ban.

First of all, it's difficult to determine that it happens, without the records.

When we do it after an accident, we have to summon the records in order to determine, as we did with that accident where we thought it was a fatigue; 5 a.m., fell asleep, drove off the road.

It was not fatigue.

We got the records, and that's how -- that's why we needed to find that out.

SENATOR FUSCHILLO: It seems that every -- you know, and my Assemblyman, to our left, share the

same district, and we always say, that, you know, we could stand on the corner and watch ten cars goes by, and nine them are on the cell phone, picking it up.

And it's become such a matter of convenience, and urgency, that every phone call and text message is received at that moment.

I wanted to ask you, since you are a national board: Do you foresee the federal government requiring states to implement some of your recommendations?

CHRISTOPHER A. HART: The National Highway Traffic Safety Administration would have a better handle on that.

Historically, what they -- what has often happened, is there have been incentives tied with, say, highway money, for example.

If you have motorcycle-helmet laws, if you have seat-belt laws, that entitles you to more highway money.

So, there are several means by which the federal government can intervene; but, essentially, the bottom line is, it appears to be a state issue.

SENATOR FUSCHILLO: All right. Okay.

Senator Larkin.

SENATOR LARKIN: Thank you very much for being here, Mr. Hart.

I heard what you just said.

You know, a football team went out at -- two weeks ago, and people laughed at them and said they couldn't do anything.

They put their heart together and they did it.

I can't understand why National Traffic Safety Board, and all of the national boards on traffic, can't sit down and come to a conclusion.

We've done it here in New York. We're still moving forward.

But you know, what? To get this message across, and you just gave an excellent presentation on what we need to do --

CHRISTOPHER A. HART: Thank you.

SENATOR LARKIN: -- the question is: Why aren't we doing it at the national level?

Is it a dis- -- is it something that the automobile industry says: You're hurting us. People want to be able to do this, and have this?

CHRISTOPHER A. HART: There are a lot of reasons behind it, but it -- I described it as a "cultural shift," because it's" very much like

drinking-and-driving.

I can remember, when I was a kid, you'd see TV shows, and, the drunk person was the life of the party, and everybody laughed at him. And, boy, that was really funny.

That's not the culture today.

Same way with seat-belt use. It used to be, originally, car makers were afraid to put seatbelts in their cars because they were afraid people would think: Oh, your car is less safe than this car if you put a seat belt in it.

But, that was cultural shift as well.

And we're still struggling with -- on both of those, with the enforcement and the education.

And we need, not only the laws, but the enforcement and the education as well.

SENATOR LARKIN: But -- but this is more than that.

You know, I am 84 years old. I'm the senior in age. That's all.

He's the junior next to me, over there.

But here's the point: When do we put something in for parental responsibility?

You know, we're saying: You know, John won't like that.

And mother says: Well, Ann just needs it, just in case she has to talk to somebody.

Come on, get with it!

CHRISTOPHER A. HART: From what we --

SENATOR LARKIN: You know, the trouble is, too many parents today want to be friends with their children.

Come to my house and see my 17 grandchildren.

Sometimes they really don't like the old man, but they respect him, because, I don't use it.

And, my oldest one, whose car I bought, I ever catch her using it, I will take it back. And that's in the agreement.

But, we need to do this.

This is about safety. This is about lives.

This weekend, I saw where three people have been killed in an accident in my district.

The police stated, that, in the one case, the girl was texting.

And in another case, they were looking for something else.

You know, we can talk all of this niceties here.

The Chairman of this Committee has gone out of his way to cooperate with every effort.

I think it behooves you folks at the national level --

It says "National." It doesn't say "New York," "Midwest," "Northeast."

-- I think it's going to take some of you folks to sit down, and say: This is a must, so that we can ensure that we don't lose kids.

We're losing young men and women on the battlefields, because they decided that they were going to defend this country.

But driving a car, using a cell phone, and texting, is a privilege that shouldn't be used in a car.

And if we don't take steps at the national level to address this, shame on us, because the next obituary we read may be about one of our own family.

And I thank you very much for your comments. I think they're most appropriate, but I want you to you to go that step further.

CHRISTOPHER A. HART: Thank you, and I appreciate that.

The issue that we're facing, is that, so many people, the vast majority of people, think it's okay. Think, "I can drive okay while I'm talking on the phone." "I can drive okay while I'm texting."

That's -- the challenge is, to make people know it's not okay.

SENATOR LARKIN: But it -- [unintelligible] influence on the automobile industry?

CHRISTOPHER A. HART: I think the entire situation needs to be addressed. That's why we're looking at the big picture --

SENATOR LARKIN: I look, with open arms, hopefully before my next birthday, when I'll pick it up and see, we, as a nation, have come together, to protect those who don't want to be protected by themselves.

CHRISTOPHER A. HART: I hope we can see that as well.

Thank you very much for your comments.

SENATOR FUSCHILLO: Thank you, Senator.

Assemblyman McDonough.

ASSEMBLYMAN MCDONOUGH: Thank you.

And thank you for your testimony, Mr. Hart.

You know, these things are part of people's lives now, and they're an appendage, practically.

I noticed, in the 20 minutes or so that we've been talking, I looked out into the audience, and I see several people, even as I'm speaking now.

Of course, this is something you can't be

without.

And the law now --

SENATOR FUSCHILLO: Everybody looks kind of guilty now. They just put all their BlackBerries --

ASSEMBLYMAN MCDONOUGH: Right, that's why I figured I'd point them out.

Some of them I know.

[Laughter.]

ASSEMBLYMAN MCDONOUGH: Excuse me, I have a call.

[Laughter.]

ASSEMBLYMAN MCDONOUGH: But, you know, there's also the bluetooth, because, you'll see signs on the highways in New York State, now, because of laws passed, sponsored by Senator Fuschillo, that says "Hands-Free Only."

And, now, when you see those big traffic signs, sometimes it says "Hands-Free Only," it's almost an encouragement: Okay, if you can do hands-free.

Now, I can do hands-free on this. And, sometimes, I can just put it in my pocket, and I can still talk and be heard.

The problem is, I think, that it's not like talking to a passenger next to you; that, you've got

unlimited time to talk. You do get distracted.

People with that, or bluetooth, which was the solution to hands-free, they figure: Well, you can do it.

I don't know what the solution is, other than education.

And, the National Transportation Safety Board, I know you're doing that. And your testimony shows the results of people, and some of those people may have been on hands-free, but, you are distracted.

Unless we can -- and this is a radical, radical solution, but, unless automobile manufacturers could put some device in the car that blocks any signals, that would be the only total enforcement you could do. You know the technology is there, they could do it.

Then people would have to pull over to make a call.

I think the thing that you have to do, and I guess you're doing it, in reading some of the material here, is education.

And we have to start in the schools; in meetings in the schools. And we have to show the very dangers of talking on the phone.

I've participated in many forums in schools, where we talk about, with law-enforcement officers, district attorneys, showing them some videos of drinking-and-driving accidents, and the lives they cost.

I think maybe that's one of the things we have to do.

But, it's very difficult, when you're driving, for somebody not to be, as the Senator said, even on an iPad, looking at that.

It's so convenient, it's so easy, and all of that; and, you stop at a light, or -- how many times have you been at a traffic light, and the guy in front of you, the light turns green, and you have to blow the horn to get him off the phone, or something, so he sees that the light is green?

So, whatever suggestions you can come up with, I guess, short of the automobile manufacturers equipping their cars with such a device, which would be, you know, total.

Education; I think you agreed that education is the most important part?

CHRISTOPHER A. HART: Well, it's one of three. I don't know if I'd say "most important," but it certainly is crucial, along with enforcement

and the laws themselves, yes.

ASSEMBLYMAN MCDONOUGH: Okay, but the law, to make -- we can increase the law to say that, hands-free also. But, the enforcement is the thing, as Senator Fuschillo mentioned, it's very difficult, and it costs lives.

Well, thank you.

SENATOR FUSCHILLO: Thank you very much.

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. Chairman.

Good morning, Mr. Hart.

To talk in a cell phone is against the law, so, there are laws that say I cannot speak while driving.

When I'm driving, my cell phone rings, I go, "Hello," while I'm driving. So, that is distracting.

Sometimes I go to the coffee shop, and I buy me a sandwich, and a coffee. Hot coffee. Real hot coffee.

So, I put my sandwich, here; and my hot coffee, here; and I'm driving.

And I go, getting my sandwich, getting a bite, putting it back, while driving.

Then I try to find my hot coffee; and I go:

[Demonstration: Picks up a cup, blows on cup, drinks from cup, makes scrunching facial expression].

So that is okay. Nothing is done against that.

So, I'm asking you, what will be -- to your knowledge, and according to you, what is more distractive:

Just to say, Hello, how are you doing?

Or to go through all those motions that I just did?

CHRISTOPHER A. HART: First, and foremost, we are an agency that investigates accidents, so, we go to where the accidents take us.

Where the accidents are taking us now, is that we're seeing a lot of distraction from PEDs.

If we saw a lot of distraction from people drinking hot coffee, we would address that accordingly.

But, right now, we're seeing, not only the distraction, but also the increasing penetration of PEDs into the population.

Plus, the research that shows that it's very common, as Senator Fuschillo mentioned, that you can be looking at your cell phone for four or

five seconds without giving it a second thought.

You didn't look at your coffee for four or five seconds, but you're looking at your cell phone for four or five seconds.

SENATOR DIAZ: I think that if you really look at what I'm telling you, I take more time in looking at my coffee and my sandwich --

CHRISTOPHER A. HART: If we see more accidents on that, we'll go right after it.

SENATOR DIAZ: -- [unintelligible] than getting my phone.

I mean, it took, to look at the sandwich, to take a bite, and to put it back; and then look at the coffee, and start sipping the coffee, I believe that it's dangerous, not only to speak on the phone, but I think that you compare the two of them.

CHRISTOPHER A. HART: I agree, completely, that any distraction is dangerous.

We're focusing on this one, because it's an emerging trend that is worrisome, and we're trying to stop the trend before it gets worse.

But, any distraction is bad.

SENATOR DIAZ: Just trying to comment on what I think that we are -- that we have been overlooking.

And, if you're talking about safetiness [sic] while driving, you got to look into every single issue that could be there.

And I know that, people that eat -- and who are eat and drink while driving will get angry at me.

But I think that you are the National Transportation Safety Board advisers. You, the chairman, should look into that thing.

So, I appreciate you coming to New York State.

Thank you.

CHRISTOPHER A. HART: Thank you for having me.

SENATOR FUSCHILLO: Mr. Hart, thank you very much.

And, my colleagues bring up some very serious issues and comments, but I think what's lost here, is that: The car has become the home. The car has become the office. The car has become the playground. The car has become everything.

And as Senator Diaz had said, people are eating in their car.

And as Assemblyman McDonough talked about, distractions in cars, and other things that came up.

People use it for their office. They're traveling salesmen or saleswomen -- salespersons.

Driving -- and the commissioner of DMV will be testifying next.

Driving in New York City is a privilege. It's not a given right here in New York State, as it is in other states as well.

And you had mentioned these -- you know, these words in your statement, when you concluded: It's a cultural change, to focus.

Essentially, what you're saying, it would be a cultural change to focus on the sole responsibility that you have behind -- when you get in that car, and that's driving, and following the laws here in New York State.

And, you know, it almost sounds like an absurd comment when you make this -- I make these statement, you make these statements, that it's a cultural challenge to focus on what we should be doing behind the wheel, rather than eating or drinking or talking on the phone or doing our work at red lights, or whatever it is.

There's a responsibility to follow the laws here in New York State.

And the real question is: Are they strong

enough?

Do they give law enforcement the necessary tools that are necessary?

Is the education requirement strong enough?

And it's not just for young individuals. For young and middle-aged and older alike.

I mean, do we really have to take a look at that, as we educate individuals here in New York State?

So, I want to take this opportunity to thank you for coming to New York, and thank you for your testimony.

CHRISTOPHER A. HART: Thank you very much for having me, and we look forward to working with you.

If we can help in any way, as you go through the legislative process, we'd be happy to do that.

SENATOR FUSCHILLO: Thank you very much.

CHRISTOPHER A. HART: Thank you.

SENATOR FUSCHILLO: Commissioner Fiala, New York State Department of Motor Vehicles; and, also, Chair of the Governor's Traffic Safety Committee.

Good morning, Commissioner.

COMMISSIONER BARBARA FIALA: Good morning.

Thank you very much.

Thank you, Senator Fuschillo, for inviting me here today, and for conducting this hearing on such an important topic.

My name is Barbara Fiala.

And, in addition to serving as the Commissioner of Motor Vehicles, I also chair the Governor's Traffic Safety Committee, which is comprised of 12 state agencies with missions related to highway safety.

Under Governor Cuomo's leadership, New York State has been at the forefront of combating distracted driving.

I am pleased to discuss the issue of distracted driving, and share what the Department of Motor Vehicles and the Governor's Traffic Safety Committee are doing to address this serious highway-safety issue.

In New York State, at least one out of five crashes has driver in-attention listed as a contributing factor.

Distractions have been a part of driving since the beginning of time.

Drivers can be overwhelmed with visual, manual, and cognitive distractions which cause them to take their eyes, hands, or minds away from the

driving task at hand.

So, why are so many of us now focusing on electronic devices, such as cell phones?

The reason is, that cell-phone use in the United States has exploded.

According to the Cellular Telecommunication and Internet Association, minutes of use surged, from 195 billion in June of 2000, to more than 1.1 trillion in June of 2008, and the numbers continue to grow.

The cellular telephone or smartphone use is certainly the biggest challenge in our fight to curb distracted driving, and is why U.S. DOT Secretary LaHood refers to this as a "deadly epidemic."

We know that public education, coupled with law enforcements, are effective ways to help combat this dangerous driving behavior.

I want to commend the Governor for strengthening the efforts of law enforcement by making texting while driving a primary offense.

In addition, the Department of Motor Vehicles now assigns 3 points to a motorist's license record for violations involving the improper use of cell phones and other portable electronic devices.

In announcing these changes, Governor Cuomo said, "It's plain and simple: Distracted driving leads to tragedies that have affected families all across New York.

"This new law will help ensure that drivers help keep their eyes on the road and their hands on the wheel."

Because of these changes, we currently have one of the strongest anti-distracted-driving laws in the country.

This is no surprise, as being first in the nation is nothing new to New York.

New York was the first in the country to adopt a statewide ban on hand-held cell phone use while driving, and has the nation's strongest "driving while intoxicating" [sic] laws.

Because of our record of being first in the nation in traffic safety, the GTSC applied for, and received, a federal administration project grant from the National Highway Traffic Safety Administration, to test the High Visibility Enforcement Model in a project targeted to -- at distracted driving.

The project, which was conducted in Syracuse, lasted for one year, and consisted of four targeted

enforcement waves, combined with an aggressive public-awareness campaign.

Syracuse was one of only two cities in the country to take part in the project, which was conducted under the theme, "Phone in One Hand, Ticket in the Other."

During the project, more than 9,500 tickets were issued in Syracuse, and cell phone use and texting while driving decreased by 32 percent.

GTSC is prepared to respond to the availability of another NHTSA grant that will allow us to expand this type of project to additional geographic areas.

The effort in Syracuse was modeled after previous successful campaigns aimed at curbing impaired driving and increasing seat-belt use among drivers.

As an example: In the fall of 1985, just before the seat-belt law took effect, seat-belt usage in New York State was about 46 percent.

Through education and enforcement, our compliance rate is now 90 percent.

Achieving similar compliance results and decreasing the incidents of illegal distracted driving required increased education, as well as

stepped-up enforcement.

With regards to our efforts in education, the Department recognizes the particular need to prepare our young drivers for a lifetime of safe driving.

As part of our effort in that area, we launched a website, and dedicated it entirely to issues facing teen drivers and their parents.

It contains information on the Graduated Driving laws, and how to apply for a license; sections on education and safety, including distracted-driving issues; and even a practice exams.

The Governor's Traffic Safety Committee also hosts a Young Driver's Traffic Safety Tool Kit on their website, which contains resources for parents, teens, educators, and law-enforcement officers, including multiple resources on distracted driving.

In October of 2010, we released a series of videos for teens that were filmed at a local high school, and featured teen drivers.

The video addresses several relevant topics, including distracted driving.

We have found that teens listen to their peers more than they listen to adults, and this avenue is just one way that we are trying to raise

awareness about good traffic-safety behavior.

The videos have been distributed to schools across the state, and are also posted on the "Younger Driver" website and the Department's YouTube site.

The Governor's Traffic Safety Committee also partnered with the Ford Driving Skills for Life Program in 2011, at three New York high schools.

These day-long programs allowed students to navigate a special test course in a safe and structured environment, while being distracted by peers, phones, or other items other than the vehicle.

More than 2,000 students took part in these activities.

GTSC also providing a grant to fund 25 speaking engagements at high schools this year, by a victim of a tragic distracted-driving crash.

In addition, the Governor's Traffic Safety Committee awards grants of millions of dollars annually to law enforcement agencies, to enforce distracted-driving laws as a part of Selective Traffic Enforcement Program.

We believe these enforcement grants, coupled with grants awarded to traffic-safety boards and

other highway-safety organizations, are the key ingredients to driving down the distracted-driving crash and injury numbers.

With more than 5,500 deaths, and more than 440,000 injuries, nationwide, each year, we know we have a long way to go, in not only educating the motoring public, but in changing their driving behaviors.

The Department of Motor Vehicles and the Governor's Traffic Safety Committee remain committed to the mission of lowering deaths and injuries caused by cell-phone use, texting while driving, and other distracted-driving behaviors.

And we look forward to working with the Governor, members of the Legislature, the National Highway Traffic Safety Administration, law enforcement, and others, to make that happen.

Again, thank you for the opportunity to speak with you on this very important topic.

[Senator Diaz leaves the hearing room.]

SENATOR FUSCHILLO: Commissioner, thank you very much.

We appreciate you taking the time, and your leadership on this issue.

Are we peaking?

And what I mean by that is, when I look at DMV's statistics of accident-contributing factors, it shows cell-phone use and driver-distraction statistics at about, 50,000 crashes, total accidents, in 2010.

Are we at a peak level, where we're coming down, based on previous years?

Or, do you see this as an issue that is continuing, and problematic?

COMMISSIONER BARBARA FIALA: With the distracted-driving issue?

SENATOR FUSCHILLO: Yes.

COMMISSIONER BARBARA FIALA: Well, you know, as previous testimony said, a lot has to do with education. And I think that's been a main focus of our projects, and GTSE.

The pilot program that was the grant, with Syracuse being only one of two cities, was very effective.

Enforcement, and I know Superintendent D'Amico is going to speak after us.

In educating the young people, there's all types of distracted driving, as Senator Diaz spoke to, but I think, educating.

And it's now, also, we're putting them on the

five-hour course for pre-licensing education.

Education and enforcement; and, hopefully, that will help us to bring those numbers down.

David, I don't know if you have any particular statistics that you would like to add.

SENATOR FUSCHILLO: I mean, in 2010, it looked, distracted driving and cell phone, what was reported, accident-contributing factors was over 50,000, just in 2010.

Are we on a -- I mean, I'm sure 2011 statistics aren't completed yet, but, previous years, are we still rising and rising and rising, with, as the Commissioner talked about, the number of minutes?

I mean, it's staggering in the use of cell phones.

Are the numbers still climbing, as contributing factors?

DAVID: I don't think the statistics, at this point, have allowed us to conclude as to whether or not --

ASSEMBLYMAN MCDONOUGH: It's on.

SENATOR FUSCHILLO: I can hear you.

DAVID: Can you hear me?

SENATOR FUSCHILLO: It's not a bright light,

so you just need push it once.

COMMISSIONER BARBARA FIALA: It's on.

Here, you can use this.

DAVID: I don't think the statistics, to this point, have told us whether we have reached a peak or not.

SENATOR FUSCHILLO: Okay.

DAVID: There's uncertainty in -- on this.

The number of cell phones being used, statewide, continue to increase.

SENATOR FUSCHILLO: Right?

DAVID: I'm not sure that we could say, at this point, that we've reached that peak.

And as the Commissioner indicated, our primary concern is -- is education, in order that we can begin to change behaviors, and to help people to recognize that it is a danger to be distracted by using a cell phone in the car.

SENATOR FUSCHILLO: And that was one of the components of the recommendations from the National Transportation Safety Board, about, elevating educational requirements and awareness here.

And, Commissioner, you're doing it.

Obviously, it's on a limited basis.

And, since this is not a budget hearing, we could talk about budgetary issues, if more manpower is needed to get this across.

But, I appreciate your testimony. It's very important to us, as we go forward.

Any of my colleagues have any, questions, comments?

SENATOR LARKIN: I have one.

SENATOR FUSCHILLO: Senator Larkin.

SENATOR LARKIN: First of all, I bring you warm regards from two of your former colleagues --

SENATOR FUSCHILLO: And who is that?

SENATOR LARKIN: -- Donna Benson, in Orange County, clerk; and Nina Postapec [ph.].

I got that spelling right.

COMMISSIONER BARBARA FIALA: Thank you.

SENATOR LARKIN: One thing you said here, is that, the Governor's Traffic Safety Committee is -- is, what --

Cataract surgery, don't get it.

-- you're going to provide grants to fund 25 speaking engagements in high school this year.

How, where, and when, can we find out the details of it?

COMMISSIONER BARBARA FIALA: I certainly can

make sure that you get it, Senator.

I don't have that information right with me, right now.

SENATOR LARKIN: But, I think it's an excellent idea.

And I think the idea that you're going to have it by a victim of a traffic distraction-driving crash, I think that that will bring focus.

Because, you know, young people look at that -- and, sometimes, as you said in your preparation, that they listen to peers more than they do their parents.

I thank you for doing this.

I really would like to get it into my area.

COMMISSIONER BARBARA FIALA: Unfortunately, Senator, they surely do listen to their peers, more.

And that's why a lot of the literature that we are producing is geared to that. There are, YouTube, on the website.

And, there's just a lot of information.

But, my personal feeling is, as a mother and -- a grandmother of a new driver, that that education is very important. That they -- that we start them at the beginning.

We all talked about, we all survived without

it, prior.

But -- and it's relatively new.

Like, when the seat-belt law came about, it took a while to change behavior of the public.

And, it just boggles my mind how some of the things, they can actually text and drive.

So -- but, I feel that that's a major component, is to get them early.

Educate.

And you'll be surprised that there's a lot of people, we're all very familiar with the law, and what has been, but, a lot of people are not, because it is fairly new.

But, I appreciate what had -- what took place last year, like, by giving law enforcement the tools [unintelligible] primary offense.

Also, 3 points.

SENATOR LARKIN: Very good.

COMMISSIONER BARBARA FIALA: And these are also things that everybody needs to be commended for doing.

And, education, and enforcement, are a big key.

SENATOR LARKIN: In your statement, that they listen to grandparents, yes.

We have 17 grandchildren.

SENATOR FUSCHILLO: Thank you, Senator Larkin.

Assemblyman McDonough.

ASSEMBLYMAN MCDONOUGH: Thank you, Commissioner. And, thank you for being here.

I noticed in your testimony, which I was interested, number one: You said that you've released a series of videos which have been distributed to high schools throughout the state.

COMMISSIONER BARBARA FIALA: Uh-huh.

ASSEMBLYMAN MCDONOUGH: There's several videos?

COMMISSIONER BARBARA FIALA: Uh-huh.

ASSEMBLYMAN MCDONOUGH: And --

COMMISSIONER BARBARA FIALA: Well, it's one -- one --

ASSEMBLYMAN MCDONOUGH: One? Okay.

COMMISSIONER BARBARA FIALA: -- one message.

ASSEMBLYMAN MCDONOUGH: Could you tell me, are they long, or, are they ten minutes?

Or -- I mean, something that could be used easily?

I would like to get a copy of that, because, as I said on the previous speaker, we do programs in

schools on distract -- mainly, drunk driving.

And this would be something that would be very helpful.

COMMISSIONER BARBARA FIALA: I would gladly get you a copy.

But, I was just told, that are five -- it's five minutes. It's a five-minute video.

ASSEMBLYMAN MCDONOUGH: Great.

And you've seen the videos?

COMMISSIONER BARBARA FIALA: Yes.

ASSEMBLYMAN MCDONOUGH: Do they at all in the videos, show the results sometimes? A tragic crash, or something --

COMMISSIONER BARBARA FIALA: It does.

ASSEMBLYMAN MCDONOUGH: Good.

COMMISSIONER BARBARA FIALA: It does.

It --

ASSEMBLYMAN MCDONOUGH: All right, if you could provide that --

COMMISSIONER BARBARA FIALA: It really is geared to the message of the teen driver.

ASSEMBLYMAN MCDONOUGH: If you could provide that, I'd appreciate it.

And the other thing is, as Senator Larkin mentioned, the speaking engagements, where you --

these grants to have speaking engagements, where a victim is sometimes, more information on that?

I guess I could look on the Governor's website.

COMMISSIONER BARBARA FIALA: Because they deal with actual victims, and I think that's a powerful message.

ASSEMBLYMAN MCDONOUGH: Yes, right. We've done that in drunk-driving programs as well.

So, it is a very distracting thing, and it's growing. And the numbers you have are shocking.

So, thank you very much for being here, and for what you're trying to do.

COMMISSIONER BARBARA FIALA: Thank you very much.

SENATOR FUSCHILLO: Commissioner, thank you for your testimony, and I look forward to working with you and your staff.

COMMISSIONER BARBARA FIALA: Thank you, Senator.

SENATOR FUSCHILLO: Thank you very much.

Joseph D'Amico, superintendent, New York State Police.

SUPERINTENDENT JOSEPH A. D'AMICO: Good morning.

I'm Joseph D'Amico, superintendent of the New York State Police.

I'd like to begin by thanking Senator Fuschillo and the Committee for this invitation to testify regarding the law-enforcement perspective on distracted driving, and to share with you some insight which I hope will assist you in your efforts to further improve the safety of New York's roads and highways.

The impetus of today's hearing, the NTSB recommendation for all states to adopt laws which ban all use of personal electronic devices while driving, deserves careful consideration, and I'm pleased that this Committee is taking a proactive response to the issue of driver distraction and its impact on traffic safety.

How big an issue is distracted driving?

While it's certainly not the only issue impacting traffic safety, quite frankly, I consider it "the" issue in traffic safety for today, and the foreseeable future.

Electronic devices have become part of our very lifestyles, and these lifestyle changes can have deadly effects when they take precedent over other responsibilities, such as driving.

There is a segment of our society today that's so accustomed, or, perhaps, even addicted, to using their smartphones, cell phones, and other devices, that these electronics have become a central part of their lives 24/7.

As the father of teenagers, I see it daily.

Texting has become synonymous with talking.

And very often, I spot one of the kids reading or sending text discreetly at the dinner table in violation of house rules.

Phone discipline and house rules are strictly enforced there.

That's precisely what's required if we intend to reduce the incidents of distracted driving.

Discipline by drivers and strict enforcement, statewide, is critical.

Do the recommendations of the NTSB to ban all use of electronic devices, hand-free or not, while driving make sense for New York?

Time will tell.

Certainly, our youngest drivers need to understand, that while behind the wheel of an automobile, driving safely is the only thing that matters.

Driver inexperience, in and of itself, limits

the ability of our youngest drivers to perceive potential dangers that they are about to encounter.

Two hands on the wheel and their attention on the road are essential to traffic safety and to developing lifelong good driving skills.

Any distraction should be minimized for junior operators, and we need significantly more, in the way of education, to reinforce this concept.

But, then, what about other drivers?

Is it any safer for other drivers to be using phones or laptops?

Probably not.

They may be more experienced drivers, but many of us are significantly less adept at using microelectronics than our children, so the hazards exist at any age.

So what could be done?

Law enforcement is one of the critical elements in all of this, especially in traffic safety. If, and how, laws are enforced ultimately determines if they have their intended safety benefits.

Therefore, as you consider new traffic laws, it's imperative that you consider the enforceability of these statutes.

Ultimately, the trooper, deputy, or officer on the road must be able to clearly recognize and articulate a violation of the law.

Regardless of how well-intended a law may be, the easier it is to recognize the prohibited behavior, the better it will be enforced, and therefore obeyed.

So, in the context of electronic devices while driving, even though research suggests that drivers are distracted by the conversation, not just the dialing or holding of the phone, how enforceable is a ban on the use of hands-free communications?

How well can a police officer recognize and articulate that a driver was engaged in this conduct, versus a discussion with a passenger in the car, singing to a song on the radio, or even talking to themselves?

In addition, for a law to be well enforced, a police officer must be authorized, by law, to stop a vehicle for that violation alone.

We know from our own legislative history, regarding portable electronics, and a long legislative history concerning seat-belt laws in other states, that secondary laws don't work well.

They convey to law enforcement and the public

alike, that the prohibited behavior either is not that important or not that dangerous.

As a result, they are under-obeyed, under-enforced, and they underachieve.

When Governor Cuomo signed the new Hand-Held Electronic Devices Law last summer, removing the secondary enforcement provisions, a significant impediment to enforcement was removed.

As a result, State Police enforcement of texting laws in the second half of last year more than doubled versus the first six months.

And, I'm confident we can do much more.

New York State has been a national leader in the area of distracted driving for many years, due to our willingness to respond proactively to the threats we face, and to learn from our experiences.

We were one of only two states selected by the National Highway Traffic Safety Administration to participate in a pilot project, to demonstrate the effectiveness of high-visibility enforcement on handheld-phone use.

The findings of that national pilot, were that, high-visibility enforcement, combined with effective public awareness, can reduce phone use and texting while driving.

That project, which was conducted in the city of Syracuse, and coordinated by the Governor's Traffic Safety Committee, was awarded largely because of the demonstrated commitment and cooperation of our law-enforcement agencies to traffic safety.

I would like to formally thank the Governor's Traffic Safety Committee, and its director, Chuck DeWeese, not only for their leadership and support of that pilot project, but for their continued support, which allows the State Police to implement the technologies and lessons learned from that project.

It's the implementation of those findings that's allowing us to better safeguard New York's roads and highways, now, and in the future.

One of the things we learned from participation in the pilot project, was that the New York State Police was not optimally equipped to enforce distracted-driving laws.

In response, I ordered the limited use of covert SUVs, to target drivers who text or use other portable electronic devices while driving.

The SUV platform provides a higher stance from which troopers can see the hand-held devices,

and these concealed-identity traffic-enforcement vehicles are outfitted with covert lighting, which allow them to operate inconspicuously in traffic, but are extremely noticeable when the lights are activated.

Their design resulted from lessons learned in Syracuse, where unmarked SUVs, employed by local agencies, proved highly effective at detecting violators.

Troopers employing these new vehicles, built specifically with this enforcement in mind, have been ten times more effective at enforcing traffic laws in general, and fourteen times more effective at enforcing phone and texting laws, than troopers operating standard patrol cars.

We're presently deploying more of these vehicles to better equip our troopers statewide.

But this experience has demonstrated that effectiveness in enforcing distracted-driving laws requires significant dedication of resources.

We've been fortunate that the support of the Governor's Traffic Safety Committee has allowed us to implement innovations, and to dedicate resources that we would not otherwise have.

While NTSB is exerting federal leadership by

asking states to adopt more restrictive distracted-driving laws, and conduct high-visibility enforcement of those laws, such recommendations would be far more effective if they were coupled with the funding necessary to make that happen.

The "Click It or Ticket" high-visibility model, which has successfully raised seat-belt use to unprecedented levels, was coupled with millions of federal dollars for enforcement and public awareness.

In addition, although NTSB and other safety organizations have recommended bans on all use of phones and portable devices, research has determined that it's is not the device, but the mental attention needed to communicate through it, that underlies the danger.

From a safety standpoint, and as engineers continue to build everything, from navigation systems, to bluetooth communications, to Internet-enabled smartphones, into their automobiles, they may not be improving safety as advertised, but, rather, enabling driver distractions.

I'm not convinced that a driver accessing their social-media account on a 9-inch screen built

into the dashboard is any less hazardous than one holding a cell phone.

It may be time that the National Highway Traffic Safety Administration employ its regulatory responsibility for automotive safety, to prohibit certain technologies, rather than just requiring safety equipment, such as seatbelts and airbags.

That being said, there may be additional legislative opportunities that could have the effect of dissuading drivers in New York State from using electronic devices.

Consideration could be given by the Committee to topics, such as, the impact of distracted driving on, young, and experienced, drivers; distractions as they related to causal factors for crashes; and the methods of adjudication and plea bargaining utilized across the state for motorists charged with distracted-driving offenses.

While distracted driving is an important issue of concern, achieving traffic safety is a comprehensive endeavor.

Impaired driving, speeding, aggressive driving, and a myriad of other dangerous behaviors are also commonplace on our roads and highways daily, and public protection from those behaviors

rests solidly on the shoulders of law enforcement.

In addition, law enforcement has a broad range of responsibilities competing for our time and attention, including violent crime, drugs, gangs, homeland security, and the list goes on and on.

Achieving safety takes commitment, but there must be a continual balance of duties and priorities, given everyone's limited resources.

As you consider the recommendations regarding use of electronic devices while driving, consider, too, that the National Transportation Safety Board, last month, also endorsed the 2012 Roadmap to State and Highway Safety Laws, by the Advocates for Highway and Auto Safety, which rates the states based upon the effectiveness of its laws to achieve traffic safety.

That report ranks New York State number one in the nation in its legislative effectiveness.

That's a considerable achievement, and a testament to your commitment to enacting effective laws.

I assure you that the New York State Police will continue our efforts, by enforcing those laws, to make New York's roads and highways as safe as possible.

Thank You.

SENATOR FUSCHILLO: Thank you very much, Superintendent, and I appreciate your willingness to take the time, and your testimony, which is clearly succinct and to the point.

I'd asked the Commissioner of DMV, based on the statistics that I've seen on their website, of the number of accidents and contributing factors towards distracted driving, and cell-phone use and texting: Are we at a peak? Are we on downturn? -- with the laws we have, the enforcement ability.

And, I do thank the members of your department for their work as well.

SUPERINTENDENT JOSEPH A. D'AMICO: I don't know that we're at a peak.

I'd have to agree with Mr. Sampson, when he says that, you know, the use of phones and electronic devices is actually increasing.

So, we may not be at the peak.

What we are -- what I do believe, is that, distracted driving, as it relates to these hand-held devices, is probably underreported.

I mean, we get a very good accounting when we have serious injury and death.

But, for minor traffic accidents, oftentimes,

it's never known that distracted driving is a cause.

SENATOR FUSCHILLO: Now, what tools do you need from the State, from the Legislature?

Are you looking for -- I understand the educational enhancement is critically important, and I agree with you on that.

And, Commissioner Fiala appropriately talked about, how, when the seat-belt law, back in the '80s, there was so much resentment against that. But, now, the compliance rate is over 90 percent.

You know, time takes.

And you heard the National Transportation Safety Board, Mr. Hart, talk about a cultural change, and that's what it takes.

It's -- I mean, people are obsessive with their cell phones, as you know, and all of the other PEDs.

But, what tools, if necessary, would help the State Police Department?

SUPERINTENDENT JOSEPH A. D'AMICO: Well, I agree with the testimony that you heard earlier.

I mean, you know, drunk driving took a long time, from the '70s, until we really had a good grip on it in the '80s, through enforcement, through education programs, by organizations like

Mothers Against Drunk Driving.

SENATOR FUSCHILLO: Right.

SUPERINTENDENT JOSEPH A. D'AMICO: Seatbelts, the same thing. We started very heavily, you know, in the '80s, and it took well over ten years until we achieved that success rate.

And I think that we're looking at the same thing here.

I think we need good public-education campaigns.

I think that, you know, starting with inexperienced new drivers, and our youth, is a very important place to go.

You know, just from State Police statistics in 2010, drivers under 21 make up 9.8 percent of the New York licensed drivers.

But, of accidents investigated by the State Police in 2010, where distracted driving was a cause, 25 percent were under 21.

So, I think, you know, our younger and inexperienced drivers prevent -- present even a bigger problem for us.

We do a lot of education in the high schools as well.

We've teamed up with an insurance company

that has a simulator in Western New York. We're visiting the high schools, and doing driving and texting simulation. And, it really is eye-opening.

You know, we've realized, just in-house, that we weren't able to do effective enforcement using marked vehicles, which is something that the State Police has relied on for many years.

SENATOR FUSCHILLO: Right.

SUPERINTENDENT JOSEPH A. D'AMICO: So, we're now changing our ways, to adapt, as I said earlier, through the use of unmarked SUVs.

You know, I think it all comes down to persistent education, persistent public-awareness campaigns, and effective enforcement.

You know, the only other thing I would say, is that we need to focus on, kind of, the results of our enforcement.

You know, as you said earlier, you know, we issued well over 1,000 summonses in each month, in 2011, after the law was passed.

But, you know, what's the result of these summonses?

Are they being plea bargained down in local courts?

You know, if you're issued a summons, that

should result in 3 points.

The point system is meant to take dangerous drivers off the road, and to identify dangerous drivers.

If we're plea bargaining down to violations, even non-moving violations that don't have points, in their disposition, then we're never learning who our dangerous drivers are.

And judges who see them as repeat drivers are never aware that they have a bad driving record.

SENATOR FUSCHILLO: And I appreciate that comment.

And, that comment led to Leandra's Law, which made it mandatory for the ignition-interlock system.

And, you're absolutely right; what are the results of your efforts?

And, if the results of your efforts are to non-moving violations, then it's really hurtful to what you're doing, and your members are doing on a daily basis.

And that's something that we have to look into as we progress with this issue.

So, I appreciate your work and testimony, and I look forward to working with you, as we gather more testimony from individuals, and see how, what

we're going to do as a legislative body, to further combat this serious issue.

Assemblyman McDonough.

ASSEMBLYMAN MCDONOUGH: No.

Thank you very much, Superintendent.

SENATOR FUSCHILLO: Okay.

ASSEMBLYMAN MCDONOUGH: It's very, very interesting.

SENATOR FUSCHILLO: Senator Larkin.

SENATOR LARKIN: Good morning.

SUPERINTENDENT JOSEPH A. D'AMICO: Good morning, Senator.

I think the item you said -- two or three times, you said "education."

This past weekend, I had an opportunity to be at West Point, and meeting with old friends.

You know?

Some of them were young lieutenants, and now they're retired three stars, and I've only got an eagle.

But I talked about this.

One of the things one of the generals said to me: You know, Billy, you have to remember, at that [unintelligible] station, I was God.

And I thought back.

And [unintelligible] if I got -- if you got caught smoking, driving a government vehicle, I also took your license away from driving your privately owned vehicle.

And the uproar was, and I said "Take the bus like people who don't have it."

But the thing here is, education has to be done.

And, you know, somehow, we've got to start telling parents: This is your responsibility.

And if some of these young people, they go to college -- I was at a dinner about a month ago, at some friends' house.

And three kids, they weren't even talking. They were texting one another, to tell them where they were going to go in school. [Unintelligible] when this damn dinner was over, we're going to go out and have a drink.

All I have to say is, as my granddaughter said: You don't live in my grandfather's house.

I wouldn't put up with it.

But, again, I said what I said before: We have too many parents who want to be -- "I want to be friends with my daughter." "I want my son to love me."

I have a 56-year-old son, and he said, "You were terrible when I grew up. But now that I have three kids in college, I think you were a pretty smart man."

And I think that, all of the steps that we can do for you, as law enforcement, is very, very important.

What you've done, and I can tell you, I meet lots of them in the Hudson Valley, they have so much respect for you, and what -- you know, their old friend John Melville -- and John Melville tells them that you are doing a super job.

So this is an education.

But, we can't do it alone. It's going to have to come from you, the Commissioner of Motor Vehicles, the Traffic Safety Board.

What would you like to see New York do to help us protect those who don't want to protect themselves?

And, I thank you.

SENATOR FUSCHILLO: Thank you very much, Superintendent, for your testimony, and your time.

SUPERINTENDENT JOSEPH A. D'AMICO: Thank you.

SENATOR FUSCHILLO: Appreciate it.

Jacy Good, board member of FocusDriven.

Good morning, Jacy.

JACY GOOD: Good morning.

Thank you very much for having me.

SENATOR FUSCHILLO: Well, thank you for taking the time to be here.

I appreciate it.

You have a PowerPoint presentation?

JACY GOOD: Yes.

SENATOR FUSCHILLO: Okay.

JACY GOOD: And I guess I need help.

I need a password, and, I don't know what I'm doing.

So I'll just get started, because I can jump in before I get to those things.

SENATOR FUSCHILLO: Well, before you do that, let's --

UNIDENTIFIED SPEAKER: Just hit "Enter."

SENATOR FUSCHILLO: Let's just hit "Enter."

JACY GOOD: Got it.

Thank you.

SENATOR FUSCHILLO: Okay?

JACY GOOD: So, I'm here representing FocusDriven, the only federal nonprofit fighting for cell-free roads.

And I just wanted to start by thanking you, Chairman Fuschillo, and all of the distinguished members of the Senate Transportation Committee, for inviting our organization to be a part of this extremely important subject that's affecting the lives of everyone on or near a road.

And I guess a lot of what I'm going to say has already been covered, but that doesn't hurt anything.

I have some pretty pictures to go with it too, I guess.

But, driving is the most dangerous thing we ever do.

It kills more people than almost everything else that we put our lives in danger with.

And, I guess, in a year's time, it's about 35,000 people killed from being on the road.

And that's not even to mention the physical and emotional tolls of families losing loved ones, and, the $1 billion going into hospital bills, and property damage, and all this other astounding numbers that are just crazy, because we need our cars in this country. It's not really much of a choice.

And that's wonderful, but, unfortunately,

society has become very accepting, and just kind of complacent.

We -- I mean, I know, when I started learning how to drive, I expected to get in an accident in my lifetime. You know it's going happen to you.

And, there's actually a whole lot of science behind all of this, and this is where my PowerPoint starts.

That, when they've looked into this, what's causing these crashes is driver error.

People making mistakes, 70 percent of the time, it's definitely the cause of a crash.

And it's probably the cause of 93 percent of the crashes that are happening, because, we screw up. We make a mistake. We don't know what we're doing.

And when you look into that, one of the biggest errors we ever make is being distracted.

You know, there's the obvious ones of, manual and visual, taking your hands off the wheel and your eyes off the road.

The big one that we're talking about today is the cognitive impairment that's being -- that's happening.

And it's scary, because, when you are

cognitively impaired, you don't perceive that you're in danger. It doesn't feel like anything is wrong.

You think you're seeing everything in front of you. And, unfortunately, it's just not true.

And that's where this slide comes in.

[Slide being shown.]

That, looking at the brain, when you're just driving, it's actually a very cognitively demanding task, and it's horrible, because, driving feels like second-nature. You don't think about driving when you're driving.

And, unfortunately, there's a whole lot going on in your brain.

And, even if you're just having a conversation, on the right-hand side of this slide, you can see, it's 37 percent less brain activity associated with the road in front of you.

And the numbers are out there, that, one in four crashes is caused by a cell phone. And it doesn't really make any sense to me.

And, you know, I think, as the Superintendent said, that's hugely underreported.

And it's -- actually, there's a lot of misperception around this.

That, we are told by the state laws, by car

companies, by cell-phone companies, that if you use the headset, and your hands are on the wheel and your eyes are looking out your window, you're safe.

And as these MRI images show, it's just not true.

There are over 30 studies, independent studies, showing that a driver using a headset or the bluetooth built into the car, is suffering from the same difficulties with reaction time, headway, staying in their lane, speeding, as a driver who's holding the phone up to the head.

It doesn't make a difference.

And, I talked about this one.

And when this is going on in your brain, you just don't see up to 50 percent of what's in front of you.

[New slide being shown.]

This is a little hard to see, but each picture has, this teal outline, of actually where our eyes are looking.

They put cameras in the car to see what's going on.

And you can see, on left-hand side, that box includes this big yellow school bus on the left-hand side. That, when you're talking on a phone, and,

your eyes just stop scanning, your brain doesn't process it, you just don't see what's happening in front of you.

And it's the whole idea, that, conversation requires thinking. You're listening, you're interpreting, you're recalling past information, making decisions about when to reply.

And when you're doing that with a disembodied voice on a cell phone, who's not in the car with you, your brain's working even harder, because you're creating this mental image of the other person, and what kind of room they're in, and what gestures they're making, and what their faces are doing.

And it just, absolutely, distracts entirely from our brains.

And, unfortunately, this idea of cognitive distraction is hard to tackle. It's been almost entirely ignored by lawmakers, and absolutely disregarded by companies that want to profit from cell-phone use while driving.

But, as was mentioned earlier, drivers having cell-phone conversations are four times as likely to crash, which is the same impairment as a person who is intoxicated.

Impairment is impairment, whether it's coming from intoxication or being on the phone.

And you guys know, I don't mean to lecture you on this, the thing that's going to make a difference are these real stories, the real faces.

I just want you guys to try and put yourself in somewhere in my story, in my shoes.

So, the date was May 18th of 2008.

It was the best morning of my life.

[New slide being shown.]

I graduated from Muhlenberg College. It's this tiny college in Allentown, Pennsylvania.

I had all kinds of honors. I had my dream job lined up with Habitat for Humanity. I was moving to Brooklyn; I was going be a city girl.

Life was perfect.

My parents and I had this easy hour-and-a-half drive to get home. And, then it was, real life, finally.

We got about halfway home that day, and we were going the speed limit, 45 miles an hour. We came to a green light.

As we came to that green light, there was also an 18-wheeler, going north, just opposite us, who also came through a green light.

As that happened, there was also an 18-year-old young man who was on that intersecting road. And, he came to the red light, but that young man was talking on his cell phone.

He suffered inattention blindness, and just never -- I'm sure he looked at the red light, but his brain did not process it. He did not know his mind was more focused on the conversation than the road in front of him, and he flew right into that intersection, to make a left turn, and the tractor-trailer swerved, to try and miss him, and hit our white station wagon head on.

A dairy truck, full of milk.

I had two broken feet, a broken wrist, broken collar bone, broken tibia and fibula, shattered pelvis, lacerated liver, collapsed lungs, damaged carotid arteries, and a traumatic brain injury.

I was given about a 10 percent chance of surviving that night.

Neither of my parents were so lucky. They were both pronounced dead on the scene.

58 years old, killed, because of a cell-phone conversation.

And the main point I really want to hammer home, is that, even -- and this is not only

affecting the people that are in the cars that this is happening to. The ripple effects of these tragedies are absolutely astounding.

That, my mom was the awesome 8th-grade English teacher.

And, the next day was Monday; it was a school day.

And three hundred 13-year-old kids had to come to school and learn that Mrs. Good wasn't there, because she was dead.

Those kids all had to go home and get support from their family and their loved ones.

And those ripples just keep branching out to absolutely astounding measures.

I was in a coma for my parents funeral.

I didn't get to go to my parents' funeral.

And then I had to relearn absolutely everything.

I relearned how to walk, relearned how to talk.

And even, still, just relearning how to do everything; every day tasks in this body that I'm stuck in for the rest of my life, with a brain injury that lasts forever.

This is what my arm can do.

[Demonstrates.]

It's a lot tougher to do most tasks with one arm.

And, you know, now I'm living without the love of my parents. I was 21 years old, and both my parents were killed.

And that's something I'll never get over.

And, I've just spent the last three and a half years trying to find some kind of meaning, and some kind of justice in the world; that my parents can't be dead, because of whatever insipid conversation this kid needed to have on his phone right at that very moment.

And, I think telling this story, hopefully, will have an impact on someone, somewhere.

And, you know, put yourself in my shoes: You don't get to retire. You don't get to have grandkids. Such a wonderful part of your life is just taken away from you.

So, to kind of close up: As a resident of New York, I just want to strongly encourage our government to help put an end to these senseless and 100 percent preventable tragedies. They're happening every single day.

As we've said, over and over, when you

combine education enforcement with laws, it puts an end to these deadly tragedies.

And you know, what? This point in time, drunk-driving laws seem like the most obvious there is. You obviously should not drive when you're drunk.

But, when those laws were coming to be, there was lobbying against them.

How you can tell someone's drunk?

I get drunk off one beer.

I guess you guys could handle a few more than that.

And, how's the law going to deal with that?

How you can tell when someone's drunk, or someone's just a bad driver to begin with?

But through investigation, when crashes happen, and making random stops, having that visible enforcement, you know, that's put a huge reduction in the drunk-driving tragedies that are happening.

And, I think it's very safe to say that cell phones have replaced drunk driving with a much higher frequency at this point in time.

So, in closing: On behalf of myself, my parents, and all of the survivor advocates who have lost such wonderful people in their lives, and this

organization of FocusDriven, I just want to urge you to keep New York at the forefront of traffic safety, and push for the law -- the laws that include bans on all cell-phone use by all drivers.

And this is going to happen.

You know, we need to set the standard.

Again, as you did with the original cell-phone law, that needs to set the standard for investigations at crash sites, and high-visibility enforcement.

I believe that's about all I've got to say.

And, I just want to thank you so much for holding this hearing.

And, if you have any questions, I'll do my best to answer.

SENATOR FUSCHILLO: Jacy, thank you very much.

And, we're joined by Senator Perkins.

And, let me just say, on behalf of my colleagues here, we are deeply sorry for the loss of your parents, and the tragedies that you have suffered as well.

And thank you for being here, and how courageous are you to come before us.

And, we appreciate it.

But we're here because of exactly what happened to you, and the tragedies that happened to your parents as well.

When the National Transportation Safety Board, and I believe you heard their testimony, when they came out with their reported recommendations, it's really what got myself and the Committee members involved. That, we have to take a look at this -- the seriousness of this issue in New York State.

And, the statistics are just too high, and you put a face on them.

And I thank you very much for your testimony today.

JACY GOOD: Thank you.

SENATOR FUSCHILLO: John Corlette, legislative director of AAA New York.

Hi, John. Good morning.

JOHN CORLETTE: Hi. Good morning.

Good morning, Mr. Chairman, and Committee members.

My name is John Corlette.

I'm the chairman of the legislative committee for AAA New York State.

We have 2.7 million members in

New York State.

As you know, on December 13, 2011, the National Transportation Safety Board issued a recommendation that states enact laws banning drivers from using all wireless devices, both hand-held and hands-free.

While no states have enacted such bans due to mixed public support, AAA considers the NTSB recommendation to be a significant step in advancing the public dialogue about the dangers of distracted driving.

AAA, the NTSB, and other safety organizations are now -- are all working towards the same goal: saving lives by reducing distracted-driving crashes.

In fact, for more than a decade, AAA has encouraged drivers not to use the phone while driving.

And, in New York State, our association supported the nation's first law banning hand-held mobile-phone use while driving, believing that it would limit the manual distraction of holding a phone, while encouraging drivers to have two hands on the steering wheel.

And I might add, that was a somewhat controversial position for us at the time. So...

Last year, we also strongly supported the enactment of the law to provide for primary enforcement of the State's ban on the use of PEDs by drivers to text, send e-mail, and browse the Internet while driving.

Primary enforcement serves as a more effective deterrent, and empowers law enforcement to more effectively put a stop to that dangerous conduct.

Among its recommendations, the NTSB called for all 50 states and the District of Columbia to:

Ban the non-emergency use of PEDs for all drivers;

Number two: Use the National Highway Traffic Safety Administration model of high-visibility enforcement to support these bans;

And, three: Implement targeted communication campaigns to inform motorists of the new law and enforcement, and to warn them of the dangers associated with the non-emergency use of PEDs while driving.

As members of this Committee know, the first recommendation significantly exceeds any existing state laws restricting texting and cell-phone use behind the wheel.

Currently, 35 states and Washington, D.C. ban text messaging while driving; and only 9 states, including New York and D.C. ban hand-held mobile-phone use.

Due to mixed public support, few proposals to completely ban mobile-phone use have been seriously considered by state legislative committees, and none has ever passed a floor vote in a state legislative chamber.

Accordingly, AAA has focused on educating the public about the risks of distraction, funding research to advance our understanding of the various driving distractions, and continues to advocate far more attainable legislative objectives, such as, texting bans and full wireless bans for teens.

Which I might add, New York State currently lacks.

AAA also supports the NTSB's second recommendation, to expand the use of high-visibility enforcement initiatives, such as those modeled on NHTSA's "Phone in One Hand, Ticket in the Other" pilot programs, which have proven effective in curbing phone use.

As mentioned earlier, in pilots in Syracuse, and Hartford, Connecticut, enforcement campaigns

were modeled after NHTSA's successful national "Click It or Ticket" seat-belt campaign, and we're the first in the country to thoroughly measure whether a combination of increased law enforcement and public-service announcements could compel drivers to put their mobile phones down and focus on driving.

During four enforcement waves over the course of one year, NHTSA observed mobile-phone use, and conducted public-awareness surveys at driver-licensing offices in the two cities.

They found:

In Syracuse, both hand-held use and texting declined by one-third;

And, in Hartford, Connecticut, there was a 57 percent drop in hand-held use, and texting behind the wheel dropped by three-quarters.

Based on these encouraging results, NHTSA officials have said they hope to test high-visibility enforcement at a wider state level.

And we would encourage New York State officials to pursue this opportunity to launch a statewide high-visibility enforcement program, with the assistance and evaluation from NHTSA.

Finally, the AAA Foundation for Traffic

Safety is now in the middle of a new research project that we hope will answer some of the outstanding questions in the policy debate about how different sources of distraction impact drivers.

Working with Dr. David Strayer, of the University of Utah, the AAA Foundation will specifically analyze the impact of the cognitive distraction caused by a wide range of specific distractions, including the hand-held and hands-free mobile devices.

The research is expected to yield a new rating scale for sources of distraction, enhance policymakers' knowledge of the issue, and make a valuable contribution to the discussion we are having here today.

The project is expected to be completed in the fall of this year.

The NHTSA recommendation pushes states to consider full bans. Although there might not be widespread public support or strong political appetite for this measure at this time, it's an important conversation to have.

Forums like this draw attention to the issue, helping identify appropriate policy responses for legislators and other officials.

AAA suggests that this includes effectively enforcing our existing laws related to texting and hand-held use, as well as promoting a strong safety message to all drivers that they should avoid any cell-phone use, hands-free or hand-held.

Thank you for allowing us the opportunity to contribute to this important safety discussion.

SENATOR FUSCHILLO: John, thank you very much.

And, I appreciate your testimony, and your work, on behalf of AAA.

But, as you know --

And I don't know if you were here when the first speaker was here, and I'll go back to it.

-- it's a cultural shift, it's a cultural change.

And, as you heard, when the seat-belt ban was implemented, there was a reluctance to it.

Now there's, obviously, an acceptance of public safety and passage of safety to that.

I remember when I offered the no-smoking ban in New York State, the reluctance to that.

And, you probably don't even remember anymore, when you went into a restaurant and they said, "Smoking or not smoking?"

It's become a non-issue because of a public-health policy.

And, we'll see what the future holds.

But, the obsession of the use of a cell phone or a PED in cars is just out of control.

And, you saw the young lady that testified before, in a very emotional testimony.

JOHN CORLETTE: Uh-huh.

SENATOR FUSCHILLO: And I mentioned earlier, the statistics, how they just seem to be growing.

She really put a face on what this is actually doing to individuals here in New York State, and throughout the country as well.

So, I thank you for your testimony.

And I look forward to working with you, as we deal with this issue of distracted driving, in the future.

JOHN CORLETTE: Sure, okay.

Thank you very much.

SENATOR FUSCHILLO: Assemblyman McDonough.

ASSEMBLYMAN MCDONOUGH: John, thank you very much.

I had a thought, and it may be pie in the sky, but -- and AAA is a very large and influential organization.

You know that, today, insurance companies give a discount if you take the driving course. You know, you'd get a 10 percent reduction on your insurance fees, if you take those defensive-driving courses.

They also, as cars are being produced, if your car is equipped with certain safety devices, they give a discount for that, if you look at your premium breakdown.

Now, this looks a little crazy, maybe, but I don't think it could be: If cars were to be equipped, as I said before, with a device that cripples cell-phone communications within the car during that time, which you know can be done. That's not a problem.

I would think the insurance companies would give a great discount for that because of the number of accidents that are on there, and, of course, the insurance costs.

How do you feel about something like that?

JOHN CORLETTE: I'm aware that the technology is out there.

I think it's something that should be looked at, you know, with -- perhaps with insurance companies.

I don't think any representative from an insurance company is here.

ASSEMBLYMAN MCDONOUGH: We have now, on the drunk-driving laws -- of course, this follows a conviction -- but then you have to use the ignition-interlock device, which prevents you from driving drunk at all in the future.

But, we know that technology could be done, but I think that it would be a tremendous savings.

And as, you know, representative of such a large organization as AAA, I think that's something to consider also, that we could do that.

People wouldn't like it, but, that's the breaks.

You know?

JOHN CORLETTE: Sure.

ASSEMBLYMAN MCDONOUGH: Okay.

SENATOR FUSCHILLO: Thank you very much.

JOHN CORLETTE: Thank you.

SENATOR FUSCHILLO: Dr. Jim Hedlund, principal of Highway Safety North.

Good morning, Doctor.

DR. JAMES HEDLUND: Let's see.

I need a little technological help here, to get something up and going.

Good morning; and, thank you, Mr. Chairman, for inviting me here.

My name is Jim Hedlund.

I am a consultant in traffic safety issues, and from Ithaca, New York, the town where I was born, and grew up.

I have been doing this for the last ten years or so.

And, for the 22 years before that, I worked for the National Highway Traffic Safety Administration, in behavioral issues, such as, drunk driving, and seat-belt use, and things like distraction.

I've given -- I'm probably here because of this document, which I'm glad to provide for the Committee.

This is: "Distracted Driving: What Research Shows, and What States Can Do."

This is a document that I prepared and wrote last summer for the Governors' Highway Traffic Safety -- for the Governors' Highway Safety Association, which is the association of all state traffic-safety offices, including GTSC here in New York.

And it attempts to summarize all the research

that is out there.

I will give a summary of that for you.

My written testimony boils this down a little bit more, and the PowerPoint boils it down even more yet.

So, a large part of my work here, is to give you some background, and to give you the information that I think you need in considering this.

I will go very quickly through these.

And one of the advantages of being late in the hearing, is I don't have to talk about some of these things anymore.

[Slide being shown.]

But, I'll cover the four areas that you have in your charge for the hearing; and, finally, at the last, I will give you my personal suggestions.

[New slide being shown.]

You've heard about NTSB's recommendations.

I make the point only that there's three parts.

They say: Pass a law, enforce the law, and publicize the law.

Passing the law is easy.

Enforcing it, as you heard from the Commissioner, is much more difficult.

So, that's an issue that you seriously must consider.

[New slide being shown.]

What is "distracted driving"?

It's useful to take about 10 seconds to think about this.

And, you're distracted by four things:

When your eyes are not on the road;

When you're hearing something, that has nothing to do with driving;

When your hands are fiddling with something, other than the wheel of the vehicle controls;

And, as recent testimony said, when your brain is thinking about something.

And most distractions involve two or three of these.

Hand-held cell phone or texting are the worst because they involve all four.

You have to look find the thing;

You have to hold it to your ear or to punch the numbers in;

You hear the conversation, for the hand-held phone;

And then you're thinking about it.

[New slide being shown.]

Here's something that you really need to know: Drivers are distracted much of the time.

The best studies, which followed 100 cars for a full year, recording everything the drivers did, concluded -- video on them, and all the rest -- concluded the drivers were distracted by something or other, between a quarter and a half of the time.

In crashes, the best evidence says, some drivers are distracted between 15 and 30 percent of the time.

And that's, as was pointed out, very difficult to determine, because, in a crash report, you know very well what happened when the car crashed.

You don't know what happened, what the driver was doing, immediately before the crash.

So, these are probably underreported.

Distraction is probably even more important than that.

[New slide being shown.]

Cell phones and texting are -- have some better data.

You ask people in surveys, and then -- there are about three recent surveys that say:

Two-thirds of people admit that they use cell

phones when driving;

And, a good one-third of people say they use cell phones regularly when they're driving.

Surveys: Standing on the side of the road, observing people, during daylight hours;

7 to 10 percent, of any driver, during daylight hours, in this situation, is using a cell phone.

This happens lots.

Texting is not quite as frequent, but, a good third of people admitted that they read, and a quarter sent, a text within the last month.

Observations, it's down, on the 1 percent; in that neighborhood.

Texting, though, is growing rapidly.

And, as had been pointed out earlier, younger drivers do this more frequently than older drivers.

[New slide being shown.]

How do cell phones affect performance?

The best way to do this is in experimental settings. There are lots of studies.

You can find summaries of them in the document that I have provided for you.

The distractions definitely affect performance on things like, reaction time.

The real problem with experiments, is that

they are experiments. They're artificial situations. They're not the same as driving down the road.

So, inferring from the results of experiments, to crash risk, simply cannot be done. You need to go and look at crash-risk studies.

[New slide being shown.]

The problem with crash-risk studies, what you would like know, is: Was this driver using a cell phone immediately before they got into the crash? And, something to compare that with.

Unfortunately, in the United States, you cannot get cell-phone records to do these kinds of studies.

The only two studies that have directly tied cell-phone records to drivers in crashes, happened, one in Canada, one in Australia.

And those are the two that I cite there.

They show crash risk about four times higher when using a cell phone. And they show, essentially, no difference between the hands-held and the hands-free.

There are some other studies that use less direct, but broader methods. And, they find crash risks of about three times for cell phones.

This naturalistic driving study that I described recently, finds crash risk, from a little bit more than one, up to three times, for various secondary tasks, of which cell-phone use is one.

On the other hand, there's a collision-claim study, put out by the Highway Loss Data Institute, which looked at changes in insurance-collision claims during the last ten years, when cell-phone use has just boomed.

And, they found no difference.

They also looked at differences in collision claims between states, with and without cell-phone laws.

And, they found no difference.

[New slide being shown.]

Conclusions: Yes, cell-phone use increases crash risk, to some extent.

It certainly causes individual crashes, such as those that the Safety Board investigated, but, there's really no consensus on how much it increases crash risk.

There is no conclusive evidence on whether hands-free is less risky than hands-held.

There's suggesting that it -- suggestive evidence that it probably is, because it doesn't

involve that piece of distraction involved with your hand, but there's no conclusive evidence.

And texting is probably more dangerous; but, again, nothing conclusive in the research.

[New slide being shown.]

Let's get to laws.

Cell-phone laws prohibiting hand-held, you have one. Nine other states do.

This is the case for all commercial drivers as well, by federal regulation.

Most European countries have such a law.

There is research that says, when states implement these laws, cell-phone use decreased substantially at first, and rose up again afterwards, but still lower than adjoining states.

There's no good research on the effect of these laws on crashes, unfortunately.

And, no state, no country except Japan, that's the only exception, bans hands-free cell-phone use.

And I might point out, here, that the Federal Motor Carrier Safety Administration, which regulates all commercial drivers, recently issued a regulation, which permits hands-free use by commercial drivers. It has to be one-touch.

You have to have something set up so you can either voice activate or just touch with it one button.

But, commercial drivers are permitted to use hands-free cell phones.

Texting laws: 35 states and New York have them.

There are no evaluations of these.

[New slide being shown.]

Enforcement: You've heard about this four times already today, so I don't need tell you about it anymore.

[New slide being shown.]

Education: There are lots of campaigns out there.

And you've heard about, several people, this testimony, encouraging you to do education.

There's no evaluation of any of these.

And, I might make a point, that, in other traffic-safety areas, such as seat-belt use, and drinking-and-driving, education by itself had little effect.

The only time you got an effect was when you combined laws and enforcement, and education backing those up.

Do not make the mistake of thinking, just putting out an education campaign will solve the problem for you, because it will not.

[New slide being shown.]

Cell phones and young drivers: They use they things more frequently. They have the highest crash risk.

States have recognized this, by putting additional restriction on young drivers.

New York has a very good Graduated Driver Licensing Law, which restricts nighttime driving and passengers.

Of course, you've got the hand-held cell-phone and texting ban.

But, 30 states, and D.C. ban all cell-phone use for all young drivers.

This, in a sense, helps give the parents the backbone to do what they already want to do; which is, prohibit their beginning drivers from using these things.

[New slide being shown.]

So, I will conclude with my suggestions for you.

You've got the right -- the most important laws already: the hand-held and the texting bans.

I think it's premature, at this point, to go for a hands-free cell-phone ban.

I would consider, seriously, putting in a hands-held ban for beginning drivers.

Enforcement recognized that any law you pass, as the Commissioner said, has to be enforced.

If you don't enforce it, it sends a message, you didn't really mean it in the first place.

Enforcement needs resources.

Enforcement and traffic safety has to spread across the whole gamut of, drunk driving, and seat-belt use, and everything else.

So, consider resources before you put in a law that's tough to enforce.

As I just said, tie the education to the laws.

And, finally, a number of countries, over 1,500, have policies in place regarding cell-phone use by their drivers on company business.

This is a place where it can be enforced.

You know, you're a company; you can tell your drivers what they can and cannot do.

Some of these companies have "hands-free" policies as well.

So, encourage your employers, and, the State

of New York is an employer, after all, to adopt these policies.

Thank you very much.

I leave you with the document, and I would be glad to answer any questions, or to provide any other assistance that I may.

SENATOR FUSCHILLO: All right, Doctor, you've been very clear.

And, I appreciate your recommendations, and, your expertise. And, certainly, your years of experience.

As we've stated before, this is a very serious issue that New York State is facing.

And, we're going to see how we proceed in dealing with this issue, and just combating, whether it's education -- enhanced-education requirements, or, you know, enhanced laws as well.

Senator Perkins has a question.

Senator?

SENATOR PERKINS: Thank you.

Thank you for your presentation.

I wanted to ask: So, who is doing this the best, in terms of, enforcement, and identifying the problem, and coming up with laws and measures that are helping?

DR. JAMES HEDLUND: New York -- New York is doing it as well as anybody.

New York is actively enforcing the hand-held ban.

Here's an article from "The Ithaca Journal," a couple of weeks ago, saying, "The Ithaca Police Department will emphasize enforcement of distracted-driving laws in February."

You're doing it well, and you have good laws.

SENATOR PERKINS: And how do we compare to, let's say, the Europeans?

I notice you made reference to the fact that cell-phone laws prohibit hand-held phones in most European companies.

How are they doing in comparison to the United States?

DR. JAMES HEDLUND: The laws are the same as you have here, prohibiting hand-held cell phones.

The enforcement is the same model that has been recommended, and that was used in Syracuse, of high-visibility enforcement.

SENATOR PERKINS: Are they doing anything different that we could look at?

DR. JAMES HEDLUND: Some of the European countries are doing more of it.

New York has had just the one demonstration, in Syracuse, which lasted for a year.

You're considering additional demonstrations, or considering expanding that, this year.

The Europeans have gotten there a little earlier, and they're doing a little more of it.

SENATOR PERKINS: Any specific countries that you have in mind --

DR. JAMES HEDLUND: I can't say why.

SENATOR PERKINS: All right, thank you.

DR. JAMES HEDLUND: Thank you.

SENATOR FUSCHILLO: Thank you, Doctor.

Thanks very much.

Kevin Ro, and, Wayne Weikel.

Good morning, gentlemen.

Wayne, you're the director of state affairs for the Alliance of Automobile Manufacturers;

And, Kevin, you're the director of technical and regulatory affairs for the Vehicle Safety Group, Toyota Motor North America.

Thank you very much, both of you, for being here.

WAYNE WEIKEL: Good morning, Mr. Chairman, members of the Committee, Assemblyman.

I want to commend you for holding this

hearing today, and your engagement on this issue of distracted driving.

The Alliance genuinely appreciates the opportunity to address this body today.

While I won't read my testimony in its entirety, I did want to talk a little bit about the legislative agenda of the Alliance that we've been pushing, and highlight some of the technologies that our member companies have employed to keep your constituents and our customers safe.

The state of New York has been mentioned many times today. It should be recognized for its role as a longtime leader in driver -- in public-policy efforts, to keep the motoring-public safe; from aggressive drunk-driving laws, to early recognition of distracted driving, as a real concern. The first state in the nation to ban handheld-phone use, as well as an early adopter on texting-while-driving laws.

While the states have followed, New York has continued to be a leader in this front.

I spent a good portion of my time visiting legislatures across this country, trying to convince your peers to engage on issues of distracted driving.

To help guide and encourage legislative bodies, the Alliance has developed model laws to ban the use of mobile telephone.

To engage a call, unless it is used a hands-free device; and another, to prohibit texting while driving; both positions the New York -- State of New York has already adopted.

But, as has been mentioned many times today, to be clear: The adoption of good public policy is only the first step to changing practices in the public.

Efforts need be made to educate citizens, that, both the existence of the laws and their reasons for adoption.

We need consumer education so that drivers know, that even with cutting-edge technology in our cars, driver distractions remain at risk; not just hand-held texting, and hand-held calling, but, eating, drinking, searching for a CD, reading a newspaper, putting on makeup, shaving -- anything that provides -- that prolongs a driver's eyes off the road or hands off the wheel presents a risk.

Numerous studies will show that -- the effect of high-profile public-awareness campaigns can make.

"Click It or Ticket" on seatbelts;

"You Booze, You Lose," on drunk driving;
"Take 10 from 2," from -- to combat fatigue --
we need a similar effort around distracted driving.

As the doctor said, part of your awareness campaign must include a high-visibility enforcement.

Drivers understand that breaking this -- drivers must understand that breaking this law will result in negative consequences: a fine, higher insurance rates.

We hear, anecdotally, stories of, after someone has received a ticket for hands-free or texting while driving, when it actually comes time to going into court, that that may end up not actually translating into a fine or the higher insurance rates.

Sound public policy, along with aggressive enforcement, is the key to reducing the risks presented by driver distraction.

The Alliance and our members have tried to do our part to educate the public.

We are proud to have partnered with the American Academy of Orthopedic Surgeons on a national education program titled "Decide to Drive."

This campaign has been recognized by the U.S. Secretary of Transportation, and presented with

a prestigious CLIO Award.

We remind drivers that when they're behind the wheel, they need to "decide to drive."

Using the Chairman's words, "Absurdly simple," but, it really gets to the heart of the problem.

Alliance members must understand that in vehicle -- Alliance members have long understood that in-vehicle information and communication systems have the potential to distract drivers if not properly designed.

In July of 2000, the Alliance met the challenge of the National Highway Traffic Safety Administration, and developed these driver-focused "Telematics Guidelines."

This 80-page guidelines consist of 24 principles that address the design, use, in installation of telematic systems, with the goal of maximizing eyes on the road all the time.

Some examples include issues, such as:

Position of visual in-vehicle telematic systems are addressed, stipulating, that should be positioned close to the driver's normal line of sight; thereby, allowing the drivers to continue to monitor the road peripheral while they're looking at

the display.

Ever notice, how, on most new cars, the in-dash screens are placed very high in the center console?

That's to -- based on these guidelines, to keep your eyes on the road for as long as possible.

Also, setting visual demand limits, stipulating, that eyes-off-the-road time is limited to tasks that can be accomplished with short glances away from the road.

One example, is that: In our member companies' cars, you cannot enter a new address into a GPS system.

You can call up a previously found address, but you can't take the time to plug in an address, a city, a state, which would take too much mental focus, and eyes away from the road.

Since 2002, all Alliance members have agreed to abide by these guidelines when building their cars.

The guidelines are just one example of how Alliance members build cars today that are safer than they have ever been.

Guidelines responsible for countless technological improvements to increase driver

safety, head-up displays of vital automobile information, voice-activated system controls, bluetooth phone recognition, audio GPS directions; each designed to keep the driver's eyes on the road and hands on the wheel.

To further reduce traffic fatalities, we'll continue with cooperative efforts between vehicle manufacturers, government and non-government stakeholders, to address each element of vehicle safety, including roadway infrastructure, driver behavior, and vehicle design.

SENATOR FUSCHILLO: Kevin.

KEVIN RO: Thank you.

I also will provide a shortened version of my testimony so that we can ensure that we have more discussion on the topic.

I want to thank you, Chairman, and the Committee, for inviting me to testify before you.

I work for Toyota Motor North America. I'm the director of the vehicle safety group.

And I -- Toyota is very strong and supportive of the Alliance-model bill language.

We also want to commend New York for taking the leadership role in banning cell-phone usage and texting from drivers.

Toyota strongly also support the National Highway Traffic Safety Administration, and their view, that the primary responsibility of the driver is to operate the motor vehicle safely.

We recognize this, and, we also recognize that drivers today are faced with very complex driving environments that demand concentration and good judgment.

And vehicle manufacturers are working, and competing, every day, to create improved systems that are designed to assist the driver in safely operating the motor vehicle.

In line with NHTSA, and NHTSA positions -- in line with the Alliance and NHTSA positions, and to meet the needs of drivers, Toyota's philosophy is, to make -- ensure that the driver is driving focused.

This philosophy has three components.

The first is: Societal communication and education;

The second is: Human-machine-interface research;

And the third is: Product implementation.

The societal communication and education, Toyota has been active in engaging in numerous

activities to improve driver safety and awareness of the dangers of distracted driving.

We worked with organizations, such as law enforcement; national safety organizations, such as the National Safety Council, RADD, SADD, on their campaigns against texting while driving.

We've also had anti-texting advertising campaigns that aired on MTV, Comedy Central, Spike TV, TV Land, VH-1, Nick at Night, and Nickelodeon.

For human-machine-interface research activities, this element finds its foundation in a strong research base of both internal and collaborative research projects.

Toyota has over 30 years of research in this area, to assist the driver with the driving task.

Among the numerous research efforts includes, Toyota's Collaborative Research Center, based in Michigan, which was founded in January of 2011.

And, among many research projects, it includes, driver distraction-related projects with Wayne State University, Massachusetts Institute of Technology's Age Lab, and the Virginia Tech Transport Institute.

Toyota also conducts in-house testing that

includes driver-simulator and naturalistic-driving studies.

For product implementation, this, we believe, is a most visible embodiment of making sure that drivers are focused on the driving task.

Looking at our products, one that strongly illustrates Toyota's decision to curb distracted driving, is looking at our navigation system.

We were one of the first manufacturers that locked-out drivers from certain functions while driving.

Despite many complaints from our customers, we assured them that this was for the better good.

Although we have -- in more recent years, Toyota's in-tune telematic systems, which piggyback's off of cell-phone connectivity, through bluetooth technology, allows the drivers to drive hands-free, with their hands on the wheel, eyes on the road.

And this technology also allows the voice operation of application functions, and provides navigation assistance.

In closing: Toyota holds itself to be a safe and responsible corporate citizen.

We stand ready to work with government and

safety groups toward the shared goal of making the driving task safer.

Toyota believes that, working together, we can help drivers to keep their eyes on the road and their hands on the wheel.

And as such, we greatly appreciate the opportunity to be here today.

Thank you.

SENATOR FUSCHILLO: Kevin, thank you very much.

You know, the cars of today are becoming the cars of convenience for the portable electronic devices.

You know, when you get in a car, you can download your BlackBerry, you download your phone list, in there; you can download your music on your iPhone; you can have it all, and stored in the cars in their central computer system.

And, I appreciate the advancements of Toyota in banning the use of entering the information for a navigation system.

I was reading an article recently, about how a car manufacturer is looking to the future, dealing with the issue of drunk driving; where, the person's hands on the steering wheel, the perspiration, can

detect whether there is any alcohol or not.

And looking into the future, because I'm sure Toyota's not looking to create cars just for today, or next year, but, way out there.

Is there technology that would possibly prohibit -- and Assemblyman McDonough brought this up before -- the use of an electronic device in a car?

Sort of a blocker, I think you had mentioned, while the engine's running?

KEVIN RO: Well, the issue of blocking the signal, as mentioned earlier, I understand that, currently, that there is actually a ban on blocking FCC signals.

So, there's an issue there, that we wouldn't be able to install that technology in our vehicles.

SENATOR FUSCHILLO: Right.

KEVIN RO: But I think, that, in the direction that we're headed today, we've got technologies that we're installing, to ensure that driver has, you know, hands on the wheel, eyes on the road.

We also are conducting studies, through M.I.T., and Wayne State University's Medical School, and Virginia Tech, to better understand the

distraction for drivers; not just the physical being, but, rather, the cognitive as well.

Virginia Tech is going to be helping us analyze a Transportation Research Board study of naturalistic driving of 3,000 drivers, which is the next step beyond the one that Dr. -- the previous doctor mentioned, with 100 vehicles.

And we believe that study's going to help us to better understand the whole driving environment, and the whole issue of driver distraction, even better.

SENATOR FUSCHILLO: All right, thank you very much.

Thank you very much.

ASSEMBLYMAN MCDONOUGH: Thank you.

SENATOR FUSCHILLO: Bill?

Okay.

Thank you very much.

Appreciate your testimony.

Alfred Vigna, director of education and technology teacher, New York State Driver's Education Traffic Safety Association.

ALFRED VIGNA: Good afternoon, Senator Fuschillo, and members of the Transportation Committee.

I'd like to start off by introducing myself.

My name is Alfred Vigna.

I'm a driver-education and technology teacher from a rural part of the state.

Thank you for inviting my organization here to speak on behalf of driver-education teachers throughout the state.

Our organization was reconstituted back in 2009, when the Governor's temporary Special Advisory Panel on Driver Education and Curriculum Enhancement met.

Our guiding principles for our organization are:

To improve and upgrade teaching;

Promote research;

And, cooperate with other agencies in the areas of safety, and driver education.

I'd like to start out with facts bearing down on the problem.

[Slide being shown.]

And, the first fact speaks directly towards our teenaged drivers.

They have the highest death rate from distracted driving out of any other age group above 19 years of age.

That speaks volumes in itself.

And the second and third facts: I was taught, when I got my instructor certification, that it takes a new driver approximately three years to get up to the average proficiency level of everybody else out there on the road.

And, in the fourth fact, you can see, distracted driving is a very large problem, and it's not going go away any time soon unless we aggressively address it.

I seen -- I see teens every day in school. They're glued to their cell phones, their iPhones, iPods. It's part of their culture.

And my challenge is to transition them from these electronic devices into safe and responsible drivers, as part of my responsibilities as a teacher.

[New slide being shown.]

Facts bearing the problem, it's safe to assume that the high teen death and crash rates are going to continue unless the problem's aggressively addressed.

High worst costs will remain. More innocent victims and families will be affected.

We need to address distracted driving the

same way we address the drunk-driving problems of the past, and we'll curb the problem.

[New slide being shown.]

I felt it was important -- or, we felt it was important, as an organization, to give you a little bit of background on what a Driver Ed program looks like; mine, in particular.

First off, it's a joint program between the Department of Motor Vehicles and the New York State Education Department.

The DMV issues the MV-285 Completion Certificate, and the State Education Department tracks teachers' credentials.

Right now, in the State Ed site, I found more than 492 Driver Ed programs throughout the state. Some of these are during the summer, some of these are in school during class time.

The number is actually higher, in my opinion, because the State Education Department is in a transition period in upgrading their approval forms.

And I fall under one of the older approval forms; so, therefore, my school's not listed yet. I continue to teach driver education under the law.

Parents particularly want their students, their children, to take driver education so they can

become safe and responsible drivers.

Students, on the other hand, they're looking for that night license.

And, upon completion of the driver-education course, they can get their night license when they turn 17; whereas, students who have not taken Driver Ed have to wait until they're 18 years old.

Many insurance companies offer insurance reductions, 10 percent.

[New slide being shown.]

Students can take driver education in lieu of the 5-hour pre-licensing course.

And if the driver-education course is done during school hours, as part of the curriculum, a semester, they get a half a credit towards graduation.

We know driver education works.

I respectfully disagree with Dr. Hedlund, when he said education does not work by itself.

If you look at the DMV, if driver education didn't work, we would -- they would not be issuing night licenses to 17-year-olds; and, insurance companies wouldn't be giving insurance reductions, because their bottom line is the dollar.

[New slide being shown.]

Traffic Safety and Education Guide: This was last updated in January 1989. It's 23 years old.

The -- it's the basis for our curriculum and instructional activities. It covers everything, from the driver and vehicle readiness, to traffic laws, and alcohol and other drug substances.

We, as an organization, are currently waiting, and, are ready to help State Ed update the guide in the area of distracted driving.

And if you notice, there's nothing in there on "distracted driving."

This comes with our first recommendation; that is: Mandate driver education back into the public schools.

And we, as an organization of professionals, are here, willing to help with that implementation.

The Driver and Traffic Safety Education Guidelines: We, as an organization, helped State Ed update those guidelines back in 2010.

This particular set of guidelines covers program description and requirements.

I have "Selected Requirements" listed on the PowerPoint slide.

It's not all inclusive. There's many more. Didn't have enough room on the slide.

Two key areas I'd like point out:

The minimum time requirements: 24 hours in the classroom, 24 hours in the lab. That's driving. That could also include simulator time.

And then, also, course designation.

There are credit-bearing courses, and then there's tuition-based.

"Credit-bearing" are the ones that take place during the school day, with the students;

"Tuition-based," oftentimes, take place during the summer. And, students have to fork-up, anywheres, from 20 -- or, excuse me -- 200 to -- up to 400 dollars, per student, to take the class.

Our second recommendation deals with the insurance companies.

If a person can take a point-insurance-reduction program, for 6 hours, and get a 10 percent insurance reduction, it would be fair to say, that if a student took a driver education class for 48 hours, they should be entitled to the same mandatory 10 percent insurance reduction.

However, we also want to caveat that with the fact that insurance companies need be able to rescind that.

If a kid gets caught with a cell phone, he's going lose his insurance reduction. He's going have to pay a higher insurance premium.

Distracted-driving laws: It's rare to find a student not immersed in portable electronic devices.

It's their culture. It's the bottom line.

I've got three daughters; they're all immersed in it.

We heard the New York State Superintendent for the State Police talk about his daughters.

We heard Senator Larkin talk about his grandchildren, and cell phones, portable electronic devices.

This ties in with our third recommendation.

If we're serious about this, we need to increase the fines and penalty points to "4."

You know, what's a life worth?

Mandate those increased fines.

A percentage of those increased fines, a percentage towards driver education.

Mandate a certain percentage of driver-license fees towards driver education.

Then we can help fund the education programs across the state without putting an additional tax burden upon the taxpayers.

In conclusion: I talked about three different recommendations:

Mandating driver education back in the public schools;

Mandating a 10 percent insurance reduction for the driver-education programs;

And, then, increasing fines and penalty points, so that we can generate revenue, at the same time, helping to fund a driver-education programs.

I also want to state, that, every presenter here talked about the importance of education.

Every single one of them mentioned it.

It was mentioned no less than 34 times.

And, I like to look at driver education as a proactive measure, instead of a reactive measure, which it is.

It bridges the gap between, adolescents, and responsible and safe drivers.

Henry Ford said, "Working together is progress."

And I would like to say, that: Our association is here to help, in whatever committees, to provide subject-matter expertise, opinions, a sounding board.

Just let us know.

Thank you.

SENATOR FUSCHILLO: Mr. Vigna, thank you very much.

Appreciate you taking your time, and your testimony.

I want to ask you a question, because, I have -- two out of my three kids that now have driver's license, one just turned 21, and one's 17.

You mentioned Class D license at age 17, a night license.

And, one of the comments I made about the Driver's Ed, and I just wanted to get your feeling, is, my kids don't drive at night during the Driver's Ed program.

Do you think that the educational requirements, or what's -- the program needs to be changed, or strengthened a little bit?

My concern, and as a parent, we're required, obviously, or the student is, to drive X amount of hours outside of Driver's Ed as well.

And, we take the responsibility for teaching them to drive at evening hours, but, they're limited, because of the state law.

But, the Driver's Ed program doesn't do that, they're during the day; correct?

ALFRED VIGNA: I can't speak for all programs not doing it.

I can personally say that many of them don't.

There's a couple of reasons.

One, you're going have to pay the teacher to come in for additional hours.

The program may be set up to just drive during the day, because of funding constraints, the taxpayer burden, et cetera.

The other part of that equation is, I heard a lot of people talk about parents.

Parents are the other part of the equation, where they need to participate.

And the DMV has mandated that parents sign-off on night driving before the students can even take their driver's test.

They got to go up -- when they go to get their driver's test, they have to hand that certificate to the evaluator.

That's my understanding.

And they have to have, I believe it's 50 hours of driving time, and 15 hours of night driving.

So, I would look at that more as a partnership between the parents and the schools.

We can do a lot, but, the parents have to help out also.

SENATOR FUSCHILLO: Okay, thank you.

Any questions or comments?

ASSEMBLYMAN MCDONOUGH: No.

Thank you.

SENATOR FUSCHILLO: Thank you very much for your testimony.

Appreciate it.

And, this concludes our hearing.

I want to thank all of that you have stayed, and those who have testified.

And, I appreciate the testimony given to the committee.

Thank you very much.

(Whereupon, at 2:10 p.m., the public hearing, held before the New York State Senate Standing Committee on Transportation, concluded.)

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