

COMBATING DISTRACTED DRIVING: MANAGING BEHAVIORAL AND TECHNOLOGICAL RISKS

HEARING

BEFORE THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

OCTOBER 28, 2009

Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

54-500 PDF

WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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COMBATING DISTRACTED DRIVING: MANAGING BEHAVIORAL AND TECHNOLOGICAL RISKS

WEDNESDAY, OCTOBER 28, 2009

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 2:36 p.m. in room SR-253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER, IV, U.S. SENATOR FROM WEST VIRGINIA

The CHAIRMAN. This hearing will come to order, and I'm going to give my opening statement and then the Ranking Member, Kay Bailey Hutchison, will do the same, and then we will call on an interesting, very successful, beginning political person from the State of New York, I think, the Honorable Charles Schumer.

Senator HUTCHISON. I do try.

The CHAIRMAN. Thank you so much. I needed that. I needed that a lot.

At this very moment, right now, 11 percent of all drivers on the road are holding an electronic device. They are calling home on their cellphone or they are reading text from a friend, or they're sending an e-mail to their office on their BlackBerry, or they're looking up directions with a GPS system.

That amounts to—please note—812,000 distracted drivers at any given moment. Those 812,000 drivers are not focused on the road; they're focused on their devices. In this is much danger. They're putting their own lives at risk. That is their right. They're putting their passengers' lives at their risk. That is not their right. And the lives of everyone else on the road, which is not their right.

In September 2008, a 13-year-old person by the name of Margay Schee of Marion County, Florida, was riding home on the school bus. A truck driver who by his own admission was distracted by his cellphone, slammed into the back of the bus. The bus happened to be stopped with flashing red lights on. The bus caught fire and Margay was killed.

Her terrible story is just one of thousands. Last year, distracted drivers killed 5,800 people and injured 515,000 people. One almost doesn't know how to respond to something that awful. Deaths like Margay's are absolutely devastating and, as interesting, they're totally preventable.

We define distracted driving broadly: reaching for an object or eating while behind the wheel, that counts. But cellphone using and texting in particular have increasingly dramatic—increased in recent years, and so have the number of accidents and deaths that they cause. We stand by and enjoy our BlackBerries and all the rest of it and it goes on.

Commercial motor vehicle operators who are texting are 23 times more likely to cause a crash or near-crash. Texting takes your eyes off the road long enough at high speeds to travel the length of a football field. Cars and trucks with a distracted driver are deadly weapons in fact, and we have a responsibility to get them off the road.

Several states already have taken action, but not enough states have done the right thing. So Senators Hutchison, Lautenberg, Schumer, Thune, Klobuchar, and Vitter are now all co-sponsors of this magnificent piece of legislation to undo a horrible part of our life.

The centerpiece of this legislation is a grant program for states that enact laws to prohibit texting and handheld cellphone use while driving. We're all guilty. We're all guilty. To qualify, a State would have to enact an absolute ban on texting while driving. You ask the question, well, how does that work? Well, we're going to have to figure out how that works because it's going to have to happen. And it has to carry significant penalties for any driver who causes an accident and there are no exceptions.

States also would have to limit cellphone use to devices with hand-free capabilities. But no driver under our bill under the age of 18 could use a cellphone at all while still gaining experience on the road.

To truly make our roads safer, we need to think bigger and more comprehensively. So this legislation models a new national education campaign based on the tremendous success of the drunk driving and, frankly, the seatbelt advertising campaigns. This particular Senator remembers ignoring the seatbelt law for a period of years. I can't explain to you why. Maybe it was because it was law, maybe it was because my parents were talking to me about it. But I ignored it, and what a fool I was. But I overcame that foolishness and I'm still alive.

So we can all do this without raising our deficit one cent. The new grant program and advertising campaign would be paid for by redirecting unused surpluses from the current seatbelt safety program. To wit, no new costs.

We should not have to mourn the tragic loss of any more precious lives needlessly cut short. It is time to bring a new sense of safety and shared responsibility to our roads. This is a major subject for this Committee.

I call on the Ranking Member.

**STATEMENT OF HON. KAY BAILEY HUTCHISON,
U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. Thank you, Mr. Chairman. I thank you for calling this hearing and for taking the lead on the bill that we are co-sponsoring. I think this is a very important issue and I think the

way we have directed the legislation is appropriate, and I will talk about that in a minute.

Driving while distracted, unfortunately, is not a new phenomenon. But as technology has developed, we're no longer talking about just a cellphone. We're now talking about BlackBerries, GPS systems, MP3 players, televisions, and texting on the phones, as well as just listening, and other computerized devices.

It means we do have to take action. The National Transportation Safety Board reports that in 2008 almost 6,000 people died from crashes that resulted from distracted driving. This accounted for 16 percent of all traffic fatalities last year, up from 12 percent the year before.

I think most of us would agree that driving while distracted poses serious safety risks to the drivers, but also to passengers and anyone sharing the road. Unfortunately, studies have shown that, while people are aware of the safety risks caused by using cellphone and BlackBerries, they still participate in doing it.

A number of states are addressing this issue and have enacted different types of laws that will regulate the use of cellphones or sending text messages. The areas have been addressed in different ways and I think that our bill will clarify what would qualify for the grants.

But most appropriately, I think too, the states should handle this issue. The states should devise these laws that best meet their needs. That is why I was very pleased when we worked on the bill together. This is a piece of legislation that takes the approach that States' rights will be respected. I do not believe states should be threatened with the loss of their Federal highway funds for not enacting these laws. But I do believe offering incentive grants to states that do enact laws that combat this is a sound way to address it.

Grants would be funded through existing programs, so we are not spending one additional taxpayer dollar. I think this is another very important component. I don't think I could have possibly signed onto a bill that would increase our debt, but this does not.

I look forward to working with the Chairman and other Committee members as we consider this legislation, and I also will say I hope we take up the motorcoach bus safety legislation as we are also looking at this safety measure, because I think that these two steps would take a major direction change for the states and for our country if we would address these two important transportation safety issues.

Thank you, Mr. Chairman, and I look forward to hearing from Chairman Genachowski and Secretary LaHood.

The CHAIRMAN. And Senator Schumer.

Senator HUTCHISON. And Senator Schumer, of course. We know we'll hear from him.

The CHAIRMAN. Yes, you.

[The prepared statement of Senator Hutchison follows:]

PREPARED STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Thank you, Mr. Chairman, for holding today's hearing. It is very appropriate that we consider the serious impact that distracting driving is having on the safety of

the road traveling public and I want to welcome our witnesses, Secretary LaHood and Chairman Genachowski.

Driving while distracted, unfortunately, is not a new phenomenon. But as technology has advanced, so have the distractions that exist for drivers. We now have cell phones, BlackBerries, GPS systems, MP3 players, televisions and various other computerized devices that can catch the attention of drivers while behind the wheel.

The National Transportation Safety Board (NTSB) reports that in 2008, almost 6,000 people died from crashes that resulted from distracted driving. This accounted for 16 percent of all traffic fatalities last year, up from 12 percent of all fatalities in 2007.

I think most of us would agree that driving while distracted poses serious safety risks not only to the drivers, but to passengers and anyone sharing the road. Unfortunately, studies have shown that while people are aware of the safety risks caused by using cell phones and BlackBerries while driving, they still participate in this behavior.

A number of states are already examining this issue and have enacted laws to regulate the use of cell phones and the sending of text messages. For example, in Texas, drivers under the age of 18 are prohibited by law from using a wireless communication device while operating a motor vehicle. Texas also prohibits the use of a wireless communication device within a school crossing zone, with an exception for the use of a hands free device. Additionally, Texas prohibits school bus drivers from using cell phones or text messaging while driving a bus with passengers younger than 18.

I think it is most appropriate for the states to handle this issue and devise laws on distracted driving that best meet the needs of their particular state. That is why I am very pleased to join with Chairman Rockefeller, as well as Senators Thune, Lautenberg, and Schumer, in introducing legislation that takes this very approach and respects states' rights. I, for one, do not believe states should be threatened with a loss of their Federal highway funds for not enacting distracted driving laws prescribed here in Congress.

Our bill would instead offer incentive grants to states that enact laws to combat distracted driving. It would be funded through existing programs, so we are not spending any additional taxpayer dollars. I look forward to working with the Chairman and the other committee members as we consider this and other important highway safety legislation—including bus safety legislation, which I would argue should be approved along with any other highway safety legislation reported by this Committee in the weeks ahead.

Again, thank you, Mr. Chairman. I look forward to hearing from the witnesses.

STATEMENT OF HON. CHARLES SCHUMER, U.S. SENATOR FROM NEW YORK

Senator SCHUMER. Thank you, Mr. Chairman, and I very much appreciate you and Senator Hutchison extending me the honor of testifying before our great Commerce Committee today. I want to thank you members of the Committee, Secretary LaHood, and FCC Chairman Genachowski, who worked for me way back when, for being here today to discuss the importance of combating distracted driving.

Mr. Chairman, when my two daughters first learned to drive just a few years ago I worried about their safety. That was when cellphone use was pretty widespread and I worried about them talking on the phone and driving. But text messaging wasn't as popular as it is today. So in a few short years the roads have gotten only more dangerous. Ten years ago most of us didn't know what texting was. Now it's become ubiquitous. Last December, the last month for which we have statistics, Americans sent over 110 billion text messages, and that doesn't count the billions of e-mails sent by BlackBerry, which is probably even greater.

The technology is a blessing and it's a curse. It's a blessing in that it improves communication, but it's a curse because when used improperly, such as a driver behind the wheel, it causes enormous

risk. We all have—we have all seen the research which concerns what we know intuitively: It's extremely dangerous for a driver to take his or her eyes off the road to send, receive text messages.

So this summer, along with Senator Klobuchar on your Committee and Senators Menendez, Landrieu, and Hagan, together we introduced the Alert Drivers Act, which would mandate that states pass laws banning texting while driving. Though more and more states are passing texting bans, it remains the case that fewer than half the states have banned the practice as of today.

Mr. Chairman, I'm thrilled that you've introduced legislation, and look forward to working with you on both our bills as we move forward to enact a ban on texting. Chairman Rockefeller's bill and our bill are slightly different. Senator Rockefeller and Hutchison's approach focuses on carrots in the form of grants to states to help them enact texting bans, while our bill utilizes sticks to incentivize states to enact bans. But regardless of the difference of our approaches, we all have the same goal in mind, to make the road safer by keeping our drivers focused. Many of us support each other's legislation because we think the best way to go is both carrots and sticks.

You, Mr. Chairman, have graciously co-sponsored our bill as well as Senator Lautenberg, and of course Senator Klobuchar was on there from the get-go. So it's my hope and belief that in the end we'll have a bill that combines the best of both worlds.

I just want to take a minute to explain how the Alert Drivers Act works and why we crafted it the way we did. It takes a tough, no-excuses approach to a texting ban. It requires the states to enact bans that meet federally set minimum standards or lose 25 percent of their Federal highway funding. We thought long and hard about how to write this bill and ultimately modeled it after the national minimum drinking age law, which passed in 1984, which also withheld a percentage of highway funds from any State that did not have and enforce a minimum drinking age of 21.

We did this because we saw that the drinking age law, by wielding the threat of withholding highway funds, worked in getting states to comply. Before that law the country faced an epidemic of drunk driving, mostly among young people. Only 22 states, similar to today, had passed a minimum drinking age of 21 when the law passed. 3 years after it passed, every single state did. The pattern has been repeated with other similar Federal laws, such as the zero tolerance law, and not in any case in any of these laws has any State ever lost a dime of Federal funding as a result of laws that condition highway money on safe driving laws. Of course, it is a Federal responsibility. Safety of the highways, ever since the National Highway Act has been a Federal responsibility.

Public support is growing. The Ford Motor Company endorsed our bill. So did the American Trucking Association, even though their members would be affected by this.

Now, we're not naive. We know that banning texting while driving won't stop every texter on the road, just like outlawing drinking while driving hasn't stopped people from getting behind the wheel after a few drinks. And incidentally, statistics show it's more dangerous to text while you drive than to drive drunk. That's an astounding statistic that is counterintuitive, but it's true.

We owe it to the American people to do everything we can to promote safe driving. That means passing a ban on texting behind the wheel. I look forward to the opportunity to continue to work with you, Mr. Chairman, and your Committee to do so.

Thank you for the chance to testify.

The CHAIRMAN. Thank you, Senator Schumer, very much.

I would ask now, Secretary LaHood, if you could come forward, and perhaps at the same time Chairman Genachowski could do the same, so you would be both at the witness table and we can question you both.

Mr. Secretary.

**STATEMENT OF HON. RAY LAHOOD, SECRETARY,
U.S. DEPARTMENT OF TRANSPORTATION**

Secretary LAHOOD. Thank you, Mr. Chairman and Ranking Member Hutchison and members of the Committee. Thank you for the opportunity to appear before you today to discuss the most important issue of distracted driving. Chairman Rockefeller, I especially appreciate your leadership and the leadership of others on this Committee.

Transportation safety is the Department's highest priority. Distracted driving is a dangerous practice that has become a deadly epidemic. Our research shows that unless we take action now the problem is only going to get worse, especially among our Nation's youngest drivers. This trend distresses me deeply and I am personally committed to reducing the number of injuries and fatalities caused by distracted driving.

Four weeks ago, the Department of Transportation hosted a summit to help us identify, target, and tackle the fundamental elements of the problem. We brought together over 300 experts in safety, transportation research, regulatory affairs, and law enforcement. More than 5,000 people from 50 states and a dozen countries also participated in the Summit via the web. We heard from several young adults who had engaged in distracted driving and who discussed the terrible consequences of their actions. We also heard from several victims of this behavior whose lives have been changed forever. Mothers and fathers who lost children, and children who lost a parent told their stories. I want you to know I personally promised these families that I would make this issue my cause.

We were privileged to have Senator Pryor and Senator Klobuchar as well as Senator Schumer participate. I want to thank them for attending and for dedicating time and energy to addressing this problem.

The unanimous conclusion of the participants is that distracted driving is a serious and ongoing threat to safety. This conclusion is borne out by the facts. Our latest research shows that nearly 6,000 people died last year in crashes involving a distracted driver and more than half a million people were injured.

This is not a problem caused by just a few negligent drivers. To the contrary, AAA Foundation for Traffic Safety, a nonprofit educational and research organization, reports that 67 percent of drivers admitted to talking on their cellphone within the last 30 days while behind the wheel, and 21 percent of drivers indicated they

had read or sent a text or e-mail message, a figure that rose to 40 percent for those drivers under the age of 35.

As shocking as these numbers are, it is clear that this problem is only getting worse and that the youngest Americans are most at risk. While the worst offenders may be the youngest, they are not alone. On any given day last year, an estimated 800,000 vehicles were driven by someone who used a hand-held cellphone at some point during their drive. People of all ages are using a variety of hand-held devices, such as cellphones, personal digital assistants, navigation devices, and they're behind the wheel.

However, the problem is not just confined to vehicles on our roads. It affects all modes of transportation.

Experts agree that there are three types of distractions: number one, visual, taking your eyes off the road; number two, manual, taking your hands off the wheel; and number three, cognitive, taking your mind off the road. While all distractions can adversely impact safety, texting is the most troubling because it involves all three types of distractions. In the words of Dr. John Lee of the University of Wisconsin, this produces "a perfect storm."

For all of these reasons, at the conclusion of the Summit, I announced a series of concrete actions that President Obama's Administration and DOT are taking to put an end to distracted driving. The President's Executive Order banning texting while driving for Federal employees is the cornerstone of these efforts and sends a strong, unequivocal signal to the American public that distracted driving is dangerous and unacceptable. The Executive Order prohibits Federal employees from engaging in text messaging in three ways: while driving government-owned vehicles, when using electronic equipment supplied by the government while driving, and while driving privately owned vehicles when on official government business.

The ban takes effect government-wide on December 30, 2009. However, I have already advised all 58,000 DOT employees that they are expected to comply with the order immediately.

DOT is also working internally to formalize compliance and enforcement measures, and we are in close consultation with the General Services Administration and the Office of Personnel Management, providing leadership and assistance to other Executive Branch Agencies to ensure full compliance with the Executive Order by all Federal departments and agencies no later than December 30 this year.

DOT is also taking other concrete actions to reduce distracted driving across all modes. For instance, one year ago we began enforcing limitations on texting and cellphone use throughout the rail industry. We are taking the next step by initiating three rulemakings: one, codifying restrictions on the use of cellphones and other electronic devices in rail operations; two, to consider banning text messaging and restricting the use of cellphones by truck and interstate bus operators while operating a vehicle; and three, disqualifying school bus drivers convicted of texting while driving from maintaining their commercial driver's licenses.

We will work aggressively and quickly to evaluate regulatory options and initiate rulemaking as appropriate. Moreover, our State and local partners are the key to the success we have in addressing

distracted driving. I have encouraged our State and local government partners to reduce fatalities and crashes by identifying ways that states can address distracted driving in their Strategic Highway Safety Plans and Commercial Vehicle Safety Plans. To assist them in their efforts, I have directed DOT to develop model laws with tough enforcement features for all modes of transportation.

There are other affirmative measures that states can take immediately to reduce the risks of distracted driving. For example, we are encouraging the installation of rumble strips along roads as an effective way to get the attention of distracted drivers before they deviate from their lane.

Education, awareness, and outreach are also essential elements of our action plan. These measures include targeted outreach campaigns to inform key audiences about the dangers of distracted driving. We are still researching the effectiveness of combining high visibility enforcement with outreach campaigns in the distracted driving context, but we are hopeful that such efforts may prove effective in the same way that we've been able to reduce drunk driving and increase seatbelt use.

All of these measures are the beginning, not the end, to solve the problem of distracted driving. DOT will continue to work closely with all stakeholders to collect and evaluate comprehensive distracted driving-related data needed to better understand the risks and identify effective solutions. And the Administration will continue to work with Congress, State and local governments, industry, and the public to end the dangers posed by distracted driving and encourage good decisionmaking by drivers of all ages. We may not be able to break every one of their bad habits—but we are going to raise awareness and sharpen the consequences.

I want to particularly thank Congress and this Committee, for its dedication to combating distracted driving, and I look forward to further collaboration with this Committee and other committees of Congress to tackle this menace to society.

I look forward to your questions. Thank you, Mr. Chairman.

[The prepared statement of Secretary LaHood follows:]

PREPARED STATEMENT OF HON. RAY LAHOOD, SECRETARY,
U.S. DEPARTMENT OF TRANSPORTATION

Chairman Rockefeller, Ranking Member Hutchison, and members of the Committee:

Thank you for the opportunity to appear before you today to discuss the important issue of distracted driving. Chairman Rockefeller, I especially appreciate your leadership on this important issue.

Transportation safety is the Department's highest priority. Distracted driving is a dangerous practice that has become a deadly epidemic. Our research shows that unless we take action now, the problem is only going to get worse, especially among our Nation's youngest drivers. This trend distresses me deeply, and I am personally committed to reducing the number of injuries and fatalities caused by distracted driving.

Four weeks ago, the Department of Transportation (DOT) hosted a Summit to help us identify, target and tackle the fundamental elements of this problem. We brought together over 300 experts in safety, transportation research, regulatory affairs, and law enforcement. More than 5,000 people from 50 states and a dozen countries also participated in the Summit via the web. We heard from several young adults who had engaged in distracted driving and who discussed the terrible consequences of their actions.

We also heard from several victims of this behavior, whose lives have been changed forever. Mothers and fathers who lost children, and children who lost a par-

ent, told us their stories. And I want you to know, I promised these families that I would make this issue my cause.

We were privileged to have Senator Pryor and Senator Klobuchar of this Committee participate in the Summit. I want to thank you all for attending, and for dedicating your time and energy to addressing this problem. The unanimous conclusion of the participants is that distracted driving is a serious and ongoing threat to safety. This conclusion is borne out by the facts. Our latest research shows that nearly 6,000 people died last year in crashes involving a distracted driver, and more than half a million people were injured.

This is not a problem caused by just a few negligent drivers. To the contrary, the AAA Foundation for Traffic Safety, a nonprofit educational and research organization, reports that 67 percent of drivers admitted to talking on their cell phone within the last 30 days while behind the wheel, and 21 percent of drivers indicated they had read or sent a text or e-mail message, a figure that rose to 40 percent for those drivers under the age of 35.

As shocking as these numbers are, it is clear that this problem is only getting worse, and that the youngest Americans are most at-risk. While the worst offenders may be the youngest, they are not alone. On any given day last year, an estimated 800,000 vehicles were driven by someone who used a hand-held cell phone at some point during their drive. People of all ages are using a variety of hand-held devices, such as cell phones, personal digital assistants, and navigation devices, when they are behind the wheel. However, the problem is not just confined to vehicles on our roads—it affects all modes of transportation.

Experts agree that there are three types of distraction: (1) visual—taking your eyes off the road; (2) manual—taking your hands off the wheel; and (3) cognitive—taking your mind off the road. While all distractions can adversely impact safety, texting is the most egregious because it involves all three types of distraction. In the words of Dr. John Lee of the University of Wisconsin, this produces a “perfect storm.”

For all of these reasons, at the conclusion of the Summit I announced a series of concrete actions that the Obama Administration and DOT are taking to put an end to distracted driving.

The President’s Executive Order banning texting and driving for Federal employees is the cornerstone of these efforts and sends a strong, unequivocal signal to the American public that distracted driving is dangerous and unacceptable. The Executive Order prohibits Federal employees from engaging in text messaging:

- While driving government-owned vehicles;
- When using electronic equipment supplied by the government while driving; and
- While driving privately-owned vehicles when on official government business.

The ban takes effect government-wide on December 30, 2009. However, I have already advised all 58,000 DOT employees that they are expected to comply with the Order immediately. DOT is also working internally to formalize compliance and enforcement measures, and we are, in close consultation with the General Services Administration and the Office of Personnel Management, providing leadership and assistance to other Executive Branch agencies to ensure full compliance with the Executive Order by all Federal departments and agencies, no later than December 30.

DOT is also taking other concrete actions to reduce distracted driving across all modes. For instance, 1 year ago, we began enforcing limitations on texting and cell phone use throughout the rail industry. We are taking the next step by initiating three rulemakings:

- One to codify restrictions on the use of cell phones and other electronic devices in rail operations;
- One to consider banning text messaging and restricting the use of cell phones by truck and interstate bus operators while operating vehicles;
- And a third to disqualify school bus drivers convicted of texting while driving from maintaining their commercial driver’s licenses.

We will work aggressively and quickly to evaluate regulatory options and initiate rulemakings as appropriate.

Moreover, our State and local partners are keys to any success we have in addressing distracted driving. I have encouraged our State and local government partners to reduce fatalities and crashes by identifying ways that states can address distracted driving in their Strategic Highway Safety Plans and Commercial Vehicle Safety Plans. And, to assist them in their efforts, I have directed DOT to develop model laws with tough enforcement features for all modes of transportation.

There are other affirmative measures that states can take immediately to reduce the risks of distracted driving. For example, we are encouraging the installation of rumble strips along roads as an effective way to get the attention of distracted drivers before they deviate from their lane.

Education, awareness and outreach programs also are essential elements of our action plan. These measures include targeted outreach campaigns to inform key audiences about the dangers of distracted driving. We are still researching the efficacy of combining high visibility enforcement with outreach campaigns in the distracted driving context, but we are hopeful that such efforts may prove effective in the same way that we have been able to use them to reduce drunk driving and increase seat belt use.

All of these measures are the beginning, not the end, to solving the problem of distracted driving. DOT will continue to work closely with all stakeholders to collect and evaluate comprehensive distracted driving-related data needed to better understand the risks and identify effective solutions. And the Administration will continue to work with Congress, State and local governments, industry and the public to end the dangers posed by distracted driving and encourage good decisionmaking by drivers of all ages. We may not be able to break everyone of their bad habits—but we are going to raise awareness and sharpen the consequences.

I particularly want to thank Congress for its dedication to combating distracted driving, and I look forward to further collaboration with you as we work to tackle this menace to society.

That concludes my testimony. I look forward to answering your questions.

The CHAIRMAN. Thank you, Secretary LaHood.
Now, Chairman Genachowski.

**STATEMENT OF HON. JULIUS GENACHOWSKI, CHAIRMAN,
FEDERAL COMMUNICATIONS COMMISSION**

Mr. GENACHOWSKI. Thank you, Chairman Rockefeller, Ranking Member Hutchison, and other distinguished members of the Committee, for the opportunity to testify on the important topic of distracted driving. I commend your leadership in holding this hearing to address this urgent problem and the introduction today of bipartisan legislation. The FCC hopes to be a resource to you as you consider this legislation.

I also want to commend Secretary of Transportation LaHood for his excellent statement and consistent leadership on this issue.

Let me begin by giving some context to the serious and dangerous problem of distracted driving caused by the use of mobile communications devices and then describe some avenues that the FCC is pursuing to be a constructive part of the solution.

First, context. Mobile wireless devices and networks are a major contributor to job creation in our economy, have become a fixture of everyday life. Wireless cap expenditures from 1998 to 2008 totaled more than \$200 billion. Growth in wireless devices has been astronomic. In 1995 only 34 million people subscribed to mobile phone service. By the summer of 2009 there were 276 million subscribers, and we heard earlier today the compelling data on the amount of text message usage that we are seeing.

Today the vast majority of teenagers, four out of five, have mobile phones, as parents well know. Mobile devices connect us every day to family, friends, and colleagues. They hold the promise of helping to meet many of the Nation's most significant challenges, from empowering first responders to providing instant medical assistance to letting us effectively operate an energy-saving smart grid.

The popularity of mobile devices, however, has had some unintended and very dangerous consequences. According to AAA, nearly

50 percent of teens admit to texting while driving. The National Highway Traffic Safety Administration reported in 2008 that driver distraction is the cause of 16 percent of all fatal crashes and 21 percent of crashes resulting in injury.

There's no way around it. This is an urgent challenge, with literally fatal consequences, that must be addressed. There is, however, as others have said, no single solution to this challenge. The responsibility lies with all of us, individuals, companies in the wireless space, as well as government.

One necessary step is to develop a cultural norm that driving while texting is completely unacceptable. In this regard, I'd like to acknowledge the work of CTIA, the industry trade association, in coordination with the National Safety Council, for initiating a joint campaign with the slogan "On the Road, Off the Phone," focused on educating teen drivers on the dangers of distracted driving. They've devised a website for parents and teens that includes suggested ground rules for driving and have rolled out PSAs warning of the dangers of texting and driving.

Individual wireless carriers have also launched educational campaigns. I hope the results of these campaigns will be measured and continually improved based on their results.

On the Federal level, I applaud Secretary LaHood and the Department of Transportation for leading an active, coordinated effort to increase public awareness of the dangers of distracted driving. And I salute the leadership the President has shown, including the issuance of an executive order that prohibits Federal workers from texting while driving on the job or when using government vehicles.

I also, of course, recognize the central role of the states in this area, as the legislation introduced today recognizes. According to the Governors Highway Safety Association, 18 states as well as the District of Columbia have made it illegal to text while driving, but of course the majority of states have not yet, and we've heard discussion about that already today.

The FCC has a role to play here as well, for example potentially identifying data that can help address this important issue and helping to educate the public and supporting innovative problem-solving. To this end, we at the Commission can bring to bear our recent outreach expense with the digital television transition, as well as broadband, to increase public awareness of the dangers of distracted driving. We'll consult with the Department of Transportation as we institute a consumer education campaign. We will explore collaborations to support the safe use of mobile devices with our existing network of licensees, public safety entities, trade associations, tribal, state, and local counterparts, and consumer groups.

Already the FCC's Consumer and Governmental Affairs Bureau has issued a consumer advisory and is now preparing a broader educational campaign. We hope to serve as a resource to a variety of organizations, such as schools, public safety entities, consumer groups, and others. I've also directed the agency's Consumer and Governmental Affairs Bureau to provide educational information on the FCC website on the importance of reducing distracted driving, with links to other organizations working on this issue. In fact,

the Bureau has already launched a web page on distracted driving and is working hard on other educational initiatives.

New ideas, advances in technology, and entrepreneurial thinking, can also induce changes in consumer and driver behavior and otherwise help address the serious problem of distracted driving. Parents want tools to help keep their new teenage drivers focused solely on driving while they're behind the wheel. Insurance companies may want to encourage safer driving by giving discounts for people using such technologies. Employers may want such devices to prevent employees from texting while driving.

Because the FCC licenses and establishes policies for mobile services and approves certain devices for use in the consumer marketplace, the FCC can potentially play a productive role with incentivizing and enabling technology and encouraging the deployment and the development of marketplace solutions. In the past the FCC has authorized spectrum use for the purpose of promoting safety around various forms of transportation.

In connection with communications technology and distracted driving, some smartphones and other technologies allow users to control with their voices their mobile phones and vehicle systems. Some have suggested that these technologies might be used by drivers to avoid the dangerous distraction of looking at device screens. There may also be opportunities to use RFID sensor technology in keychains that would disable selected functions on a driver's mobile device, activated by the startup of their car.

In addition, there is what some call "haptic technology," which simulates a sense of touch, creating the impression of buttons or controls even on flat surfaces. Could haptics be used to give drivers more control over their cars and electronic devices while keeping their eyes on the road? Could existing voice-to-text technologies be used to improve safety? Are even these technologies too dangerous while in the car? These are all questions that should be explored.

The FCC can play a part in encouraging innovative technologies that could potentially reduce injury and loss of life due to distracted driving. We're examining whether there are ways in which we can create a climate that will allow consumers and industry to have more options in addressing this serious problem.

Finally, with respect to FCC staff, I have been urging FCC employees to set an example regarding this issue. I reinforced to agency employees the importance of complying with the President's executive order banning the use of Federal devices to text while driving, as well as banning the use of personal devices while driving government vehicles. I've urged FCC employees to go further and avoid texting and driving at all times and to encourage their families and friends to do likewise.

In closing, I look forward to continuing to work with the Committee, with Secretary LaHood, industry, innovators and consumers on this important issue, and thank you for the opportunity to testify today.

[The prepared statement of Mr. Genachowski follows:]

PREPARED STATEMENT OF HON. JULIUS GENACHOWSKI, CHAIRMAN,
FEDERAL COMMUNICATIONS COMMISSION

I would like to thank Senator Rockefeller, Ranking Member Hutchison, and other distinguished members of the Committee for the opportunity to testify on the important topic of distracted driving. I want to commend Secretary of Transportation Ray LaHood for his excellent statement and his leadership on this issue.

This hearing has been called to explore a pressing concern: the increasing level of distracted driving relating to the use of communications devices, and the safety risks posed by that use. In this statement, I will briefly discuss some of the context for this problem, and then describe some actions that the Federal Communications Commission is pursuing to be a constructive part of the solution.

First, context. Communications technologies, particularly mobile wireless devices and networks, are a major contributor to job creation and the economy. According to CTIA, wireless capital expenditures from 1998–2008 totaled more than \$217 billion. In addition to promoting economic growth, these technologies connect us every day to family, friends and colleagues and are powerful tools for addressing many of the major challenges facing the Nation. Mobile communications can be a lifesaver, improving emergency response by, for example, providing stranded motorists with immediate means to reach help, and by giving ambulance services, public safety answering points, and other first responders instant access to 21st Century communications networks.

Mobile communications can also help promote better health care—for example, by enabling remote diagnosis and monitoring, providing better care at lower cost for patients with diabetes, heart disease, and other illnesses. And mobile communications can play a role in improving education and fostering a clean energy future.

Further, mobile broadband will contribute significantly to our Nation's overall broadband strategy, which, as Congress has directed, must seek to provide all Americans with high-speed Internet access.

Growth in wireless devices has been astronomic. In 1995, only 34 million people subscribed to mobile phone service. By the summer of 2009, there were 276 million subscribers. Today, the vast majority of teenagers—four out of five—now have mobile phones, as parents well know.

The popularity of mobile devices, however, has had some unintended and even dangerous consequences. We now know that mobile communications is leading to a significant increase in distracted driving, resulting in injury and loss of life. According to AAA, nearly 50 percent of teens admit to texting while driving. The National Highway Traffic Safety Administration reported in 2008 that driver distraction is the cause of 16 percent of all fatal crashes and 21 percent of crashes resulting in an injury. It has also been reported that the use of cell phones and other devices is responsible for 636,000 crashes, resulting in 2,600 deaths, 342,000 injuries, and a financial toll of \$43 billion annually. The same report noted that, according to Federal statistics, 812,000 drivers are using their cell phones at any given moment. Distracted driving endangers life and property and the current levels of injury and loss are unacceptable. There's no way around it—this is an urgent problem that simply must be addressed.

I do not believe there is a single solution to this challenge. The responsibility lies with all of us—individuals, companies in the wireless space, as well as government. Everyone involved can and should take appropriate action, with the goal of dramatically reducing and ultimately eliminating the risk of distracted driving due to the use of communications devices.

Individuals should take personal responsibility. Adults should drive responsibly, and families and friends should encourage each other and help each other drive responsibly. Drivers of all ages—not just teenagers—should refrain from texting while driving. We should develop a cultural norm that driving while texting is totally unacceptable.

The wireless industry has made some strong first efforts to raise public awareness. The industry trade association, CTIA, in coordination with the National Safety Council, announced a joint campaign with the slogan “on the road, off the phone”—focused on educating teen drivers on the dangers of distracted driving. Together they have devised a website for parents and teens that includes suggested ground rules for teen drivers, and have rolled out a public service announcement warning of the dangers of texting while driving.

Government at all levels has a role to play as well. On the Federal level, I applaud Secretary LaHood and the Department of Transportation for leading an impressive, coordinated effort to increase public awareness of the dangers of distracted driving. In addition, the National Traffic Safety Administration has encouraged the Federal Motor Carrier Safety Administration—the agency tasked with reducing

crashes of large trucks and buses—to prohibit mobile use by commercial drivers of school buses and motor coaches, except in emergencies. Also at the Federal level, as you are aware, the President recently issued an Executive Order that prohibits Federal workers from texting while driving on the job or when using government vehicles.

We also recognize the central role of the states in this area. According to the Governor's Highway Safety Association, 18 states as well as the District of Columbia have made it illegal to text while driving. According to one report, the use of handheld devices would be 43 percent higher in the District were it not for the District's texting while driving ban and the vigor with which police enforce it. Moreover, the National Traffic Safety Board has identified prohibiting the use of interactive mobile devices by young novice drivers as one of its top "wish list" items for rulemaking at the state level.

The FCC also has a role to play—such as helping to educate the public and supporting innovative problem-solving.

Education is vital to any comprehensive plan addressing distracted driving. Educational initiatives can alert the public to the dangers of getting distracted with mobile communications services while behind the wheel. We at the Commission should explore ways in which these educational messages can reach drivers through multiple avenues—including through schools, public service announcements, and educational initiatives sponsored by the wireless industry itself.

In this regard, we at the Commission can bring to bear our recent outreach experience with the digital television transition and on broadband. On an inter-agency basis, we will consult with the Department of Transportation as we institute a consumer education campaign. And outside of the Federal Government, we will explore collaborations to support the safe use of mobile devices with our existing networks of licensees; public safety entities; trade associations; tribal, state and local counterparts; and consumer groups.

The FCC's Consumer and Governmental Affairs Bureau has issued a Consumer Advisory, launched a website, and is now preparing a broader educational campaign. We hope to serve as a resource to a variety of organizations such as schools, public safety entities, consumer groups, and others. I also directed the agency's Consumer and Governmental Affairs Bureau to provide information on the FCC website on the topic of distracted driving, with links to other organizations working on this issue.

New ideas, advances in technology, and entrepreneurial thinking can also induce changes in consumer behavior. A ready market for technology solutions to address the dangers posed by distracted drivers should exist, and innovative products could be part of the solution. Parents want tools to help keep new, teenaged drivers in their households focused solely on driving while they are behind the wheel. Insurance companies may want to encourage safer driving by giving discounts for people using such technologies. Employers may also want such devices to prevent employees from texting while driving. Because the FCC licenses and regulates mobile services and approves devices for use in the consumer marketplace, the FCC can potentially play a useful role in enabling technology and encouraging the development of marketplace solutions.

Some current technologies could potentially be adapted to address this issue now. Some smartphones have interfaces for people with visual impairments. Other technologies allow users to control, with their voices, their mobile phones and vehicle systems. Could these technologies be used by drivers to avoid the dangerous distraction of looking at device screens? What if your keychain had an RFID sensor that told your car to issue a Bluetooth command to disable certain functions on your device when you are the driver? In addition, there is what some call "haptic" technology, which simulates a sense of touch, creating the impression of buttons or controls even on flat surfaces. Could haptics be used to give drivers more control over their cars and electronic devices while keeping their eyes on the road? Could existing voice-to-text technologies be used to improve safety?

The FCC would like to play a part in encouraging innovative technologies that can reduce injuries and loss of life due to distracted driving. We are examining whether there are ways in which we can act to create a climate that will allow consumers and industry to have more options in addressing this serious problem.

Finally, I have been urging FCC employees to set an example regarding this issue. I reinforced to agency employees the importance of complying with the President's Executive Order banning the use of Federal devices to text while driving as well as banning the use of personal devices while driving government vehicles. I further urged FCC employees to avoid texting and driving at all times and to encourage their families and friends to do likewise.

In closing, I look forward to continuing to work with the Committee, Secretary LaHood, industry and innovators on this important issue. Thank you for the opportunity to speak to you today.

The CHAIRMAN. Thank you very much, Mr. Chairman.

I will start the questioning. It seems to me if you're talking about 812,000 people at any given moment and they are driving lethal weapons, and if they get away with it that's fine, but when they don't get away with it we already know that 5,000-plus people die and half a million people are injured from the grossest kind of negligence. And yet, it's a part of our lives. Nobody's ever really sort of done this kind of thing before.

We've got to stop it. We've got to outlaw it. Arkansas, as Senator Pryor will discuss, has done this. But then again, I don't know how you change cultural habits. Texting—if you watched the President give the State of the Union, half the Congress is texting. That's a little exaggeration. Maybe a quarter of the Congress. I doubt there's much value in that texting, but on the other hand they're doing it because that's what people get trained to do.

Everybody texts around here. You've got to text. If you don't text you're not with it and you're not educated. So you text.

But I mean this. I mean this seriously. It's lethal behavior when you get in a car. Not when you get in the subway of this Capitol Building, but when you get in a car it's lethal. I am skeptical about being able to change people's behavior simply by passing a law. With respect to that, we're going to do it. Then it'll either be Chuck's harder one, Senator Schumer's harder one, or our carrot one, as he referred to it. But the only point is that you've got to make people stop.

Now, my first question to both of you is how—and I'll start with the Secretary: How do people know if somebody is texting? For example, if there are two other passengers in the car and they perceive the texting and know that their lives are at risk—and again, the figure of the football field is just terrifying to me. If the average texting expense is the length of a football field, all kinds of accidents and deaths could take place in that amount of time.

They could turn the driver in. They could use their cellphones, since they're not driving, to call somebody up and say: This guy is—I don't know how you stop it, even with laws. This is incredibly serious stuff that we're doing here, and it's new. But the State police aren't going to do it because they can't see it. They can see it if they get at the right angle, particularly on a cellphone. The feds don't have people—we don't have a Federal State police, so to speak. So how do you observe? How do you make people feel that they are being watched? My second part of that question is, is the only way you can do this is through technology, that in fact you can't change people's behavior because that's the way they operate, that's the way they exist and live, that's the way they talk to each other.

Brothers and sisters text each other even if one's on the first floor and another one's on the second floor. They don't talk; they text. They don't read newspapers; they read it off of iPhones. I mean, it's all different. And yet this is a dangerous national problem.

So can I have your thoughts, sir?

Secretary LAHOOD. Well, this is an epidemic, Mr. Chairman. But it can be stopped. The classic example is .08. Who would have ever thought 10 years ago that we could get drunk drivers off the road? We've done it. Everybody knows what .08 means. There's strong law enforcement on this and people lose their licenses. In Illinois you lose your license for 3 months and you have to go to jail and serve at least 5 days for your first offense. "Click it or ticket" is something that people understand. That's why people put their seatbelts on now.

So there are three ways in my opinion. Education, number one. We have to get into driver education programs that when you get in the car you put your seatbelt on, you put your cellphone in the glove compartment. We have to begin to teach.

Part of education is peer pressure, saying to teenagers: If you see your friend texting, tell him to put the phone in the glove compartment; do not text. We have to make sure that we persuade parents not to try and call their children when they're driving to school, and their employers can't be calling their employees when they're driving home from work.

We have to break these very, very bad habits. Part of it is education. Part of it is personal responsibility, telling one another this is bad behavior, you can't do it, you can't drive safely while you're texting.

Then I think enforcement. We know that enforcement works with .08 and we know enforcement works when it comes to "Click it or ticket." People do get tickets for not wearing seatbelts. That's something that law enforcement can observe. And we know that when law enforcement people arrest people who are driving and they're over .08, they get arrested and they get thrown in jail. You can put tough penalties on these things.

Look, there's a law in Washington, D.C., you can't use a cellphone; it is illegal. But any time you drive down a street in Washington, look around you. We're hooked on these things.

So it is personal responsibility, it is education, and it is enforcement. That's what happened with .08 and "Click it or ticket." We cannot give up on finding solutions because this is an epidemic. We will save a lot of lives and a lot of injuries finding ways to do this, and we have proof that we can do it.

The CHAIRMAN. Mr. Secretary, I'm overusing my time here. If somebody is drunk driving, a State policeman can usually see that. In fact, they don't approach the car. It's not the individual that they're looking at; it's the motion of the car, and they can have a sense of that. You say it stopped it. I would say it hasn't stopped it. I'd say it has diminished it, and maybe—and that is a worthy goal.

What occurs to me is that you almost have to put this out of the control of the driver, using a cellphone or a text, so that some kind of technology which the FCC will come up with by the end of next week that as soon as you enter a car your cellphone and your texting, your texting equipment, is just disabled by some electronic impulse.

I don't know how else it gets done. I don't think you can train people to do this, because people do it down here. They have to talk up here, but now they can have it silenced, or many of them—I

don't think they're going to change. I don't think drunk driving, I don't think it's a proper connection, because people are looking at the car; you can tell. You cannot tell if people are texting.

Secretary LAHOOD. Well, I would say this, Mr. Chairman. I would say if somebody is texting, they're weaving back and forth; if a policeman sees that and they find out they haven't been drinking, they can say: Have you been texting on your phone? If there's an accident and the law enforcement person shows up and the person hasn't been drinking, what caused the accident? Were you texting on your phone, and maybe taking the phone and looking to see if they were texting.

There was a young woman in my home town of Peoria, all by herself, 16 years old, ran off the road, was killed, was on the front page of our *Peoria Journal-Star* newspaper. They looked at the phone and discovered she had been texting. These things can be detected by law enforcement, but there has to be good education—not only in drivers training programs, but by law enforcement.

We can't give up. There are ways to do it. Maybe the .08 blood alcohol standard isn't perfect, but we've taken a lot of drunk drivers off the road and saved a lot of lives. "Click it or ticket" has given people the idea that if they fasten their seatbelts, they'll save an injury or loss of life.

The CHAIRMAN. I'm way over my time and I apologize. Senator Hutchison.

Senator HUTCHISON. I so believe that our approach is right because I don't think we ought to get into states rights and have regulations that don't fit a State. The states have addressed this in very different ways, very different ways, but many of them are addressing it.

So, Mr. Secretary, I have to say that you have, through rule-making, indicated that you would ban texting altogether by truck drivers. I think that is the responsible role because truck drivers are interstate. Yet we have a problem with school bus drivers that really ought to be dealt with at the State level.

So I want to ask, Mr. Chairman, if there are technology ways that we could use for helping with an issue like this or is there data collection that might be available at the Commission. I want to say that you look at the telecommunications industry and here are the organizations that are supporting our bill: Verizon, AT&T, T-Mobile, CTIA (The Wireless Association), American Trucking Associations, and Advocates for Highway and Auto Safety.

I mean, I think the telecommunications companies are being very responsible here. They want to prevent these kinds of horrific accidents.

So what can we do that doesn't encroach on states rights, but gets to the heart of this problem?

Mr. GENACHOWSKI. Senator, I think there has to be a multi-part solution to this very serious problem. I agree with Secretary LaHood and with the tenor of all the remarks, education and personal responsibility has to be part of the answer. Friends don't let friends text while driving. Law enforcement has to be part of the answer.

I agree that technology has to be part of the answer, as usual with technology, in ways that we may not be able to anticipate

right now. But one of the things that I think we can look at at the FCC is, one, what is the data? Can we get better data on actual practices of drivers, consumers, while driving? Can we find ways to incentivize the development of different kinds of technologies that may work? Parents may want their kids to have a particular technology. Employers may be interested in particular technologies. Drivers themselves might be interested in different technologies.

I'm an optimist about the role that technology can play in driving solutions. Technology to some measure will respond to market demand and so there's a real relationship between education campaigns, helping parents understand what the issues are here—I think many parents do, but the awareness is growing even larger. The more the awareness, the more there will be market demand for technologies.

At the FCC we can look at data and we can look at our rules to see if there are ways that we can accelerate and incentivize technologies that will steer this in the direction we all want.

Senator HUTCHISON. Mr. Secretary, I know you have studied what the different states are doing, and you also are acting in your own capacity. Do you have any suggestions on, A, what you think the best practices are of the states or, B, any other data collecting that you might be able to have from the agencies that are studying these accident statistics?

Secretary LAHOOD. Well, as usual the states are ahead. They're the incubators on this. I think there are 18 or so states that have already passed very tough laws against texting. I'm proud of my own home State of Illinois. They just passed a very, very tough law on eliminating texting while driving. I think it will save injuries and lives.

I think the best thing for us to do, Senator, is to give you the best practices from the states, because they really are the ones that have taken the lead on this. We'll be happy to provide that, not only for the record but for you personally.

Senator HUTCHISON. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

In order of appearance, Senator Klobuchar.

**STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Mr. Chairman.

Thank you, both of you. I did think that the conference this summer was a very good idea and really brought some national attention to this issue.

I wanted to maybe go up in the air a little bit with this distracted driving issue, Senator LaHood, as we have in Minnesota and then into Wisconsin the ultimate example of distracted driving, and that was distracted driving at 37,000 feet or distracted flying, as we found out this past week.

I first wanted to thank you, your agencies, for taking prompt action. I know that the licenses have already been suspended for the pilots and the NTSB is still completing their investigation, but their preliminary findings—and we know they're not final yet—seem to point to the fact that the pilots were actually distracted.

They didn't fall asleep, but they were looking at their laptops and checking out crew schedules, while they had hundreds of passengers in the back, and flew for 91 minutes out, not answering their radio signals.

Could you just shed some light, Secretary LaHood, on what we could be doing about this, in addition to our focus on distracted driving, if there's any—if we should just look at it as an aberration, if we should try to ban laptops for private use in cockpits, which was already the Delta rule, or we should look at some kind of loud buzzer in the cockpit so that they can hear it?

It's almost ludicrous to think about it, but I just wondered if you had any view?

Secretary LAHOOD. We think that any kind of distraction, whether you're driving a train, a plane, a car, a school bus, a transit bus, a light rail—you can't do it. You just can't do it. You cannot drive safely. There are many people, almost all of us, who board a plane or a train, put their children on school buses, with the idea that it will be the safest way to get where we're going from one point to another.

We're not going to equivocate on this. Any kind of distraction, whether it's on trains, planes, or automobiles, is a distraction, and we should figure out ways to get these cellphones, the texting, the use of laptops, out of the hands of people who are supposed to be delivering the public someplace safely.

Senator KLOBUCHAR. Right now, while it is an airline rule not to have laptops for private use in the cockpits, it's not an FAA rule; is that right? It's something we could add?

Secretary LAHOOD. We're going to look at this, but we have the ability to suspend the licenses of these two pilots.

Senator KLOBUCHAR. Even because of the fact that they weren't following the rules?

Secretary LAHOOD. That's correct.

Senator KLOBUCHAR. All right. Thank you.

Then back to the distracted driving issue, one of the criticisms that Senator Rockefeller brought up is that it's not effective, you can't enforce these. Yet I'd never heard that "Click it or ticket" thing, Secretary LaHood. That was a very nice jingle.

Could you just explain why there's not much of a penalty for the seatbelts, at least initially there wasn't, but yet somehow it changed an entire culture? How did that happen and how could you see that lesson being learned for the texting issue?

Secretary LAHOOD. Because I think if you say something—all of us that have been in politics know if you say something often enough people start to believe it.

Senator KLOBUCHAR. Even if it's not true.

Secretary LAHOOD. Even if it's not true.

Senator KLOBUCHAR. Exactly.

Secretary LAHOOD. In the case of "Click it or ticket" it is true. If you put your seatbelt on you'll save an injury, you'll save a life. We do it year in and year out. We have a big promotion. I went to a nearby school this year, and we had a "Click it or ticket" assembly. We talked to kids about fastening their seatbelts.

We know that it works. I believe that most people in America know what .08 means and they know if you're above .08 you're

going to lose your driver's license, you're going to lose your privileges, you may have to serve time in jail. Ten years ago most people didn't know about that.

If you say something often enough—in driver education classes, if you tell kids you cannot text and be safe, and teach them that——

Senator KLOBUCHAR. Or if you text it you'll wreck it? I just thought I'd throw that out there.

Secretary LAHOOD. Good.

Senator KLOBUCHAR. Not bad. You got it probably cheaper than an ad agency.

Mr. Genachowski, could I just ask you—I was trying to think of that as he was talking. You said that the digital TV transition, that you picked up some ideas for how you can do public education campaigns. We all know that was sort of slow in starting, then it picked up speed and eventually worked, the digital TV transition. Thank you for that. Could you talk about what lessons were learned that could be applied here?

Mr. GENACHOWSKI. Well, there is no substitute for hard work, and over the DTV transition, staff members of the FCC worked very hard, one at the agency in thinking about how to craft a message that people can understand; and two, they went out to where the most relevant audiences were in lots of different ways, whether it was at shopping malls or at sports games, to communicate, to communicate with them.

There was a combination of an offline strategy and an online strategy. We'd be happy to get back to you and think more concretely about what the lessons learned from DTV that would be applicable to an awareness campaign around distracted driving. I think a good exercise to do in general would be to identify the elements of past campaigns, whether drunk driving or seatbelts or others, and pull out some lessons learned. This isn't the first time and it's not the last time that we'll be sitting around talking about the importance of educating the public about new dangers.

Technology and mobile communications, I couldn't feel more strongly about the benefits they bring to all of us, including around public safety. You know, if you get into a car accident on the road, being able to communicate through a mobile device with someone is a huge benefit. And we want our first responders to have broadband 21st century mobile communication devices. I think we can both want that and want to have a very clear campaign that being distracted while you're driving because of technology devices is just wrong.

The problems will keep on coming up and I think trying to isolate what we've learned from past awareness campaigns, education campaigns, especially around technology, can be an important part of this.

Senator KLOBUCHAR. Thank you very much.

Thank you both.

The CHAIRMAN. Thank you, Senator.

Senator Pryor.

**STATEMENT OF HON. MARK PRYOR,
U.S. SENATOR FROM ARKANSAS**

Senator PRYOR. Thank you, Mr. Chairman, and thank you for holding this hearing.

Mr. Secretary, let me start with you if I may. I appreciate you inviting me to your Distracted Driving Summit. I thought that was very useful and I think the people there got a lot out of it.

In your opening statement you mentioned basically the major finding is that we've got a problem with this and it's a major problem all over the country. But my question is, are you preparing a set of specific findings and maybe some steps that we can all take as a follow-up to that summit?

Secretary LAHOOD. Absolutely. Our team at DOT is putting together some very good information, some very good recommendations. We have three rulemaking actions that we think are very important. Our people are working on those. But we are putting together some of the key recommendations and some of the actions that we'll be taking. We are putting that together.

Senator PRYOR. Right, and we look forward to seeing those when they're ready.

I'm not trying to draw you into this legislative discussion that we're having, but I would like your thoughts on the carrot versus the stick approach, if you have a preference on how that would be structured.

Secretary LAHOOD. I like both, Senator.

Senator PRYOR. OK. So you think we can do both? OK. That's fair enough.

Now, let me ask—we don't have a NHTSA director.

Secretary LAHOOD. That's correct.

Senator PRYOR. Do we know when one is going to be nominated?

Secretary LAHOOD. Soon.

Senator PRYOR. What does that mean?

Secretary LAHOOD. Stay tuned.

Senator PRYOR. OK. Well, I think obviously—

Secretary LAHOOD. Let me put it to you this way, Senator. It's imminent.

Senator PRYOR. And it would help to have someone there. We all know that.

Secretary LAHOOD. We have a very good Acting Administrator. Ron Medford has done an outstanding job. He's a very good safety guy. He's done a great job.

Senator PRYOR. Has the Federal Motor Carrier Safety Administration looked at initiating a rulemaking for commercial drivers?

Secretary LAHOOD. Yes.

Senator PRYOR. Is that under way right now?

Secretary LAHOOD. Yes.

Senator PRYOR. For the FCC, Mr. Genachowski, thank you for being here.

Has the FCC looked at the technologies out there that might make this world a little bit safer when it comes to texting and driving? How much authority do you have and kind of where does your authority end and other people's begin?

Mr. GENACHOWSKI. We haven't yet done a survey of the potential technology solutions, but it's something that we plan to do. We

plan to understand the technology landscape better and to ask questions about what we can do to help accelerate the developments of technology that would help address this.

With respect to our authority, we're just at the beginning of thinking about this. I know the legislation, if adopted, would give the FCC some concrete tasks and we look forward right now to being a resource to the Committee as it looks at this. It involves communications technologies. Of course it involves transportation, and this is something that I hope we can all work on together to pursue the multi-part strategy that we need to tackle this.

Senator PRYOR. Are you aware of any wireless firms who are taking initiatives to educate their customers and the general public on this danger?

Mr. GENACHOWSKI. I believe they are. I think, as Senator Hutchison mentioned, the trade association has taken steps. Some of the individual carriers have. To me, what I would hope we see is not simply the launching of those campaigns, which I commend, but a process to measure and track results, an ongoing process to see what's working in terms of educating the public and constant improvement of those campaigns against measured results.

Senator PRYOR. My last question is really for both of you. I know that some car companies—the one I'm familiar with is Ford, but I'm sure others have this as well. Ford has a technology they call "Sync," which apparently is sort of built into the vehicle, that somehow your wireless device will just sync with the vehicle. I'm not sure exactly how it works.

I'm assuming the FCC has a little piece of that because it is wireless communication, but I'm assuming that NHTSA has most of that responsibility.

Have we thought about trying to make that type of approach more widely available and perhaps even required in all U.S. vehicles? Have either of you looked at that?

Secretary LAHOOD. Well, I was just in Detroit, Senator, and I visited Ford, GM, and Chrysler. This technology is something that will be in automobiles, but I will just tell you this. From my point of view, I think any distraction is a distraction that takes away from driving safely. You can put your phone in this little container that they have in the middle and it syncs all your numbers and you can use your voice. I think that's a distraction, Senator. But that is the latest technology and all the car manufacturers have it.

I think if you're eating a hamburger, shaving, putting your makeup on, texting, using a cellphone, talking to somebody, all these things detract from your ability to drive safely.

Senator PRYOR. Well, one last thing. Mr. Chairman, you mentioned—as we close, you mentioned that Arkansas does have some law on the books and it does. 21 states ban teen drivers from talking on all cellphones. Arkansas is one of those. 17 states ban school bus drivers from talking on cellphones. Arkansas is one of those. 18 states ban all drivers from texting and Arkansas is one of those.

So I'm glad we're talking about this today. I'm glad we're having this hearing because it is something I think that we should deal with and try to do it as quickly as possible.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Pryor.

Next is Senator Wicker.

**STATEMENT OF HON. ROGER F. WICKER,
U.S. SENATOR FROM MISSISSIPPI**

Senator WICKER. Thank you, Mr. Chairman. I appreciate the hearing. I've learned a lot, and I hope that the authors of this legislation, for which I have the greatest respect and affection, will allow me to be the devil's advocate for a moment and possibly the skunk at the garden party.

We've heard discussion of whether we should use the stick or the carrot. The Secretary said he likes both approaches. If forced to choose, I would choose the carrot. But I would also suggest to my colleagues that we might want to let the states continue to work on this for a while longer.

Now, Mississippi, my state, is one of the states that has already acted on this. We've heard learned members of this Committee today say that states should handle this issue. Well, states are beginning to handle this issue and some states are quicker than others.

We also heard testimony today that states should be the incubators for this, that we need to decide what best practices we need to be involved in data collection. I would suggest that the best way to do that is to allow the states to continue to do, as the Ranking Member suggested, that there may be legitimate reasons for states to have different approaches on this issue of distracted driving.

We would all like to do what we can at the Federal level and what we are empowered to do under the Constitution to prohibit distracted driving. I agree with the Secretary, I think eating a hamburger is a lot more distracting than talking on a cellphone. So perhaps we ought to include eating a hamburger in this legislation since it almost goes without saying that that's more distracting.

This is—don't misunderstand me. This is personal with me. After my daughter's first year in college she was driving back from Charlottesville, Virginia, to Tupelo, Mississippi, and on Interstate 40 the driver of a vehicle reached down to get another compact disk, and she ran off the interstate highway, Interstate 40, and the car turned over three times. My daughter was in the hospital for quite a while and suffered head injuries, and thankfully is OK and is expecting my first grandchild now. But it might be that some states would want to experiment with talking about that kind of distraction, Mr. Secretary.

Our Chairman has said he is skeptical about how any of this would even work. And yet he says we'll go through it and we're going to do it anyway, regardless of whether we might be taking an approach that would be determined to work better if states were allowed to experiment more.

Let me just read to our witnesses and to my colleagues 49 U.S.C.S. 30105, "Restriction on lobbying activities": "No funds appropriated to the Secretary for the National Highway Traffic Safety Administration shall be available for any activity specifically designed to urge a State or local legislator to favor or oppose the adoption of any specific legislative proposals pending before any State or local legislative body."

So we prohibit Federal employees from urging the adoption of legislation at the State or local level. And yet with this legislation we're going to say unless you as a State legislature take certain specific actions—and we are specific about it; there's a total ban in one respect and then there are nuanced bans based on age. We say that it's OK for us as a Congress not only to specifically urge legislatures to take certain actions, but there's a pot of money out there and some of you are going to get it and some of you aren't going to get it based on whether you follow what we in our wisdom in Washington, D.C., feel should be the approach.

So count me as someone who wants to listen about the various approaches, who appreciates what the Secretary has done with regard to interstate commerce, and to say that I have confidence in the states to take testimony just as well as we can and to act on this. So I would choose the third approach and that is to continue letting them be the incubator on this issue.

I thank the indulgence of my colleagues.

The CHAIRMAN. I thank the Senator.

Senator Dorgan.

**STATEMENT OF HON. BYRON L. DORGAN,
U.S. SENATOR FROM NORTH DAKOTA**

Senator DORGAN. Mr. Chairman, thank you very much.

With respect to Senator Klobuchar's comments, I'll be chairing tomorrow a hearing on the NTSB reauthorization. I assume we'll talk about distraction in the cockpit tomorrow with the National Transportation Safety Board.

I listened with interest to my colleague Senator Wicker. I've been involved in these issues for a long while. My mother was killed by a drunk driver in a high-speed police chase. So I got involved in wondering, in how many states in the Nation was it perfectly legal to drink and drive at the same time, put your key in the ignition, have one hand on the neck of a bottle of Jim Beam, and drive off happy as a lark, completely within the law? Well, the fact is a good number of states allowed that. In fact, I think a few still do. You just can't be drunk. You can drink and drive. You just can't be drunk.

I've been involved in these issues with drunk driving and MADD, Mothers Against Drunk Driving. We didn't make progress just because we entreated people to take this seriously. We made progress because, yes, we used carrots and yes, we used sticks. It doesn't work without it, unfortunately.

I think here the issue is pretty clear. There are people losing their lives because of a change that's happening in our culture, and people are texting on the road. We all see it. We drive and watch and see what's going on.

I do think, with due respect, you can eat a hamburger without looking at the meat. You can't be involved in texting without looking at the text. So when you see people text on the road, they're looking down at this language. So I do think there's a problem here.

So here is the proposition, it seems to me. You talk about technology. Frankly, I don't know that there's going to be a technology that addresses this. I mean, there are technologies out there, I sup-

pose, in which we talk about high-speed police chases in which the police could—you could put something in an engine of a car, the police could just shut down the car. Well, I don't want—we can't allow that to happen. That technology probably exists.

I think that the car companies, some of them are advertising built-in Bluetooth capability. Incidentally, I think it's also—I think this text issue is separate and rises way up here with respect to danger. But distraction in the car? Take a look at these cars that have these sophisticated consoles up in front with maps and navigation capabilities and 130 different channels of satellite radio and so on, right here.

In fact, if you get in some taxicabs they've got a suction cup and put them right in the middle of the driver's window almost. Distraction? Sure, I suppose it is, right. It gets back to the point that there are a lot of distractions.

But I do think, having said all that, this issue of texting while driving particularly rises to a different level. So I appreciate the work that the Chairman and the Ranking Member have done here. I think it's a step in the right direction. I tend to agree a bit with Mr. LaHood, with Secretary LaHood, that almost always on these kinds of issues, whether it's seatbelts or drunk driving or required training on high-speed police chases, when it's appropriate, when it isn't, almost always carrots have been required to be added to a stick of some type, and then things change completely.

When I started working on drunk driving issues, drunk driving meant somebody knowingly sort of smiled and gave you a pat on the back: I saw you got picked up; too bad. But everybody understood it happened. No more. It's serious business. Those are killers on the road who get drunk and get behind the wheel.

Things change and I think if we move in a thoughtful direction here with legislation that's properly crafted, I think we'll make a difference here. I know that—the other evening I was watching the national news and I think there is one State that has passed a State law that says texting while driving shall be equivalent in penalty and seriousness of drunk driving. If you're picked up for texting, it's the same as if you're picked up for drunk driving. I think that's Utah that has now changed the law.

So there's progress being made out there in the states. But I do think that ultimately there's going to have to be both a pull and a push, and I think what you have done today, I would say to the Chairman and the Ranking Member, is something that is worthy in terms of moving us in the direction of safer highways and safer streets.

I appreciate, Mr. Secretary, your testimony, and Mr. Genachowski. Let me just ask the question quickly. I've almost drained the time here. But on the technology, because the Chairman was asking about will there be technology, my sense is I don't think that we're going to solve this by technology. Do you really think that, Mr. Genachowski?

Mr. GENACHOWSKI. I think no single part of it alone will solve it and that we need education, we need to change cultural norms, we need to look at the enforcement piece of it, and we need to look at the technology piece of it, and we need to—this issue is going

to be, unfortunately, around for a while. Technology will continue to evolve. The car will continue to evolve.

So putting in place different mechanisms now and measuring what's happening, what's working, and then doubling down on those strategies seems to me to be a way to approach it.

Senator DORGAN. Especially with the new vehicles, they're beginning—I used to fly a bit. These new cars are starting to look like the inside of a cockpit. I mean, there is so much sophistication and dials and gauges and amplification of information to the driver.

Again, let me just compliment the Chairman and the Ranking Member. I think this issue, particularly of texting and the use of cellphones, is a very serious issue and I think you advance that by holding this hearing and introducing legislation.

The CHAIRMAN. Thank you, Senator Dorgan.

Senator Lautenberg, you're up if you can get to your seat.

**STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY**

Senator LAUTENBERG. I'm texting while hearing.

[Laughter.]

It's distracting.

I'd like to ask a few questions. We've been having terrible problems in the State of New Jersey with accidents, and particularly when it's something that happens with a large truck, the outcome is typically disastrous. We know that the volume of cellphones, as the Chairman talked about, in use in the country, and more and more people lining up behind the wheel of a truck, car, train, school bus, with cellphones and checking the Internet and sending text messages, just a bad time and a bad outcome.

Now, I've joined with Chairman Rockefeller in introducing legislation that would give states strong incentives to ban texting or using hand-held cellphones while driving. Secretary LaHood, we're glad to see you, as we are Mr. Genachowski. Do you think that it's in the best interest of all drivers, regardless of vehicles and so forth, to prohibit texting or using hand-held cellphones? That's a pretty good objective for wanting better safety on our highways? You have no problem with that?

Secretary LAHOOD. No, sir. I agree with that.

Senator LAUTENBERG. Chairman Genachowski, it has been proposed by I think a lot of folks to use technology to block wireless signals in cars. Concerns, however, are raised about the legitimate communications and even 911 calls that might be interrupted inadvertently. What do you see—how do you see dealing with that opportunity or does it present a larger problem than it does a solution?

Mr. GENACHOWSKI. Senator, the first thing I'd say is the one thing on which there should be no confusion about is that texting while driving is bad, and whatever the legal framework is, it shouldn't happen. As I said before, friends shouldn't let friends text while driving.

With respect to specific technologies or regulatory steps like the one that you suggested, I wouldn't want to get ahead of where the FCC is. I think we need to take more of a look at different potential strategies that are within our jurisdiction. Obviously, the

Transportation Department will as well, and there are areas that we can work on together.

I do think that over time we will get better information on what strategies exactly work. I note that the bill introduced today doesn't mandate a particular outcome in particular States. It allows for some experimentation and we will get over time better information on which strategies work, and then as a country we can pursue those and accelerate those.

Senator LAUTENBERG. It sounds, however, like a good opportunity to stop the risk in bulk form, if I may use the expression. The question is do we lose anything by having cellphones jammed there. I mean, you look at the 911 calls that otherwise might not be made, on the other hand, but there'd be a lot more safe consciousness on the highways if they weren't there.

Mr. Secretary, this is a little bit of a diversion, but we're talking about safety in travel. Last week a flight from San Diego to Minneapolis overshot its destination by 150 miles, 1 hour late in landing. The pilots said, as we see in public, they were using their laptops and distracted from instructions from air traffic control.

However, FAA does not regulate the use of laptop computers above 10,000 feet. What might the Department do to regulate the use of these devices to make sure that when commercial aircraft are being flown that there is no—there we take every possible action to prevent these kinds of distractions from occurring?

Secretary LAHOOD. Senator, Administrator Babbitt suspended the two pilots from flying—and they have a right of appeal—because of the use of laptops in the cockpit. We're going to take a very close look at that entire issue, but they've been suspended from flying because their licenses have been pulled and they have 10 days to appeal that.

Senator LAUTENBERG. Do you think, does anything come to mind or is being considered right now to eliminate, reduce certainly, that possibility of that kind of an action to take place while the flight's in the air?

Secretary LAHOOD. Well, Senator, I have my own ideas about this, but I'm going to work with the FAA, the folks at the FAA and in our Department, to deal with this issue.

Senator LAUTENBERG. All right. We hope you've got your own ideas. We know that you use them well.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Lautenberg.

I don't know. Maybe there's something wrong with me, but this hearing is not going the way I wanted it to go. It doesn't strike me as having the urgency which I expected it to have. I keep thinking of 812,000 people now and now and now and now forever, except it will grow as the population grows, texting or being on a cellphone or otherwise being distracted. Then I think of that football field and I think of what can be done in the way of damage as a car loses control.

We all know the feeling because we've all done a bit of that, so we know the feeling, and nothing happened, so we go on.

Then we start talking about, well, should this be done by the feds, should this be done by the states, and that becomes a bit sort of philosophical constitutional argument. I'm interested in saving

lives here. You know, we're talking about educating a generation. Well, drinking is one thing, but when you have people from the age of 5 through the age of 50 or 70, all of whom can text, all of whom use cells, education is a good thing and let's get those driver's ed classes in high schools pumped up on that and do the educating.

I just think that's slow, and I keep thinking of 812,000 people and 500,000 people injured and 5,000 killed every year, and I say: What are we doing about this? So I want to get back to technology. Yes, let's do education. I'm all for that. I'm all for that. But this is not—you know, drinking is a compulsion. Drinking is an addiction, drinking is a habit, drinking is for teenagers, drinking is for non-teenagers, whatever. But this other covers everybody, pretty much all the time, all the time.

And I don't feel the urgency in this hearing. So I want to ask you this. I was interested in something that Senator Schumer said, that when he used the stick method, that is, threatened to take away highway funds, nobody ever lost their highway funds. I didn't know that, hadn't heard that. Kind of interesting. I don't know what that tells me or what it doesn't tell me.

Senator DORGAN. Mr. Chairman, if I might on that point.

The CHAIRMAN. Yes.

Senator DORGAN. It would suggest perhaps, as has been the case in other circumstances, that the states complied before they would take the penalty.

The CHAIRMAN. That could be, and that could be.

So on the technology part, because I don't think we have time to waste on this, I suggested and you pulled me up short, Mr. Chairman, and correctly—I used the idea somehow that an electronic impulse would go out and everything would be shut down. Then you brought up the fact or somebody brought up the fact that, well, somebody needs help and they need to call 911. I checked with the Ranking Member. Neither of us ever called 911 in our entire life, but that doesn't tell you anything. A lot of people have to do that. So I haven't been—I can't solve that problem right now.

I also know that people aren't using their land lines as much because having a land line and having a cellphone are more than people can afford often. So land lines are going down at about 6 to 8 percent a year in their usage in this country. You know that, Mr. Chairman, OK. So that means they're using their cellphones, so that means the only way they can call is by using their cellphones.

So they're calling people, they have no idea where those people are, but they know they're going to get them because they know they have their cellphones, because everybody always has their cellphones in their pocket or on their belt. That brings me up a bit short because the cellphone can be answered by saying, this cellphone is currently not available for usage because the driver is driving, or something of that sort.

I cannot believe we cannot do the technology. Look, we're talking about carbon capture and sequestration. I think we can get all that research done in 3 years. That's a lot more complicated than what you're talking about. I'm very glad that Ford Motor Company is doing something. I'm also even gladder that Secretary LaHood thinks it's a distraction, just the fact that what they're doing is a

distraction. I like that attitude. That's the way I come at it as a father and as a grandfather.

I don't know why we can't come up with technology that disables texting machines and cellphones, and then we'd have to come up with a countertechnology which enables them, provided everybody hasn't been killed, to be able to dial 911 and, I'm sorry, I'm going to be 3 hours late for getting home and your parents are worried. Sorry, that doesn't count. That's out. That's out. That's distracted. You can't do that. Emergencies you have to take care of.

Technology it seems to me can solve this problem, and we can educate people. But I think—my view is we've got to do the technology. And I don't really give a hoot about States' rights or Federal rights on this one. I just give a hoot about results. I keep thinking of those 812,000 people right now as I'm speaking, and we're not doing anything about it.

Reactions, please?

Mr. GENACHOWSKI. There needs to be the sense of urgency that you described on this issue. I think, if I may say, holding this hearing today and shining light on this issue will itself save lives. I think what you've done at this hearing is issued a challenge to innovators to develop technologies that will help solve this problem without causing other ones.

The CHAIRMAN. If I'm doing that, I'm not aware that I'm doing that. If I'm doing that successfully, I'm glad I'm doing that successfully.

Mr. GENACHOWSKI. I think you've issued that challenge.

The CHAIRMAN. But you're in your position because you do technology. John Holden's in his position because he does technology. And we ought to be able to come up with something that works while we educate people, so that the technology can be less used.

But I think we have to have an answer quickly.

Secretary LAHOOD. Well, we agree with you, Mr. Chairman, and we're ready to work with you on your legislation, and we hope legislation passes. We're going to do our part at DOT by the enforcement that we can do. But we're very grateful to you, all of you, for the Senators who came to our Distracted Driving Summit, for the ones that have taken an interest, for the bills that have been introduced. It's all part of the solution.

I'm optimistic. I think at the end of the day we will find ways to save lives and to save injuries by getting cell phones out of the hands of drivers, particularly teenagers. This is an epidemic among teenagers. Teenagers are hooked on their cellphones and they're hooked on texting. Parents are part of the problem.

The CHAIRMAN. Every businessman, everybody in politics, everybody who carries—who does anything in life is hooked on cellphones and is hooked on texting to a somewhat less extent, although I agree with Senator Dorgan that it raises—it becomes more of a problem. It becomes the football field because of the length of the transaction.

That's why I think it's different than drunk driving.

Secretary LAHOOD. I used .08 and seatbelts as an illustration to say that we can solve it. Both of those proved it. They did prove it. You don't get a slap on the back and sent home if you're above .08 any more, and that's the way it was 10 years ago. If you got

stopped and you didn't have your seatbelt on 10 years ago, maybe you got a ticket for speeding, but you did not get a ticket for not having a seatbelt. Today you do. And today you don't get sent home if you're above .08.

That's where we want to be with distracted driving. We will get there, with your help, the help of Congress, DOT and lots of other stakeholders around the country, including parents who have lost children and grandparents who have lost children. They're the most devastated by this. I can tell you, there's a whole crowd of people out there in America that are ready to be helpful to you and to us to solve this.

The CHAIRMAN. So who does the technology? Then I'll shut up. Who does the technology? Whose responsibility? Who takes the lead? Are we going to wait on Detroit to do it or are we going to wait on the Chairman of the FCC to do it? Are we going to wait on the Secretary of Transportation to do it? Who's going to do this?

Senator LAUTENBERG. Mr. Chairman, if you want me to get into the technology business I'll be happy to give it a try. We can get in the enforcement business, the rulemaking business. But I don't know if the Chairman wants Ray LaHood in the technology business.

The CHAIRMAN. If Ray LaHood comes up with a good idea and the Chairman doesn't, that's called free public policy.

Mr. GENACHOWSKI. We will work with you, we will work with this Committee, we will work with Secretary LaHood, on ways to incentivize the development of technologies that can help solve this and solve it quickly.

The CHAIRMAN. I hope so.

I'm sorry, I say to my Ranking Member, because you may have other questions you want to ask.

Senator HUTCHISON. Mr. Chairman, I don't have further questions. But I will say that I think this has been a spirited hearing. I think people have been engaged. I think our witnesses have been very engaged, and I think that we're going to make progress on this. I think we're going to pass our bill. I think our bill is the best one. I think it is the right mix of States' rights respect, but also giving incentives. I think it's been very productive, despite what you think, Mr. Chairman.

Senator KLOBUCHAR. Can I just ask just a few more questions?

The CHAIRMAN. Yes.

Senator KLOBUCHAR. The other thing I was thinking in response to your call for urgency was, when I was at the Distracted Driving Summit there was a family there from Minnesota, the Dixit family from Eden Prairie, and their daughter took a ride with a friend in Wisconsin in college and they lost her because the other kid driving reached in her purse and got something out, went off the road, and they lost their daughter in that split second.

So I think that these stories and the people on that train in California across the country give us a sense of urgency.

I was also thinking about what Senator Wicker said and listening to that and the story of his daughter, which was very sad. Fortunately, she lived. I have no idea if she had a seatbelt on, but I do know that a lot of people who survive automobile crashes now survive because they had a seatbelt on. A lot of that was those laws

changed because of pressure on the national level, not just the State level.

I know in the State of Minnesota we were one of the last states to enact .08, and I don't think it would have happened without the Federal law. In fact, we had a legislator who's kind of colorful who stood up in the chamber of the House in Minnesota and said: If we adopt .08, how are my constituents going to get home in the morning?

So luckily, the world has changed since then, and I know it personally because my dad had three arrests for DWI, and finally when he got that last one, it was in the last decade and it made a difference, because the penalties were more severe. And he changed his life and he's not drinking any more and he's really doing great. That happened because of the pressure on the Federal level for the stiffer penalties.

I just end with two things. One is there has been a lot of talk about teenagers, and I agree with you. I have a teenager and I've seen them all the time with their texting, although she doesn't do as much as others. But I'm hopeful that we do not limit these rules. I know some states have looked at this. I think Wisconsin is looking at this, to limit it just for teenagers, because, as the Chairman has pointed out, there are issues. I've seen many politicians looking at texts who are not teenagers while they're driving.

The second thing is that I just throw out there for maybe Secretary LaHood is this idea of the kind of enhanced penalties that we have. This would be a state issue. The states would do this, for drunk driving. For instance, if you kill someone when you're drunk it's a lot easier to prove, as I know from when I was a prosecutor, than if you just were reckless. And it's very possible that we could do the same with texting, so that it would be a more automatic penalty, the things we were referring to with Utah and the like.

So while the texting ban is important, I also am hopeful that the states will start having enhanced penalties when deaths or injuries occur as a result of texting. Maybe you want to end by discussing that.

Secretary LAHOOD. I don't want to just do it for teenagers. I think texting is a distraction for any person. It's an epidemic among teenagers. I can tell you that people my age and generations beyond me don't do a lot of texting. They may do some, but not a lot. Teenagers do.

The other point is I do think strong law enforcement and tough penalties are the answer. If you're going to enact a law, make tough penalties. In Illinois if you get caught the first time above .08, 5 days in jail and you lose your license for 3 months, no equivocations, no ifs, ands, or buts about it. That has taken a lot of drunk drivers off the road and saved a lot of lives.

So I say tough penalties work.

Senator KLOBUCHAR. Would you also say that the Federal inducements and the Federal Government pushing—

Secretary LAHOOD. When the Federal Government said if you don't—some people aren't going to like this. I'm glad Senator Wick-er's gone.

Senator KLOBUCHAR. This is why we're doing this right now, Secretary LaHood.

Secretary LAHOOD. When Congress said set the speed limit at a certain limit or you're not getting your highway funds, what happened? People started to slow down to a speed limit that was established universally. And the states that didn't, they didn't get their money. Very few states didn't get their money.

Senator KLOBUCHAR. Well, that's why I'm also on Senator Schumer's bill, as well as the carrot bill. I think they're both worth looking at.

Thank you.

Senator LAUTENBERG. Mr. Chairman, if I may have a moment. I, immodestly, am the author of the 21 Drinking Age Bill and the .08 bill. With the Drinking Age Bill, the year was 1984 when we passed it. We found out that, having experienced incentive-oriented opportunities for states, it didn't do a darn thing. Finally, we imposed a penalty and they came. Some of them were dragging in at the last minute, and Washington, D.C., was one of the last to accept it. They didn't want to have that kind of control imposed on them.

So when you look at these things—Mr. Chairman, you said that you had kind of a revelation when talking about Chuck Schumer's bill, which I am also a co-sponsor of. But unfortunately, incentives don't carry the weight.

To your suggestion about the need to hurry up here, the immediacy of the problem, we heard it from Senator Klobuchar. That is, start the penalty routine right away.

Tell the states that, we're about to render penalties if you don't put action into force. But even if we can't do that, I think there probably is a way for the Department of Transportation to initiate a system that says, OK, as of next month we want to know about police enforcement of these rules, and start to save people's lives. Good suggestion.

Senator KLOBUCHAR. Mr. Chairman, you know what the best thing was about this hearing? No one did their BlackBerry during it. Everyone was listening.

The CHAIRMAN. This dais is high.

Senator KLOBUCHAR. It wasn't that much. There was some minimal BlackBerrying at the beginning and then it went away.

The CHAIRMAN. All right. I thank both of you very, very much. We have our work to do and this is just the—the discussion has been going on for a long time, but 812,000 as we speak.

The hearing is adjourned.

[Whereupon, at 4:10 p.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Mr. Chairman and Ranking Member Hutchison, thank you for calling this hearing. I want to welcome Secretary LaHood and Chairman Genachowski.

First, I want to commend Chairman Genachowski's for your leadership on the Commission's Notice of Proposed Rulemaking on net neutrality. Net neutrality is not only about the future of the Internet, it is really about our Nation's economic future, as the Internet each day becomes more integral to everything we do. I believe transforming the six net neutrality principles into practical and implementable rules will create certainty in the marketplace. It is the right thing to do.

Mr. Secretary, I want to thank you for holding the Distracted Driving Summit. It was a very timely conference to look at the best ways to reduce the number of crashes and deaths due to distracted driving. Motorists handle any number of distractions each and every time they drive, from conversations with passengers, to changing CDs or the radio station, to rubbernecking as a result of seeing something that catches their eye on the roadside.

PEMCO Insurance in Seattle annually conducts a poll of Washington motorists to learn what they do behind the wheel and what they perceive to be the most dangerous distractions. In a 2004 survey of 600 Washington drivers, the top self-reported distraction is that they eat while driving. Sixty 5 percent admitted they ate while driving. This was followed by almost 60 percent who said they used a cell phone while driving. Shaving or applying makeup came in at fourteen percent and 3 percent said they texted while behind the wheel. PEMCO's most recent poll released this past June indicated that eighteen percent of Washington drivers said that they read or send text messages while driving. This is up from 6 percent of motorists in 2008 and represents a six-fold increase in 5 years.

In 2007, when the state legislature was considering a bill to ban texting while driving, some argued for government to take a wait and see approach before it took any action. They pointed to data collected by the Washington State Patrol indicating hand held electronic devices were a factor in less than 1 percent of collisions and 3 percent of fatal crashes. And they could also point to the fact that the three leading contributing circumstance in fatal collisions remain driving under the influence of alcohol, exceeding reasonable safe speed, and not wearing a seatbelt.

Washington State prides itself as a leader in reducing deaths and serious injuries from collisions. For example, over ninety 6 percent of our drivers wear their seat belts. It was not surprising then that state legislators wanted to nip the growth of this dangerous and preventable distraction in the bud before it did become a more significant contributing circumstance in collisions.

Washington State became the first state in the Nation to pass a law that made texting while driving in a motor vehicle illegal. Our law went into effect in January 2008. But similar to our law that prohibits talking with a wireless phone to your ear, texting while driving is a secondary offense. This means that a driver will only get a \$124 ticket if they are stopped for another moving traffic violation. Additionally, the Washington State Patrol examines other driver distractions on a case-by-case basis in traffic stops with fines up to \$550.

To date, the Washington State Patrol has issued on the order of 250 tickets for texting while driving. But more telling is that officers have issued over twice as many warnings. Ultimately, it is about educating drivers and changing their behavior.

The Federal Government can and should support states in educating motorists about the dangers of distracted driving and in promoting defensive driving. But laws banning texting in passenger vehicles and the enforcement of these laws are best carried out at the state level.

I recognize that companies producing wireless electronic devices for use in passenger vehicles are already working on how to incorporate text-to-voice features into future generations of hands-free product. If successful, text-to-voice may mitigate

one new and dangerous type of driving distraction, but not eliminate the danger of distracted driving entirely.

I can't help but to think back to the 2004 PEMCO Insurance survey where 65 percent of respondents said they ate while driving. We will never be able to eliminate distracted driving. But similar to our approach in reducing impaired driving or convincing car occupants to wear seatbelts, we have to be in it for the long haul. We need to be persistent. We need to make sure that education and enforcement efforts are sustained over time.

Companies should be encouraged to make it corporate policy—immediately—that its employees use only hands-free wireless devices and do not text while driving. The President set out a good example in his Executive Order for Federal workers.

I look forward to hearing from the witnesses.

PREPARED STATEMENT BY HON. JOHN THUNE, U.S. SENATOR FROM SOUTH DAKOTA

Thank you, Mr. Chairman, for holding today's hearing on the important highway safety issue of Distracted Driving. I also want to thank Secretary LaHood and Chairman Genachowski for testifying today.

Let me begin by commending Secretary LaHood for holding the recent summit on distracted driving. While distracted driving is not a new issue, DOT's summit has significantly heightened awareness about the seriousness of the problem. I think we have all been guilty at one time or another of multi-tasking in our cars, whether by talking on a hand-held cell phone, reading the headlines from today's newspaper, or dispensing with e-mail. But accident statistics show it is time to stop multi-tasking and time to give complete attention to our driving.

In my home State of South Dakota, distracted driving is especially dangerous for teenagers. South Dakota's Department of Highway Safety estimates that in 2007, distracted driving was a factor in over 50 percent of the crashes involving teen-aged drivers. Overall, distracted driving has been a contributing factor for about 3 percent of drivers in fatal crashes in South Dakota—a lower contributing factor than speeding and driving under the influence, but still significant.

Action is needed, but not through a heavy-handed Federal mandate. The States are best able to address this issue—like so many other issues—and can do so without the threat of having their Federal highway funds withheld unless they take specific action dictated from here in Washington.

A better approach is the one Senators Rockefeller, Hutchison, Lautenberg, Schumer and I are supporting, which would encourage the States to adopt distracted driving legislation by offering incentive grants to States that do so. Any State that adopts a law to prohibit the use of a hand-held cell phone and texting while driving, except in emergencies, would be eligible for a grant. Since unused funds available for existing programs would be used to fund grants for distracted driving, there would be no net increase in Federal spending.

The Federal Government does have a direct role to play in ensuring the safety of truck, motor coach, and school bus operations, and our bill would direct the Federal Motor Carrier Safety Administration to issue regulations on the appropriate use of electronic devices by those drivers. It is important that we address the behavior of all drivers, and I hope the American Trucking Associations, Owner-Operator Independent Drivers Association, American Bus Association, and school bus drivers will work with us to enact this legislation.

Thank you, Mr. Chairman. I look forward to hearing from our witnesses.

PREPARED STATEMENT OF EDWARD MORELAND, VICE PRESIDENT,
GOVERNMENT RELATIONS, AMERICAN MOTORCYCLIST ASSOCIATION

Chairman John D. (Jay) Rockefeller IV, Ranking Member Kay Bailey Hutchison and members of the Committee, thank you for the opportunity to provide comment on the issue of the use of technology in combating distracted motor vehicle operation.

Founded in 1924, the American Motorcyclist Association (AMA) is the premier advocate of the motorcycle community representing the interests of millions of on- and off-highway motorcyclists. Our mission is to promote the motorcycle lifestyle and protect the future of motorcycling.

The AMA is encouraged to learn that this Committee, by holding this hearing, acknowledges the dangers attributed to distracted driving, and places a priority on finding practical and fair solutions for all road users. The AMA requests to be included whenever developing technologies are discussed, so that we may take into account the presence of motorcycles, bicycles and pedestrians. This issue greatly af-

fects the motorcycle community, and bringing awareness to it may prevent crashes from occurring in the first place, and thereby reduce the likelihood of injury to all users of America's roadways.

The increasing numbers of motorcycle crashes caused by distracted drivers have spurred action on the part of the motorcycle community. Indeed, a recent AMA presentation at a motorcycling conference in Emporia, Kansas focused on the issue of distracted driving. The AMA will deliver this same presentation at upcoming motorcycling conferences in Indiana, Michigan, Illinois, Pennsylvania and Ohio to motivate activists in the motorcycling community to bring greater attention to this issue.

In addition to the aforementioned conferences, the AMA recently released a position statement addressing the issue of distracted and inattentive vehicle operation. In our statement, we acknowledged and emphasized that the primary responsibility of all roadway users is the safe operation of their vehicles, regardless of the source behavioral or technological—of the distraction. To see AMA's full position statement on distracted and inattentive vehicle operation, please see attached document.

Recently, the AMA was invited to attend the recent U.S. Department of Transportation Distracted Driving Summit in Washington, D.C., hosted by Transportation Secretary Ray LaHood. During the question and answer session following the Legislation, Regulation and Enforcement of Distracted Driving panel discussion on day two of the Summit, the AMA posed questions to the panel.

We expressed our concern that little to no attention was paid to America's roadway users, such as motorcyclists, bicyclists and pedestrians, when research and technology issues were discussed. Furthermore, we requested to be included whenever distracted driving issues are discussed

because our community has experienced many personal tragedies directly attributable to distracted or inattentive vehicle operation.

I wish to thank the Chairman, the Ranking Member and the Committee for holding this hearing on combating distracted driving. The AMA respectfully requests that the motorcycling community be included in the ongoing discussions and development of technologies so that comprehensive solutions are found that take into account motorcyclists, bicyclists, and pedestrians.

ATTACHMENT

AMA Position Statement on Distracted and Inattentive Vehicle Operation

All road users are responsible for the safe operation of their vehicles on public roads and highways. Advances in mobile technology have made it easier than ever to become momentarily distracted by operating the controls of a stereo system, a global positioning unit, or some other device.

The American Motorcyclist Association (AMA) acknowledges that motorcyclists in addition to car drivers, truck drivers, and even bicyclists—share this responsibility. Distracted motorcycle operation can be every bit as dangerous to the operator, other road users, and pedestrians as the distracted operation of a larger motor vehicle.

The AMA recognizes that distracted or inattentive driving has become a major concern to the motorcycling community. Far too many cases have been documented of motorcyclists being injured or killed as the result of other vehicle operators being distracted or inattentive.

Motor vehicle operators engaged in distracted or inattentive driving behaviors are not just a danger to motorcyclists they endanger pedestrians, bicyclists, roadside assistance and emergency medical personnel, highway construction workers, law enforcement personnel, and the list goes on. For too long, inappropriate non-driving activities while operating a motor vehicle have been accepted as just the way it is.

Even the National Highway Traffic Safety Administration (NHTSA) acknowledges that distracted and inattentive driving behaviors have significantly contributed to motor vehicle crashes. From an NHTSA report:

Driver inattention is the leading factor in most crashes and near-crashes, according to a landmark research report released today by the National Highway Traffic Safety Administration (NHTSA) and the Virginia Tech Transportation Institute (VTTI). Nearly 80 percent of crashes and 65 percent of near-crashes involved some form of driver inattention within 3 seconds before the event. Primary causes of driver inattention are distracting activities, such as cell phone use, and drowsiness.

Within the last few years in nearly every state, new legislation has been introduced to address some facet of distracted or inattentive driving. Most of the bills are well intentioned. However, almost all focus on only one or a few in-vehicle behaviors, such as cell phone or text messaging system use, rather than addressing

the main issue. Other bills, particularly those with age-based restrictions or prohibitions, are virtually unenforceable in the real world.

Several bills, however, specify that distracted or inattentive behavior that contributes to a crash would subject the vehicle operator to enhanced penalties, similar to aggravating circumstances such as operating a motor vehicle under the influence of alcohol or drugs. This approach is promising because enhanced penalties for violations resulting in injury or death to other roadway users holds violators more accountable for their actions. Note that specific restrictions or prohibitions are not required any distracted or inattentive behavior that can be documented prior to a crash can be used as evidence.

Therefore, the AMA supports legislation that includes enhanced penalty options to be determined by the courts. Examples of penalties include the following, but are not limited to enhanced fines, operator's license suspension, points assessed on an operator's record, community service, and imprisonment. Additionally, the AMA supports the prominent placement of signage that notifies roadway users that the state provides specific sanctions for those convicted of moving violations while operating a motor vehicle in a distracted or inattentive manner. The inclusion of these sanctions depends on a state's current penalty structure of similar-magnitude offenses.

The AMA has adopted this position statement on distracted and inattentive motor vehicle operation because roadway users such as motorcyclists, bicyclists and pedestrians pay a disproportionately higher price for motor vehicle operator distraction and inattention.

References

Source: Breakthrough Research on Real-World Driver Behavior Released, NHTSA, April 20, 2006, <http://tiny.cc/5ohRr> The 100 Car Naturalistic Driving Study, NHTSA, DOT HS 808 536, <http://tiny.cc/vOUMA> An Overview of the 100-Car Naturalistic Study and Findings, Vicki L. Neale, <http://tiny.cc/mL8QL>.

AT&T SERVICES, INC.
Washington, DC, November 3, 2009

Hon. JOHN D. ROCKEFELLER IV,
Chair, U.S. Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Hon. FRANK R. LAUTENBERG,
Chair, U.S. Senate Subcommittee on Surface Transportation and Merchant Marine
Infrastructure, Safety, and Security,
Washington, DC.

Dear Chairman Rockefeller:

Dear Chairman Lautenberg:

AT&T congratulates you on introducing S. 1938, the Distracted Driving Prevention Act of 2009, and commends your leadership in convening the recent hearing, "Combating Distracted Driving: Managing Behavioral and Technological Risks." This is legislation we are delighted to endorse, and pledge to you our full efforts to assist in its passage. We feel the measure is vitally needed, and, if enacted, could save lives.

Our support for this legislation, and particularly its emphasis on public education and outreach, flows naturally from our own customer and general public education initiatives. Starting next week, dozens of wireless devices offered in our stores will feature a "don't-text-and-drive" message on their protective packaging, and were working with numerous manufacturers to incorporate similar messaging into user guides and handset boxes as well. Starting next month, we will initiate a new public awareness campaign across traditional and digital mediums to remind consumers to not text and drive.

In addition AT&T has revised its internal wireless and motor vehicle policies to expressly prohibit its 290,000 employees from texting while driving, and is incorporating a section on the dangers of texting while driving in its defensive driving classes for all employees who drive on the job.

We believe that our initiatives, as well as the those of our partners, such as The National Safety Council, are already beginning to bear fruit in this effort, and we are optimistic that we will continue to see extremely high levels of internal and external awareness of the dangers of distracted driving in general, and texting while

driving in particular. We look forward to partnering with you and other stakeholders to address these challenges in the months ahead.

Very truly yours,

JIM CICONI,
Senior Executive Vice President,
External and Legislative Affairs,
 AT&T Services, Inc.

TRUCK SAFETY COALITION, PARENTS AGAINST TIRED TRUCKERS
 AND CITIZENS FOR RELIABLE AND SAFE HIGHWAYS,
 Arlington, VA, December 1, 2009

Hon. JOHN D. ROCKEFELLER IV,
 Chair,
 U.S. Senate Commerce, Science, and Transportation Committee
 Washington, DC.

SUPPORT FOR THE DISTRACTED DRIVING PREVENTION ACT OF 2009

Dear Mr. Chairman:

The Truck Safety Coalition, a partnership between Citizens for Reliable and Safe Highways (CRASH) and Parents Against Tired Truckers (P.A.T.T.), is writing to inform you of our support for S. 1938, the Distracted Driving Prevention Act of 2009. We applaud your leadership and continuing efforts to improve commercial motor vehicle safety and specifically, addressing the growing problem of driver distraction with this legislation. The Truck Safety Coalition is dedicated to reducing the number of deaths and injuries caused by truck-related crashes, providing compassionate support to truck crash survivors and families of truck crash victims, and educating the public, policy-makers and media about truck safety issues.

Considering that nearly 5,000 people are killed and 100,000 more are injured each year in truck crashes, we specifically commend your inclusion of the provisions addressing commercial motor vehicle drivers. Currently, large trucks make up only 3 percent of all registered vehicles but represent 9 percent of all vehicles involved in fatal crashes and 12 percent of all crash fatalities. The large number of truck-related deaths is equivalent to one airplane crash every week. A growing number of scientific studies have verified the serious, adverse impact on driver and passenger safety as a result of using one or more types of electronic devices. Similar to airplane pilots, commercial motor vehicle drivers should not have their attention diverted from safe operation of their vehicles.

This legislation is a comprehensive step toward addressing the dangers of distracted driving. Additional recent positive actions on this issue include President Obama's issuance of an Executive Order last month which prohibited Federal employees from texting while driving. In July, the Washington Area Metropolitan Transit Authority in the District of Columbia issued a zero-tolerance policy for Metro bus and rail operators using mobile devices while on the job, and a year ago, the Federal Railroad Administration issued an Emergency Order restricting the use of electronic devices by railroad employees after a commuter/freight train head-on collision. Considering the dramatic, highly disproportionate impact on public safety that results from large truck crashes, now is the time to establish appropriate controls over the use of devices that distract one from performing an already challenging task.

Thank you once again for introducing this important and potentially life-saving legislation. We look forward to working with you and your staff to assist your efforts.

Sincerely,

JOHN LANNEN,
 Truck Safety Coalition.
 JOAN CLAYBROOK,
 Citizens for Reliable and Safe Highways.
 DAPHNE IZER,
 Parents Against Tired Truckers.

From: Ted Knappen
 Sent: Thursday, November 05, 2009 11:49 AM
 To: Phillips, Mary (Commerce)
 Cc: Begeman, Ann (Commerce); Drake, John (Commerce); Porter, Melissa (Commerce); 'Clyde Hart'
 Subject: distracted driving

Mary,

During our recent meeting, you asked that we review and comment on S. 1938, the distracted driving bill introduced recently by the bipartisan Commerce Committee leadership. Greyhound and its parent corporation, FirstGroup America, both strongly support this legislation. Greyhound is the Nation's largest fixed route inter-city bus operator and FGA is the largest school bus contractor and a leading transit bus contractor.

The key provision of S. 1938 for us is Section 8, which requires DOT to promulgate within a year a regulation governing the use of electronic devices or wireless devices, including cellphones by drivers of commercial vehicles and school buses. This section does not mandate a particular result, but rather directs DOT to promulgate rules based on research and analysis, which "prohibit the use of such devices in circumstances in which the Secretary determines that their use interferes with the driver's safe operation of a school bus or commercial motor vehicle." An exception is allowed "if the Secretary determines that such use is necessary for the safety of the driver or the public in emergency circumstances."

Distracted driving is a critical safety issue and is one that DOT should address with regard to commercial vehicles and school buses. Indeed, consideration should be given to expanding the legislation to include transit buses. The bill takes the right approach in directing DOT to do the necessary research and analysis and then promulgate rules based on that analysis.

I should note that FGA has already moved to combat distracted driving. In 2008, FGA adopted a new company-wide policy, which applies to all divisions including Greyhound. That policy prohibits all employees and contractors from using a mobile device, either hand-held or hands-free, while driving. Employees are instructed to pull over at a safe location and turn off the engine before making a call or sending a text message.

FGA and Greyhound support S. 1938 and would be happy to work with the Committee to achieve its early passage.

Thanks.

TED KNAPPEN,
 Government Affairs Representative,
 FirstGroup America and Greyhound.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
 HON. RAY LAHOOD

Question 1. Secretary LaHood, how many deaths and serious injuries annually are caused by impaired driving as compared to those caused by distracted driving?

Answer. The crash data collected by NHTSA do not allow determination of specific causes of crashes. However, the agency can use these data to estimate the numbers of deaths or injuries in crashes involving driver distraction or impaired driving. In 2008, nearly 6,000 people died in crashes involving a distracted driver, and it is estimated that more than half a million were injured. In 2008, nearly 12,000 people were killed in alcohol-impaired driving crashes, where a driver had a blood alcohol level above 0.08 BAC—the legal limit in every State.

Question 2. Secretary LaHood, Washington State bans texting while driving, but it is a secondary offense. A motorist first has to be pulled over for a moving violation, before the officer can write a ticket for texting while driving or using a handheld wireless device. In other states that ban texting while driving, it is a primary offense. Based on the Department's Distracted Driving Summit, in terms of effectiveness, do you believe it makes a difference whether the violation is a primary or secondary offense?

Answer. The Department's experience with primary and secondary seat belt laws strongly suggests that secondary driver distraction laws will be difficult to enforce and consequently less effective than distraction laws that allow primary enforcement. Law enforcement leaders and other experts who participated in the Department's Driver Distraction Summit strongly recommended that states enact primary enforcement driver distraction laws.

Question 3. Secretary LaHood, one source of driver inattention is fatigue. As you know, in recent years, the Committee has examined issues surrounding operator fatigue in rail, airline, and trucking industries. Currently, is the Department looking at what, if anything, can be done to reduce the risks associated with driver fatigue in passenger vehicles?

Answer. Crash reports indicate that in 2008, drowsy drivers were involved in 741 fatal crashes (2 percent of all fatal crashes), 36,000 injury crashes (2 percent of all injury crashes), and 43,000 property-damage only crashes (1 percent of all property-damage only crashes). NHTSA continues to study crash avoidance systems that are designed to alert inattentive drivers of the need to take avoidance actions or that actually initiate vehicle actions to prevent or reduce the severity of an imminent crash. Such systems include lane departure warning systems, forward collision warning systems, and crash-imminent braking systems.

Question 4. Secretary LaHood, in its September 2009 Traffic Fact Safety Note, the National Highway Traffic Safety Administration says it is engaged in researching driver distraction with respect to both behavioral and vehicle safety countermeasures in an effort to understand and mitigate crashes associated with driver distraction. What are some of these specific efforts?

Answer. We are implementing a DOT-wide action plan to address distracted driving, including a personal commitment from me to take a tough stance against distracted driving by our employees. This action plan addresses safety regulation and enforcement, partnerships with State and local governments, education and outreach, and further research. The areas for research that we are planning are: (1) working alongside industry and State and local partners to develop best practices and standards for electronic devices that will minimize distraction risk across all modes of transportation, and (2) continue developing the most comprehensive possible set of data to gain a better understanding of how we can allow technology to evolve without distracting drivers and sacrificing safety. As additional research is being planned, we will engage stakeholders and the public to most effectively shape the research projects we undertake.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO
HON. RAY LAHOOD

Question 1. In addition to examining the dangers of distracted driving, will the Department of Transportation investigate and educate the public about the dangers of cell phone use for pedestrians?

Answer. While the focus of the Department's distraction efforts is currently on drivers, we will continue to collect and analyze any available information on the issue of distracted pedestrians. In 2008, police crash reports listed inattention of the pedestrian as a factor in 87 pedestrian fatalities (2 percent of all pedestrian fatalities). Reports of pedestrian inattention could include talking, eating or reading a book while walking. In total, more than 4,000 pedestrians were killed and nearly 70,000 were injured in 2008. Estimates of the proportion of these deaths that might be attributed to specific types of pedestrian distraction are not available. DOT will continue to advance its transportation safety agenda.

Question 2. Over the past decade, the number of people killed in crashes with large trucks has averaged five thousand each year. What actions is this Administration taking to reduce the number of fatalities caused by large trucks?

Answer. NHTSA is focusing on brakes, tires, and the potential benefits of electronic stability control. The agency issued a final rule in July 2009 to reduce the stopping distance of truck tractors and is evaluating whether a similar approach is needed for straight trucks and buses. NHTSA also is conducting extensive testing on the tires used in commercial and bus applications and expects to propose an upgrade of the tire standard in FY2010. The agency is conducting research on electronic stability control (ESC) and roll stability control (RSC) systems that are equipped on truck tractors and motor coaches. NHTSA expects to make a regulatory decision later this year on ESC.

NHTSA is also researching the safety benefits, performance characteristics, and the integration of advanced driver assistance systems that aid in crash prevention and mitigation for heavy trucks. The agency coordinates closely with the Federal Motor Carrier Safety Administration (FMCSA) on in-service safety issues such as antilock braking systems, driver fatigue, vision enhancement systems, and stability control. In several areas, FMCSA is conducting research on in-service vehicles, which can provide NHTSA with supporting data to achieve its rulemaking objectives.

FMCSA is committed to saving lives and reducing injuries through the enforcement of the Federal Motor Carrier Safety Regulations and the Federal Hazardous Materials Regulations. As of 2008 (the most recent calendar year for which crash data is available), the fatality rate from crashes involving large trucks and buses fell to 0.155 fatalities per 100 million vehicle miles traveled (VMT), the lowest rate yet achieved. Part of this decline may be attributable to reduced VMT in the current recession, but the downward trend is unmistakable.

While the reduction in the fatality rate represents significant progress, we acknowledge that much more needs to be done to reduce the number of fatalities. We will continue to focus our efforts on the issuance of new safety regulations, development of more stringent and effective safety and enforcement programs, delivery of enhanced education and outreach materials to assist the truck and bus industries in achieving greater levels of compliance, research, technology transfer, and information technology systems modernization. We will also continue our efforts to educate drivers of non-commercial vehicles, whose unsafe behavior causes many truck and bus crashes. The following is a summary of some of the initiatives we are pursuing to further enhance commercial motor vehicle (CMV) safety.

- *Distracted Driving*—On September 30–October 1, the Department held a Distracted Driving Summit to identify potential solutions to the problem of passenger car and CMV drivers diverting their attention from the roadway for distracting activities such as using of electronic devices. The Department will initiate a rulemaking to prohibit texting by all CMV operators and to ensure that school bus drivers are disqualified from transporting children to and from school if they are convicted of texting while driving. The Department will also initiate a rulemaking to restrict the use of cell phones, especially by bus drivers.
- *Reconsideration of Truck Drivers' Hours of Service*—FMCSA is initiating a new hours-of-service rulemaking to determine whether certain provisions of the current rule should be amended or revised to improve the safe operation of CMVs. The Department has entered into a settlement agreement with safety advocacy groups and others to hold in abeyance a petition for judicial review of FMCSA's November 19, 2008, final rule concerning hours of service pending the issuance of an NPRM.
- *Electronic On-Board Recorders (EOBRs)*—FMCSA previously issued a proposed rule on EOBRs that would amend the Federal Motor Carrier Safety Regulations to incorporate new standards for EOBRs, and address the need for mandatory installation of EOBRs on commercial motor vehicles. FMCSA expects to complete the rulemaking by the spring of 2010.
- *Comprehensive Safety Analysis 2010*—FMCSA will issue a Notice of Proposed Rulemaking to implement a new safety fitness determination process based on its new Safety Measurement System (SMS). The new SMS is a high-risk carrier identification and intervention system that will enable the Agency to identify at-risk carriers sooner than the current process (SAFESTAT) and the rulemaking will enable the Agency to remove more unsafe carriers from the Nation's highways than the current safety fitness determination process.
- *Controlled Substances and Alcohol Test Results Database*—FMCSA will initiate a rulemaking proposing a National database of verified positive controlled substances and alcohol test results to ensure that drivers who test positive for controlled substances and alcohol comply with the requirements to see a substance abuse professional (SAP) and successfully complete return-to-duty and follow-up testing.
- *New Entrant Safety Assurance Program*—In December 2009, FMCSA will fully implement new requirements for companies entering into the motor carrier industry. Under the new program, new entrant carriers that fail to demonstrate they have all the required safety management controls in place at the time of the new entrant audit will be subject to tougher enforcement actions. Motor carriers that fail to correct deficiencies in their safety management controls will be shut down.
- *New Applicant Screening Process*—FMCSA will continue to implement its New Applicant Screening Process to verify that new carriers entering into the industry are not in fact "chameleon" carriers—existing companies that are attempting to evade FMCSA and State agencies by shutting down their operations after enforcement actions have been initiated, and reopening under a new business name.
- *Motorcoach Safety Plan*—The Department has developed a Motorcoach Safety Plan to significantly enhance commercial passenger carrier safety. FMCSA, NHTSA, FHWA, FTA, and PHMSA collaborated in the development of a com-

prehensive plan and reached out to stakeholders to get feedback on the plan. The plan was released on November 16. It addresses major safety issues, such as driver fatigue and inattention, vehicle rollover, occupant ejection, and oversight of unsafe carriers.

- *Medical Review Board*—FMCSA operates a Medical Review Board (MRB)—a Federal Advisory Committee authorized by SAFETEA-LU—that is responsible for providing advice and recommendations on the Agency's medical standards. The MRB has considered the most up-to-date scientific data and provided recommendations on a number of medical topics, including criteria for cardiovascular conditions, vision, diabetes, seizure disorders, and sleep apnea. The Agency will establish rulemaking teams to develop regulatory options.
- *Merger of Medical Certification and Commercial Driver's License (CDL) Issuance and Renewal Process*—FMCSA will implement new requirements for interstate CDL holders to submit to their State licensing agencies proof of their medical qualifications. The information would then be posted on their electronic driving record so that law enforcement officials can verify their medical certification status during roadside inspections. Individuals who allow their medical certificates to expire will have their CDLs downgraded, automatically.
- *Establishment of a National Registry of Certified Medical Examiners*—The Agency has proposed new training and testing requirements for all healthcare professionals responsible for issuing medical certificates to truck and bus drivers. The rulemaking would ensure that medical examiners are knowledgeable about the Federal physical qualification standards and apply the rules in a consistent manner. Medical examiners who fail to comply with the requirements would be removed from the National Registry and could no longer issue medical certificates.
- *Safety Belt Campaign*—FMCSA will continue its outreach campaign to increase the safety belt usage rate of CMV drivers. Historically, drivers of large trucks have lagged behind the general driving public in safety belt usage. FMCSA's efforts have led to an increase in safety belt usage among drivers of large trucks. As of calendar year 2008, safety belt usage among CMV drivers is estimated to have increased to 72 percent, compared to 84 percent for passenger vehicle occupants.

Question 3. My rail safety law, which was enacted last year, required the DOT to study the use of personal electronic devices by railroad employees. Based on this study, what long-term actions does DOT plan to take regarding the use of electronic devices by railroad workers?

Answer. DOT shares your concerns about the use of personal electronic devices by railroad employees. On October 1, 2008, DOT's Federal Railroad Administration (FRA) issued Emergency Order No. 26, which restricts the use of personal electronic devices by railroad operating employees during any period they are responsible for safety-critical duties. FRA has started a rulemaking to codify the emergency order. FRA also intends to do additional research to evaluate whether a broader ban is required.