

# THE CELLTINEL SOLUTION

## I. BACKGROUND

An increasingly severe and well-documented vehicular safety hazard is the driver's distraction caused by using hand-held cell phones. This multitasking includes driving while text messaging, driving while "surfing" the Internet on their cell phone, receiving/responding to e-mails, driving while having phone conversations, and watching video content. The crisis is especially severe for youthful drivers who tend to "multitask." In response, many jurisdictions have enacted outright bans on mobile devices in moving vehicles unless used in a hands-free mode.<sup>1</sup> This remedy, though, denies drivers the use of their hand-held phones in emergencies and is not reliable, as it depends upon voluntary compliance or law enforcement. It exposes the owners of commercial vehicles to civil liability from others who might be injured in accidents caused by their driver's illegal use of hand-held mobile phones.

The Celltinel is a sensible response. It operates to deny a cell phone connection to a user in a motor vehicle traveling in excess of a specified minimum speed, currently set at 15 MPH, unless the cell phone has been paired with a currently active Bluetooth device. This is accomplished by generating an emission that prevents the cell phone from receiving a signal.

The Celltinel emission is directional and of sufficiently low power that it will work only to deny communications in an area within the vehicle compartment and produce practically no perceptible interference outside the operating vehicle. To assure that its effects are limited to that restricted area, it is designed to work only when installed in the vehicle. It is not portable and it will work only when in motion. Once installed, it is passive, and so it does not require activation in a specific instance, nor does it permit defeat by drivers who may wish to avoid its intended effect.

The Celltinel is targeted to parents, school bus supervisors, trucking companies and other fleet managers who are torn between ensuring access to emergency communications for their drivers and avoiding the risks of driver distraction that lead to highly preventable accidents. By enabling calls from a stopped or slow moving vehicle, Celltinel permits full use of cell phones for emergency communications while its emission characteristics prevent unintended interference to unsuspecting passengers and neighboring vehicles.

## II. THE SCOPE OF THE PROBLEM

Highly credible studies consistently find that the vast majority of vehicular accidents are due to driver distraction and that the most common distraction is a driver's use of a mobile phone. In 2002, the Harvard Center for Risk Analysis estimated that the use of cell phones by drivers

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<sup>1</sup> According to the Governors Highway Safety Association, five states (California, Connecticut, New Jersey, New York and Washington), the District of Columbia and the Virgin Islands have enacted jurisdiction-wide cell phone laws prohibiting driving while talking on handheld cell phones, 17 states have special cell phone driving laws for novice drivers, , and 15 states prohibit school bus drivers from all cell phone use when passengers are present, except in emergencies. [http://www.ghsa.org/html/stateinfo/laws/cellphone\\_laws.html](http://www.ghsa.org/html/stateinfo/laws/cellphone_laws.html) Last viewed March 31, 2008

caused 2,600 deaths, 330,000 moderate to critical injuries and 1.5 million instances of property damage, at a national cost of \$43 billion.<sup>2</sup> A New England Journal of Medicine study found driver impairment from talking on a cell phone to be at the same level as a drunk driver.<sup>3</sup> A 2006 NHTSA and Virginia Tech Transportation Institute study nearly 80 percent of crashes and 65 percent of near-crashes involve some form of driver inattention within three seconds before the crash and cell phone use is one of the most common driver distractions.<sup>4</sup> The trend is increasing. Already, nearly 2/3 of all drivers use cell phones while driving, and 10% are on cell phones at any given time.<sup>5</sup>

The problem is most severe with young drivers under 21, who are four times as likely to have inattention-related crashes and near-crashes as drivers over 35.<sup>6</sup> The problems for teens just beginning to drive and their parents is recognized on the Governors Highway Safety Association website which states that:

As part of a state's Graduated Driver Licensing (GDL) law, drivers should be discouraged from all non-emergency cell phone use (or use of any other electronic devices) while driving. Young drivers have higher crash rates than more mature drivers and are particularly vulnerable to fatal crashes. Limiting cell phone use as part of a GDL system is one effective way to help reduce the number of teen traffic crashes and fatalities. GHSA encourages parents to use these bans as another tool to ensure safe driving practices by their teens.<sup>7</sup>

According to the Mankato Free Press: "***Teens are the ultimate multi-taskers and they're paying for it on the roads with their lives.***"<sup>8</sup> (As well as the lives of others.) Studies at the University of Utah documents the dangerous distractions from cell phone use, equating a 20-year-old driver behind the wheel with a cell phone to the reaction times of a 70-year-old driver who is not using a cell phone, and liken motorists who talk on cell phones are more impaired than drunken drivers with blood alcohol levels exceeding 0.08.<sup>9</sup>

The number of accidents involving teens related to distracted driving isn't likely to shrink as more and more features are added to cell phones and as other electronic gadgets hit the market. Already, the leading cause of death for Minnesota's 15- to 17-year-olds is traffic crashes, according to the Minnesota Department of Health.

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<sup>2</sup> Harvard Center for Risk Analysis report; Cohen, J.T. and Graham, J.D. A revised economic analysis of restrictions on the use of cell phones while driving. Risk Analysis. 2003; 23(1):5-17.

Also see: [http://www.usatoday.com/news/nation/2004-10-19-handsfree-driving\\_x.htm](http://www.usatoday.com/news/nation/2004-10-19-handsfree-driving_x.htm)

<sup>3</sup> <http://content.nejm.org/cgi/content/abstract/336/7/453>

<sup>4</sup> NHTSA and Virginia Tech Transportation Institute report *The Impact of Driver Inattention on Near-Crash/Crash Risk: An Analysis of 100-Car Naturalistic Driving*. Study Data reports can be found at:

<http://www-nrd.nhtsa.dot.gov/departments/nrd-13/newDriverDistraction.html> ; also see: NHTSA and Virginia Tech Transportation Institute report <http://www.vtmagazine.vt.edu/fall05/feature1.html>

<sup>5</sup> Driving Under the (Cellular) Influence: The Link Between Cell Phone Use and Vehicle Crashes [http://aei-brookings.org/admin/authorpdfs/redirect-safely.php?fname=../pdffiles/WP07-15\\_topost.pdf](http://aei-brookings.org/admin/authorpdfs/redirect-safely.php?fname=../pdffiles/WP07-15_topost.pdf)

<sup>6</sup> Supra, at fn 4

<sup>7</sup> Governor's Highway Safety Association report <http://www.ghsa.org/html/issues/cellphone.html>

<sup>8</sup> [http://www.mankatofreepress.com/editorials/local\\_story\\_350235947.html?keyword=secondarystory](http://www.mankatofreepress.com/editorials/local_story_350235947.html?keyword=secondarystory)

Also see: <http://www.operationstop.com/teendriversoncellphones.shtml>

<sup>9</sup> <http://web.utah.edu/unews/releases/05/feb/cellphones.html>

Scores of additional studies and reports of cell phone dangers in the automobile environment can be gleaned from a simple Internet search. They clearly document the desirability of a solution that can enhance the safety of drivers while protecting innocent motorists and pedestrians.

### III. THE LEGISLATIVE SOLUTION IS INSUFFICIENT

In one form or another, many jurisdictions have already banned the use of hand-held cell phones in vehicles.<sup>10</sup>

A jurisdiction-wide ban on driving while talking on a hand-held cellular phone is in place in 6 states (California, Connecticut, New Jersey, New York, Utah, and Washington) and the District of Columbia.

Localities are allowed to ban cellphone use in 6 states (Illinois, Massachusetts, Michigan, New Mexico, Ohio, and Pennsylvania). Localities that have enacted restrictions on cellphone use include: Chicago, IL; Brookline, MA; Detroit, MI; Santa Fe, NM; Brooklyn, North Olmstead and Walton Hills, OH; and Conshohocken, Lebanon and West Conshohocken, PA.

The use of all cellular phones while driving a school bus is prohibited in 15 states and the District of Columbia.

The use of cellular phones by teens in graduated licensing systems is restricted in 17 states and the District of Columbia.

However, local legislation is inconsistent. Thus:

Localities are prohibited from banning cellphone use in 8 states (Florida, Kentucky, Louisiana, Mississippi, Nevada, Oklahoma, Oregon, and Utah).

Eight states enforce cell phone laws as “secondary laws,” under which an officer must have some other reason to stop a vehicle before citing a driver for using a cellphone. These jurisdictions are: Colorado, Maryland, Nebraska, Oregon, Utah, Virginia, Washington and West Virginia.

Utah has named the offense careless driving. Under the Utah law, no one commits an offense when speaking on a cellphone unless they are also committing some other moving violation other than speeding.

Yet, studies have shown that even when implemented, cell phone bans are ineffective – after a slight decline following enactment of the law, use rebounds to the same or greater levels as before the law.<sup>11</sup> For example, a ban on hand-held cell phones by motorists in Connecticut has been called ineffective by that state’s police and lawmakers, prompting the General Assembly to

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<sup>10</sup> Source: Insurance Institute for Highway Safety, See Appendix 2

<sup>11</sup> Insurance Institute for Highway Safety report: <http://www.iihs.org/sr/pdfs/sr3808.pdf>

consider even harsher ways to toughen the law and force compliance. The legislative solution has proven to be desirable, but clearly insufficient.<sup>12</sup>

#### **IV. THE CELLTINEL SOLUTION**

Thus there is a clear need for a device that depends upon neither driver activation nor vigilant law enforcement. Celltinel's solution is a voluntary compliance approach that can be installed by the owner of a vehicle to ensure that all its drivers will be subject to its protective operation.

The Celltinel device is installed in a vehicle under the dashboard, under the driver's seat or in the headliner above the driver. It is highly directionalized, aimed at the driver's space and affecting an area limited to the driver's immediate vicinity. The narrow beamwidth and low signal level ensure that drivers in nearby cars will be unaffected by its operation. It only operates while the vehicle is in motion (and beneath the specified speed). It can be set to be disabled when it senses Bluetooth connectivity. It does not emit in bands assigned to commercial radio, police and safety communications used by first responders, or Citizens Band communications upon which truckers and taxis routinely depend for their own safety and for the coordination and efficiency of their businesses. Nor does it affect public communication, such as cell phone use outside moving vehicles in which it is installed, nor other electrical components or devices within the vehicle that comprise its safety, GPS and entertainment systems.

Among its collateral benefits are freeing police from enforcement of current cell phone bans for more important duties, enabling employers to reduce legal liability for their agents' accidents, and potential reductions in insurance premiums. The greatest boon, though, will be in reducing the terrible waste of life, health and property caused by preventable accidents due to drivers' cell phone distraction.

#### **V. CONSISTENCY WITH STATE AND TORT LAWS.**

When a vehicle in which Celltinel is installed is operated under conditions where the state completely bans cell phone use, it will have no impact, since the calls it blocks are not permitted anyway. Similarly it will have no impact in other states permitting cell phone use, since its installation is a voluntary decision of the vehicle owner. Otherwise, the device is consistent with specific state laws, in that it can be programmed to operate consistently with the state requirements, such as where only hands-free use is permitted.

The Cellintel also enables the owner of a vehicle who desires a higher degree of self regulation to determine the permissible uses of cell phone mobile devices in the vehicles for which that owner has responsibility and liability exposure. An example may be where a commercial fleet owner has knowledge that drivers use cell phones frequently during the day and thereby increase the probability distraction and an accident. The owner might face the choice of firing the driver, or preventing all but safe use of the cell phone by installing a Celltinel.

Empowering vehicle owners with the discretion to install a Cellintel is fully consistent with general principles of tort law, which imposes liability upon one who permits a third party to

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<sup>12</sup> Web page of WTIC-AM, Hartford CN, <http://www.wtic.com/pages/1090860.php>? Last viewed March 31, 2008

engage in a known dangerous activity or where youth, inexperience of other factors create an unreasonable risk of harm to oneself or others.<sup>13</sup>

## VI. FCC ISSUES:

### A. COMMUNICATIONS ACT §333

The Celltinel operates by emitting a radiofrequency signal, and thus is subject to the jurisdiction of the Federal Communications Commission. As an intentional radiator, the device must obtain FCC certification. A potential challenge is found in §333 of the Communications Act, which provides:

No person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government.

“Stations licensed or authorized” within the meaning of §333 would likely include cellular transmitters. However, the Celltinel device should not be subject to the apparent ban of §333 for at least three reasons.

1. The emissions are not willful and malicious
2. The Celltinel furthers, rather than contravenes public policy. It advances the very purpose that §333 was designed to achieve.
3. The Celltinel is fully consensual and does not thrust an adverse consequence on an unsuspecting person.

The legislative history of §333 is significant. Before the Communications Act was amended in 1990 to add §333, the House Report of the Energy and Commerce Committee stated that the provision was prompted by concern over a substantial increase in willful and malicious interference, primarily to amateur, maritime and Citizens Band radio services, but also to public safety, private land mobile and cable transmissions, as well as to services outside FCC

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<sup>13</sup> For example, the Restatement (Second) of Torts §§ 308 and 390 (1965).

Section 308 provides:

It is negligence to permit a third person to use a thing or to engage in an activity which is under the control of the actor, if the actor knows or should know that such person intends or is likely to use the thing or to conduct himself in the activity in such a manner as to create an unreasonable risk of harm to others.

Section 390 provides:

One who supplies directly or through a third person a chattel for the use of another whom the supplier knows or has reason to know to be likely because of his youth, inexperience, or otherwise, to use it in a manner involving unreasonable risk of physical harm to himself and others whom the supplier should expect to share in or be endangered by its use, is subject to liability for physical harm resulting to them.

jurisdiction, such as the FAA and the Department of Defense.<sup>14</sup> The FCC field offices were finding increasing instances of “. . . intentional jamming, deliberate transmission on top of the transmissions of authorized operators already using specific frequencies in order to obstruct their communications or radio signals of other stations.” This resulted in “. . . local groups or radio users [attempting] to retaliate against the offenders by causing interference to their communications.” In essence, the Commission was faced with a war of specific intentional and malicious interference among licensed radio users, with insufficient and ineffective authority to deal with the situation.

The Commission requested §333 to deal with such specific and malicious interference problems it faced and for which it had only inadequate remedies. Prior to 1990 and §333, the Commission’s only recourse against a malfeator who intentionally interfered with another’s communication was to place the wrongdoer in a lengthy and expensive administrative proceedings to revoke their operator licenses or levy what amounted to an insubstantial fine.<sup>15</sup> At the FCC’s request, to deal with the situation, Congress criminalized the offenses, significantly heightened the available penalties and enabled FCC personnel to immediately seize offending equipment, and thus eliminate the sources of the problem quickly and efficiently.

Curiously, the Report stated the operative provision differently in two contexts: it provided for willful **or** malicious interference to government facilities but willful **and** malicious interference to other radio operation.<sup>16</sup> The provision, as enacted, though, contained a single standard – willful **or** malicious interference – in all instances. This is explained in the Report with the statement that:

The Committee finds that placement of the proposed general prohibition against intentional interference in the Act, in addition to elevating the gravity of such violations, will increase public awareness of the prohibition against this particularly disruptive type of violation.

It is understandable that any interference to a government radio channel -- almost always used for national defense, law enforcement or first responder functions -- would be considered heinous and should be encompassed in the new prohibition. Moreover, in 1990, most federal government communications were on specific government-only frequencies, many classified,

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<sup>14</sup> Federal Communications Commission Authorization Act Of 1990, P.L. 101-396, Stat. 848, October 30, 1989, Senate Report (Commerce, Science, and Transportation Committee) No. 101-215, Nov. 19, 1989 [To accompany S. 1022] at page 104.

<sup>15</sup> As the Senate Committee report noted:

However, the length and complexity of these administrative proceedings and sanctions have not always provided an adequate and timely remedy for immediately ending specific instances of serious, malicious interference or stemming the overall increase of willful interference. Many times a perpetrator will continue to cause interference until actual suspension or revocation of his or her license or after the imposition of monetary forfeiture by the Commission. Moreover, since the stated maximum penalty is \$500 per day, the Commission argues that it is difficult to convince the U.S. Attorney’s Office to expend their limited resources in pursuing such a prosecution.

<sup>16</sup> Section 312(f)(1) of the Communications Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.

and for which any intentional interference would almost by definition have to be malicious, as civilians had no business trespassing on those bands. To a significant extent, that is still true today.

However, the Celltinel device fits none of these purposes or descriptions. It certainly is not malicious; it is designed to save lives, enable compliance with law, and enhance public safety; it operates only against those communications which the user chooses to preclude; and it affects only communications of the user or those who have notice of the device and its purpose and who must be deemed to have voluntarily submitted to its effects. Nevertheless, because of the language of §333, Celltinel faces the legal challenge to overcome the statutory prohibition against willful (and not merely malicious) interference.

There have been relatively few instances in the past 18 years since promulgation of §333 in which the FCC has interpreted or applied that provision. Yet, those that have been considered always dealt with a jamming party interfering with another, unsuspecting victim's communication. In contrast, the Celltinel function fits none of the descriptions of the wrongdoing §333 was designed to prevent.

Every case that has been decided by the FCC applying Section 333 and the rules promulgated under it has involved an instance of willful **and** malicious interference. These include intentional interference with police radar<sup>17</sup> emergency repeaters,<sup>18</sup> or Coast Guard communications from shore to ship.<sup>19</sup> Another instance involved an amateur radio operator interfering with other lawful users to obtain exclusive use of a frequency.<sup>20</sup> Users of Celltinel would be none of these. On the contrary, all of these instances stand for the proposition that malicious interference implies a second party preventing reception of a radio communication without the knowledge of the target and in a damaging manner.

The Commission's regulations, administratively implementing §333 reinforce this conclusion. §25.160 of the Commission's rules states that "A forfeiture will be imposed and the station license may be terminated for the malicious transmissions of any signal that causes harmful interference with *any other* radio communications or signals." [Emphasis Added] By its own language, the rule was not promulgated to apply to someone affecting his or her own communications. The Celltinel will be used with the knowledge of the affected party and in a manner to enhance that person's and others' safety and to aid and assist in complying with the laws of many states and municipalities.

In a single case, The FCC's Enforcement Bureau issued a public notice to the effect that intentional use of radar jammers is considered "malicious interference" and is strictly prohibited

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<sup>17</sup> *Rocky Mountain Radar*, 12 FCC Rcd 15174 (1997), *aff'd*, 12 FCC Rcd 22453 (1997) *aff'd*, *Rocky Mountain Radar, Inc. v. FCC*, 158 F.3d 1118 (10<sup>th</sup> Cir. 1998).

<sup>18</sup> *Paul E. Holcombe*, Forfeiture Order, 15 FCC Rcd. 13632 (2000); *Robert L. Meyers*, Forfeiture Order, 15 FCC Rcd. 8045 (2000).

<sup>19</sup> *Jack Gerritsen*, Forfeiture Order, 20 FCC Rcd. 19256 (2005)

<sup>20</sup> *Daniel Granda*, Forfeiture Order, 10 FCC Rcd. 12781 (2004), *aff'd in relevant part*, 22 FCC Rcd. 3966 (2007).

by the Section 333 of the Act.<sup>21</sup> However, the Public Notice was issued not to address attempts to control individual cell calls, but rather devices marketed to prevent use in an entire public area by those who consider the very concept of using wireless phones in public to be annoying.<sup>22</sup> Unlike the devices to which the Public Notice was directed, the Celltinel would be authorized by the FCC, specifically targets cell phone use that the vehicle owner wishes to avoid, and would always be used in situations with knowledge and to enhance, not evade, enforcement of the law.

In effect, the Celltinel is simply a device that adds control and self determination to a user's environment without causing harm to another. It is no more caustic to cellular communications and creates no more interference to that communication than is created by a simple on/off switch that is programmed to respond to the owner of the vehicle in which the cell device is being used.

#### B. The Role of Statutory Interpretation

It is appropriate for the Commission to exercise its authority to interpret §333 not to apply to the Celltinel device and permit its certification. In *Chevron USA, Inc. v. Natural Resources Defense Council, Inc.*, 467 US 837, 842-44 (1984), the U.S. Supreme Court had held that courts must give effect to an agency's regulation containing reasonable interpretation of an ambiguous statute. While the language of §333 might appear absolute and plain on its face, its application to a socially beneficial device that enables law abiding behavior and promotes safety is contrary to its purpose and makes it *ipso facto* ambiguous.

Although later cases have limited the *Chevron* doctrine, none of them should apply here. For example in *Christensen v. Harris County*, 529 US 576, [page cite] (2000) the Court held that it was not obligated to defer to a Department of Labor opinion letter, that had not been arrived at by a "formal adjudication or notice-and-comment rulemaking," and such "opinion letter-like interpretations contained in policy statements, agency manuals and enforcement guidelines," all of which lack the force of law, do not warrant *Chevron* deference.

*Christensen* could be said to limit the applicability of the Commission's 2005 policy statement on cellular jamming. But, in fact, the FCC frequently operates by means of policy statements unaccompanied by formal rulemaking. Rather, interpretations not made through formal adjudication or notice-and-comment rulemaking are entitled to respect under *Skidmore v. Swift & Co.*, 323 US 134, [page cite] (1944), but only to the extent that those interpretations have the power to persuade the Court. Celltinel submits that its purpose and its benefits are quite persuasive. That persuasiveness is enhanced by the fact that to deny certification to Celltinel because of §333 would in fact do harm to the public interest in safety and cause none of the harms and horrors that the section was designed to combat.

The Supreme Court expounded on its deference standard in *United States v. Mead*, 533 U.S. 218, 226-27 (2001). In *Mead*, the Court held that a ruling qualifies for *Chevron* deference when

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<sup>21</sup> Public Notice: "Sale or Use of Transmitters Designed to prevent, jam or Interfere with Cell Phone Communications is Prohibited in the United States," 20 FCC Rcd 11134 (Enforcement Bureau released June 27, 2005).

<sup>22</sup> Thus, the notice states: "Advertisements for cellular jammers suggest that the devices may be used on commuter trains, in theaters, hotels, restaurants and other locations the public frequents."

it appears Congress delegated authority to the agency to make rules carrying the force of law, and the agency interpretation claiming deference was promulgated in the exercise of that authority.

Such is the case with §333, where the FCC **asked** Congress to give it the authority pursuant to its own tailor-made description of the problem and to apply the remedy that it needed. In such an instance, the agency should be afforded deference to how it wishes to apply its authority, and avoid an overly broad application, particularly since the Court also noted it has long recognized "that considerable weight should be accorded to an executive department's [or agency's] construction of a statutory scheme it is entrusted to administer, and that "even in the absence of express delegation of authority on a particular question, agencies charged with applying a statute necessarily make all sort of interpretive choices."<sup>23</sup>

## VII . SUPPORT FROM PUBLIC SERVICE GROUPS

A short tour on the Internet will demonstrate the breadth of public service organizations that would be expected to support the certification of the Celltinel. Organizations and information sources that have web pages devoted to the dangers of handheld cell phone use and support restrictions to promote public safety include:

1. The Governors Highway Safety Association (GHSA)  
<http://www.ghsa.org/html/issues/cellphone.html>
2. The Insurance Institute for Highway Safety  
<http://www.iihs.org/news/rss/pr071205.html>
3. The Insurance Information Institute:  
<http://www.iii.org/media/hottopics/insurance/cellphones/>
4. CellPhoneSafety.org:  
<http://www.cellphonesafety.org/vehicular/>
5. CTIA (The Wireless Association):  
<http://www.ctia.org/advocacy/index.cfm/AID/10443>
6. ViaMagazine (The American Automobile Association):  
[http://www.viamagazine.com/top\\_stories/auto/cell\\_phone03.asp](http://www.viamagazine.com/top_stories/auto/cell_phone03.asp)
7. Occupational Safety and Health Administration:  
[http://www.osha.gov/Publications/motor\\_vehicle\\_guide.pdf](http://www.osha.gov/Publications/motor_vehicle_guide.pdf)
8. Network of Employers for Traffic Safety:  
<http://www.trafficsafety.org/index2.asp>

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<sup>23</sup> 533 U.S. 218at 219

All of these and many more organizations recognize the magnitude of the problem, especially with respect to young drivers. Many express dismay over the futility of finding practical solutions. We expect that they will lend support to our approach.

## **VIII. CONCLUSION**

It is clear and convincing that the Celltinel can make a major contribution to highway safety without causing serious injury to any of the services that rely on cellular mobile communications. As an emitter, the Celltinel must be allowed to submit its application for certification and be authorized for sale in the United States.

## Chart from The Insurance Institute for Highway Safety

<http://www.iihs.org/laws/cellphonelaws.aspx>

### Cellphone laws

**March 2008**

A jurisdiction-wide ban on driving while talking on a hand-held cellular phone is in place in 6 states (California, Connecticut, New Jersey, New York, Utah, and Washington) and the District of Columbia. Utah has named the offense careless driving. Under the Utah law, no one commits an offense when speaking on a cellphone unless they are also committing some other moving violation other than speeding.

Localities are allowed to ban cellphone use in 6 states (Illinois, Massachusetts, Michigan, New Mexico, Ohio, and Pennsylvania). Localities that have enacted restrictions on cellphone use include: Chicago, IL; Brookline, MA; Detroit, MI; Santa Fe, NM; Brooklyn, North Olmstead and Walton Hills, OH; and Conshohocken, Lebanon and West Conshohocken, PA.

Localities are prohibited from banning cellphone use in 8 states (Florida, Kentucky, Louisiana, Mississippi, Nevada, Oklahoma, Oregon, and Utah).

The use of all cellular phones while driving a school bus is prohibited in 15 states and the District of Columbia.

The use of cellular phones by teens in the graduated licensing system is restricted in 17 states and the District of Columbia.

The table below shows the states that have cell phone laws and whether they are enforced as primary or secondary laws. Under secondary laws, an officer must have some other reason to stop a vehicle before citing a driver for using a cellphone. Laws without this restriction are called primary. California and Utah have unusual provisions noted below.

Cellphone restrictions			
State	Hand-held ban	All cellphone ban	Enforcement
Alabama	no	no	not applicable
Alaska	no	no	not applicable
Arizona	no	school bus drivers	primary
Arkansas	no	school bus drivers	primary
California	yes (effective 07/01/08)	school and transit bus drivers and drivers younger than 18 (effective 07/01/08)	primary <sup>1</sup>
Colorado	no	learner's permit holders	secondary
Connecticut	yes	learner's permit holders, drivers younger than 18, and school bus drivers	primary
Delaware	no	school bus drivers and learner's permit and intermediate license holders	primary
District of Columbia	yes	school bus drivers and learner's permit holders	primary
Florida	no	no	not applicable

Georgia	no	school bus drivers	primary
Hawaii	no	no	not applicable
Idaho	no	no	not applicable
Illinois	by jurisdiction	learner's permit holders, drivers younger than 19, and school bus drivers	primary
Indiana	no	no	not applicable
Iowa	no	no	not applicable
Kansas	no	no	not applicable
Kentucky	no	school bus drivers	primary
Louisiana	no	no	not applicable
Maine	no	learner's permit and intermediate license holders	primary
Maryland	no	learner's permit and intermediate license holders	secondary
Massachusetts	by jurisdiction	school bus drivers	primary
Michigan	by jurisdiction	no	not applicable
Minnesota	no	learner's permit holders and provisional license holders during the first 12 months after licensing	primary
Mississippi	no	no	not applicable
Missouri	no	no	not applicable
Montana	no	no	not applicable
Nebraska	no	learner's permit and intermediate license holders younger than 18 may not use a cellphone or other wireless communication device	secondary
Nevada	no	no	not applicable
New Hampshire	no	no	not applicable
New Jersey	yes; text messaging prohibited	school bus drivers and learner's permit and intermediate license holders	primary
New Mexico	by jurisdiction	no	not applicable
New York	yes	no	primary
North Carolina	no	drivers younger than 18 and school bus drivers	primary
North Dakota	no	no	not applicable
Ohio	by jurisdiction	no	not applicable
Oklahoma	no	no	not applicable
Oregon	no	learner's permit and intermediate license holders	secondary
Pennsylvania	by jurisdiction	no	not applicable
Rhode Island	no	school bus drivers and drivers younger than 18	primary

South Carolina	no	no	not applicable
South Dakota	no	no	not applicable
Tennessee	no	school bus drivers and learner's permit and intermediate license holders	primary
Texas	no	bus drivers when a passenger 17 and younger is present; intermediate license holders for first six months	primary
Utah	yes <sup>2</sup>	no	secondary <sup>2</sup>
Vermont	no	no	not applicable
Virginia	no	drivers younger than 18 (effective 7/1/07) and school bus drivers (effective 07/01/08)	secondary; primary for school bus drivers (effective 07/01/08)
Washington	yes (effective 07/01/08); text messaging prohibited	no	secondary
West Virginia	no	learner's permit and intermediate license holders	secondary
Wisconsin	no	no	not applicable
Wyoming	no	no	not applicable

<sup>1</sup>An officer in California can stop a person, regardless of age, holding a cellphone and talking on it, but they may not use checkpoints to enforce the all cell ban for drivers younger than 18.

<sup>2</sup>Utah's law defines careless driving as committing a moving violation (other than speeding) while distracted by use of a hand-held cellphone or other activities not related to driving.