



## **OLDER DRIVERS, TEEN DRIVERS, AND DISTRACTED DRIVING**

Older drivers, teen drivers, and distracted driving are driver licensing issues that legislators have requested information to have before the 2013 Legislative Session. This issue memorandum will provide background information in each of these issues and provide an update on what other states have done.

### **Older Drivers**

Each year there are motor vehicle accidents in South Dakota that involve drivers of advanced age and that unfortunately result in fatalities or serious injury. If the older driver is found to be at fault in the accident, often concerned constituents inquire as to whether there should be a law to require more frequent testing of older drivers or ask what other states have done to make sure older drivers are physically able to operate a motor vehicle.

Our South Dakota population continues to get older. According to the 2010 census, 14.4 % of the persons in the state were 65 years of age or older and by 2030 the U.S. Census Bureau estimates those 65 years of age or older will make up 23.1% of the state's population – a 60% increase. In 2011, 18.5% of the licensed drivers in the state were age 65 or older; while in 2000, 16.9% of the licensed drivers in the state were age 65 or older.

Undoubtedly, the percentage of older drivers will increase significantly more by 2030.

Older drivers across the nation are generally safer drivers – they use seatbelts, rarely speed, and are the least likely to drive while impaired; consequently they have fewer crashes than any other age group. According to accident records, in South Dakota this has been especially true. In 2011, while 18.5% of drivers were age 65 and over only 10% percent of the drivers in all accidents; 9.4% of the drivers involved in injury accidents; and 14.7% of the drivers involved in fatal accidents were from this older group. These percentages have remained pretty constant for the last twenty years.

Those 65 years of age and older also drive less than any other group and usually do so during the day. The American Association of Retired Persons (AARP) estimates that a 65-year-old person typically drives half as many miles as a 35-year-old person. However, when the number of miles driven is taken into consideration, older persons have a higher rate of crashes per mile driven than any other age group. For the United States, the crash rate for actual miles driven for people over 75 years of age is almost four times that of other drivers. Teenagers rank second.

### *Driver Requirements Based on Age*

In South Dakota elderly drivers are treated the same as all other drivers when it comes to issuance and renewal of a driver license. Driver licenses are valid for five years. Upon a renewal, unlike many states, South Dakota requires each driver to submit to an examination of his or her eyesight.

There have been attempts in the South Dakota Legislature in the past to require older drivers to submit to driver license renewal more often than younger drivers. These attempts have failed primarily because the accident statistics of this state do not indicate that elderly drivers pose a greater risk on highways than do younger drivers. Also arguments are made that older persons who are good drivers should not be discriminated against based on age. Those who make this argument contend that safe driving does not automatically deteriorate with age and that the state should instead improve its testing and licensing procedures for drivers of all ages.

Opponents of these attempts point out how important the privilege of driving is to the state's elderly citizens. The ability to drive is important to these citizens in meeting basic needs, such as obtaining food and medical services. The loss of driving privileges often means the loss of independence and a reduction in the elderly person's quality of life – especially in rural communities where no public transportation is available.

### *Other State Actions*

Some states have adopted special driver licensing requirements of older drivers. Most of these laws address vision testing requirements and renewal

periods. Ten states require vision testing for older drivers, with varying requirements. Most of these states do not require vision testing of all drivers upon license renewal. Once again, South Dakota requires vision testing for all license renewals regardless of age.

Nineteen states have some type of accelerated renewal for older drivers. One of the most restrictive states is Illinois. In that state, a driver license is normally valid for four years; however, drivers between the age of 81 and 86 must reapply every two years and beginning at age 87 annual renewal is required. The license fees for these two-year and one-year licenses are at reduced rates. Also in Illinois, road tests are required for all renewal applicants age 75 and older.

As for our surrounding states, Iowa, Montana, and North Dakota have accelerated renewal for older drivers. In Iowa where a driver license is normally valid for five years, the driver license for drivers age 70 and older is valid for only two years. In North Dakota, drivers age 78 and older must renew their license every four years compared to every six years for other drivers. In Montana, drivers the age of 75 and older need to renew their license every four years compared to eight years for other drivers.

### *South Dakota Actions*

South Dakota does have a law (SDCL 32-12-46) which authorizes the Department of Public Safety to require a driver to submit to an examination or interview if the department has good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed. This happens about 150 times a year. A majority of these cases

involve older drivers. These inquiries are usually initiated by family or medical providers.

In September 2009, the National Highway Traffic Safety Administration (NHTSA) and the American Association of Motor Vehicle Administrators (AAMVA) published a report – Driver Fitness Medical Guidelines – to help state licensing agencies make decisions about individual drivers’ medical fitness to operate a motor vehicle. These guidelines are used by the Department of Public Safety and medical providers as decisions are made under this law. The department has also used these guidelines in placing valuable information on the department’s website to assist aging drivers and their families and friends in continuing to be safe drivers or in finding alternatives to driving.

### **Teen Drivers**

Currently South Dakota teenage drivers make up about 7.5% of the licensed drivers in the state. This compares to 9.4% of the licensed drivers being teenagers in 2000. The number of teenagers getting licenses has been trending down. In 1995, when statistics were collected for an issue memorandum on the minimum driving age (Issue Memorandum 96-09), there were 3,774 fourteen-year-olds and 7,495 fifteen-year-olds permitted to drive – that number has dropped to 3,638 fourteen-year-olds and 6,439 fifteen-year-olds in 2011. Yet another statistic that reflects South Dakota’s aging population.

According to 2011 accident records, teenage drivers were involved in: 8.8% of fatal accidents, 15.6% of injury accidents, and 14.1% of accidents

involving property damage. In 2011 sixteen- and seventeen-year-old drivers represented just 2.7% of all drivers, but accounted for 5.9% of crashes involving deaths or injuries. In 2000 this age group represented 3.5% of all drivers and accounted for 9% of the crashes involving deaths or injuries.

Nationally, fatal injuries from motor vehicle crashes are the leading cause of death for thirteen- to nineteen-year-olds, inclusive. The risk of crashing is especially high for teens during those first few years of licensure. Inexperience and immaturity make for risky driving behavior and increase the likelihood of a crash.

### *Graduated Driver License*

According to NHTSA in 2009 there was a 37% decrease in the number of teenagers involved in fatal crashes compared to 2000. Many attribute the decline in teenage involvement in severe traffic accidents to actions by the states to implement graduated driver licensing systems. These systems limit the exposure to high-risk situations by gradually phasing in driving privileges for teens and allow teens to gain valuable driving experience in low-risk driving situations. South Dakota’s version of a graduated driver license system went into effect on January 1, 1999.

A graduated driver license system involves three stages for licensing teenage drivers. The first stage is the learner stage which requires teenage drivers to be accompanied and supervised by an adult as they learn to drive. The second stage is the intermediate stage or provisional stage where unsupervised driving is permitted, subject to restrictions such as the

number of passengers or the time of day. The final stage is full licensure where all restrictions and provisions are lifted.

### *Instruction Permit*

In South Dakota this first stage is an instruction permit. To obtain an instruction permit a person must be at least fourteen years of age and pass the vision and knowledge test. The permit is valid for one year. A person who is at least fourteen years of age but less than eighteen years of age must hold the valid permit continuously for 180 days, or for 90 days if the person has successfully completed an approved Department of Education driver education course, prior to upgrading to a restricted minor's permit or an operator's license. An instruction permit holder may drive during the hours of 6 a.m. to 10 p.m. if the motor vehicle is operated under the direction of a licensed driver who is eighteen years of age or older and has at least one year's driving experience. The licensed driver must be in the seat next to the permit holder. During the hours of 10 p.m. to 6 a.m. the permit holder must be accompanied by a parent or guardian who is occupying the seat by the permit holder.

Nationally, most states require persons to be at least fifteen or sixteen years of years of age before they can get a learner's permit. In South Dakota the minimum driving age was first established at thirteen in 1955 and has been fourteen since 1959. In the 1950s and 1960s fourteen- and fifteen-year-olds were only allowed to drive to and from school and to perform farm labor, but those restrictions have been eased over the years.

Our minimum driving age, is relatively low compared to all fifty states, but is comparable to many of our surrounding states which share with us a large agricultural influence and long distances to travel to and from school and work. The minimum age in Iowa and North Dakota is fourteen years of age. The minimum age to drive in Montana is fourteen years and six months of age and in Minnesota and Nebraska is fifteen years of age.

In South Dakota a person under the age of eighteen has to have an instruction permit for at least 90 or 180 days, whereas in our surrounding states the learner's permit comes with a requirement for a minimum amount of supervised driving. A person with a learner's permit in Iowa must have 20 hours of supervised driving of which two must be at night; in Minnesota 30 hours of supervised driving of which 10 must be at night; and in Montana and Nebraska 50 hours of supervised driving is required of which 10 hours must be at night. In Nebraska the supervised driving is not required if the driver with a learner's permit has completed a driver's education course and in North Dakota 50 hours of supervised driving is required if the driver is under 16 years of age.

### *Restricted Minor's Permit*

In South Dakota the second stage or intermediate stage is a restricted minor's permit. To obtain a restricted permit, a person must be at least fourteen years of age and under the age of eighteen; pass the vision, knowledge, and driving test; complete the requirements of the instruction permit; and have not been convicted of a traffic violation during the past six months prior to obtaining a restricted minor's permit. The restricted

minor's permit allows the teenager to drive a motor vehicle with parental permission during the hours of 6 a.m. to 10 p.m. and during the hours of 10 p.m. to 6 a.m. if the teenager's parent or legal guardian is occupying a seat by the teenager. The permit is valid for five years.

Almost every state has nighttime driving restriction with this intermediate stage. For our surrounding states Iowa's nighttime driving restriction is from 12:30 a.m. until 5 a.m.; Minnesota's is from midnight to 5 a.m.; Montana's is from 11 p.m. to 5 a.m.; Nebraska's is from midnight to 6 a.m.; and North Dakota's is between the later of sunset or 9 p.m. and 5 a.m.

Most states also have restrictions on the number of passengers that may ride with the driver who has an intermediate stage permit. South Dakota, as well as Iowa and North Dakota, has no such restrictions. Minnesota, Montana, and Nebraska limit the number of passengers (family members excepted) based on how long the intermediate permit is held. In Minnesota, for the first six months there can be no more than one passenger younger than age twenty and for the second six months no more than three passengers younger than age nineteen. In Montana, for the first six months there can be no more than one passenger younger than eighteen and for the second six months no more than three passengers younger than age eighteen. In Nebraska, for the first six months there can be no more than one passenger younger than age nineteen.

### *Operator's License*

The final stage in South Dakota is the operator's license. If a teenager had a

restricted minor's permit, the permit converts to an operator's license when the teenager attains the age of eighteen. When the permit converts to an operator's license all restrictions are lifted. If a teenager did not have a restricted minor's permit and is at least sixteen years of age, but less than eighteen years of age, the teenager must complete the requirements of the instruction permit and must not have been convicted of a traffic violation during the six months prior to obtaining the operator's license. The teenager must also pass the vision, knowledge, and driving test to get an operator's license.

### *Permit Violations*

Instruction permits and restricted minor's permits are issued on a probationary basis. If the Department of Public Safety receives a record of a conviction for a traffic violation or violation of the permit for a teenager less than sixteen years of age, the driving privileges of the teenager will be suspended for a period of 30 days or otherwise required by law. A second conviction will result in the suspension of the teenager's driving privilege until his or her sixteenth birthday, or for 90 days, whichever is longer. If a teenager is convicted of a Class 1 misdemeanor or a felony, the driving privileges are suspended until the teenager's sixteenth birthday or until as required by law. If a teenager, sixteen or seventeen years of age, receives a conviction for a violation of the restrictions of the permit, the teenager's driving privileges will be suspended for 30 days for each conviction.

In calendar year 2011, driving privileges of 1,323 South Dakota teenagers were suspended. A majority of these

suspensions were for a first offense traffic conviction.

### *South Dakota Actions*

The 2011 Legislature passed a bill to establish a task force on teen driving safety. The task force was charged with reviewing data, laws, and current practices regarding teen driving in South Dakota and to provide recommendations for improving teen driving safety to the 2013 Legislature. The task force is on course for making those recommendations. Among the recommendations being considered by the task force is the establishment of a coordinated statewide drivers' education system including standards for course content, instruction, and testing and certification of instructors. Also being considered by the task force is a recommendation to require instruction permits to be held longer. Under this recommendation instruction permits would have to be held for one year instead of six months and for nine months instead of three months if the permit holder successfully completed a driver education course. The task force is also considering limits on the number of unrelated minors who can be passengers in a motor vehicle driven by a teen with a restricted permit.

### **Distracted Driving**

Distracted driving is any activity that diverts a person's attention away from the primary task of driving. Distractions such as eating and drinking, talking to passengers, grooming, reading maps, and adjusting a radio while driving have been around for decades. These distractions, although having the potential to lead to an accident, have not been a major cause of vehicle accidents in the past. However, in the last decade

distracted driving has become a major traffic safety issue across the nation due to the exploding use of cellphones and smartphones by motor vehicle drivers. The American Automobile Association (AAA) in a survey of drivers found that 52 percent of drivers said that driving feels less safe today than it did five years ago and cite some form of driver distraction as a reason for feeling less safe.

Currently, more than 220 million people in the United States subscribe to wireless services, and it is estimated that as many as 80% of those subscribers use their phones while driving.

In 2009, Virginia Tech Transportation Institute research showed that drivers who text messaged while driving had a 20 times greater risk of crash or near crash than a driver who was not using a phone. The study also revealed that drivers who text messaged while driving took their eyes off the road for 4.6 seconds over a six second interval. This equates to a driver traveling the length of a football field at 55 mph without looking at the road.

Research such as this and publicized crashes involving distracted driving have fueled debate in state legislatures across the nation. Since 2001, every state including South Dakota has considered legislation related to distracted driving and, more specifically, to driver cellphone use.

### *State Actions*

No state completely bans all phones for all drivers. State legislation usually addresses a range of issues, including particular wireless technologies and specific types of drivers. As of August

2012, ten states – California, Connecticut, Delaware, Maryland, New Jersey, New York, Nevada, Oregon, Washington, and West Virginia have banned hand-held phone use by all drivers. Nineteen states, including Minnesota, have banned the use of cellphones by school bus drivers. Thirty-two states ban the use of cellphones by certain teen drivers. Iowa and Nebraska prohibit cellphone use by persons with a learner's permit and with a restricted license. Minnesota bans those with a learner's permit and those with a restricted license during the first year of having the license. North Dakota simply bans all drivers under the age of 18 from using a cellphone while driving.

The most common driver distraction laws have been prohibitions on texting while driving. Thirty-nine states currently ban all drivers from texting while driving. The states of Iowa, Minnesota, Nebraska, North Dakota, and Wyoming are among those states which ban all drivers from texting while driving. Most states that have passed these bans provide for various exemptions for emergencies, law enforcement personnel, emergency medical technicians, state DOT employees, etc.

Penalties for violating cellphone and texting bans vary among the states. In Georgia, texting while driving is a misdemeanor that carries a \$150 fine, while in California, the traffic infraction carries a \$20 fine. In Nebraska, a violator must pay a \$200 fine and will have points assessed against his or her license. In five of the states that ban texting, including Iowa and Nebraska, enforcement is accomplished as a secondary action.

### *Federal Actions*

Several federal agencies have banned employees from texting while driving. The Federal Rail Administration prohibits train operators from using cell phones and other electronic devices while in the conductor's seat. The Federal Motor Carrier Safety Administration and the Pipeline and Hazardous Materials Administration adopted rules in December of 2011 prohibiting commercial drivers from using a hand-held mobile telephone while operating a commercial truck or bus. Drivers who violate these rules face federal civil penalties of up to \$2,750 for each offense. Also, in December of 2011 the National Transportation Safety Board issued a recommendation that states ban all nonemergency use of portable electronic devices for all drivers.

### *South Dakota Actions*

According to South Dakota accident records, in 2001, 2.3% of all drivers involved in motor vehicle accidents were distracted; 1.4% of all drivers involved in fatal motor vehicles accidents were distracted; and 3.5% of all drivers involved in motor vehicle accidents resulting in injuries were distracted. These percentages have been increasing over the last decade. In 2011, 4.3% of all drivers involved in motor vehicle accidents were distracted; 3.7% of all drivers involved in fatal motor vehicle accidents were distracted; and 6.1% of all drivers involved in motor vehicle accidents resulting in injuries were distracted.

Nine legislative sessions since 2001 have considered draft legislation to ban handheld cellphones in some manner. At first the drafts were to ban cellphone use for all drivers. In 2006 an attempted ban was limited to teen drivers. Each year since 2009 the legislation has focused on the banning of text messaging. Penalties for violations of these bills ranged from a petty offense to a Class 2 misdemeanor. The bill to make it the farthest in the process was SB 71 in 2011 which passed the Senate but failed in the House committee.

Each year such proposed legislation was considered there were a number of proponents ranging from private citizens to lobbyists for health care associations, the insurance industry, the telecommunications industry, and safety groups. Opponents testifying at the committees on these bills were more limited in number. The opponents argued that any ban on these devices or their use is not the answer. Among the opponents arguments were: a ban singles out only one form of distraction; a ban would be hard to enforce; and a ban probably would not achieve the desired results. The opponents claimed the best way to end distracted driving is to educate all citizens about the danger distracted driving poses rather than to pass a law against it. They also argued that the reckless driving and careless driving laws of the state are a better way to address all the forms of distracted driving.

In September of 2012, the city of Sioux Falls enacted an ordinance prohibiting drivers from texting, emailing, instant messaging, and surfing the internet while the driver's vehicle is part of traffic within the city limits. Under this ordinance, a violation is considered a primary offense and a violation is punishable by up to 30 days in jail and a fine of up to \$200. However, in the first three months of this ordinance only one citation was issued despite numerous observed violations. Despite this fact, other cities in the state are beginning to considering similar ordinances.

Also, the task force on teen driving safety is making a recommendation to the 2013 Legislature that would prevent those teens with instruction or restricted permits from using cellphones or other electronic devices while driving. Any violation would be a violation of the conditions of the permit and the permit would be subject to suspension.

### **Summary**

Other state legislatures have passed legislation to address the traffic safety concerns that have arisen regarding older drivers, teen drivers, and distracted drivers. The 2013 Legislature will likely too be asked to weigh these safety concerns against the inconvenience any further driving restrictions would have on these drivers and their families.

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**This issue memorandum was written by David L. Ortbahn, Principal Research Analyst for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.**

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