

Testimony of Joel D. Feldman, Esq., MS -Founder of EndDD.org(End
Distracted Driving)

Joint Hearing Before the Pennsylvania Senate Transportation Committee
and the House Transportation Committee- July 14, 2015

How Pennsylvania can take the lead in reducing senseless distracted driving
crashes

Joel D. Feldman, Esq., MS - EndDD.org (End Distracted Driving) is a campaign of the Casey Feldman Foundation. In July of 2009 Casey Feldman, age 21, was killed by a distracted driver. Following her death her parents, Joel Feldman and Dianne Anderson, residents of Springfield, Delaware County, PA created the Foundation and began working to raise awareness about the dangers of distracted driving. Mr. Feldman is a shareholder in the Philadelphia law firm Anapol Schwartz and obtained his masters in counseling after his daughter Casey's death.

Testimony

I very much appreciate the opportunity to speak here today. In 3 days it will be the 6th anniversary of my daughter Casey's death— Casey was killed by a 58 year old man who made a choice to drive distracted.

Since Casey's death I devote much of my professional and personal time to reducing distracted driving crashes. While most of my focus has been on young people-high school, college and middle school students, I frequently speak at businesses, traffic safety, law enforcement and medical and legal conferences in Pennsylvania and across the country. When I started speaking I learned that there was no proven, science-based distracted driving presentation. Working with Children's Hospital of Philadelphia (CHOP) we developed a science-based distracted driving presentation for students. The presentation is tested for effectiveness and revised annually. With a network of trained volunteer speakers, more than 250,000 students across the country, including more than 35,000 in the Commonwealth, have seen an EndDD.org presentation. The vast majority of the presentations in Pennsylvania have been given by members of the

Pennsylvania Association for Justice (PAJ), with whom we have a very strong partnership. PAJ members have volunteered thousands of hours of time to speak with students. Here is a link to download the 2014-15 student presentation. <http://enddd.org/presentation/2014-2015/2015.11-StudentAwareness.pptx>

I have personally spoken with more than 50,000 teens and adults across the country and Canada in the last 3 and one-half years.

Our children are most at risk from distracted driving and as parents, adults and legislators we are not doing enough to protect our children

Those 21 and under are involved in three times the fatal crashes as any other age group of drivers. In addition to excessive speed and lack of scanning, distraction is responsible for the majority of teen crashes. [Children's Hospital of Philadelphia CIRP, Teen Driver Source, April, 2011](#) Most law enforcement professionals agree that distracted driving is now responsible for more crashes than drunk driving, particularly for younger drivers. In a 2015 study funded by AAA Foundation for Traffic Safety it was found that 58 % of teen driver crashes analyzed were due to driver distraction. That frequency of distraction-involved crashes was found to be about 4 times greater than previously reported by NHTSA (14%). ["Distraction and Teen Crashes: Even Worse Than We Thought."](#) There is no blood test for distracted driving and it is widely believed that distraction related crashes are underreported by as much as 25-40%. See the 2013 NSC report ["Cell Phone Crash Data and Underreporting."](#) More than 70% of the students we speak with tell us that their moms and dads will drive distracted with them in the car. I know that before Casey was killed I drove distracted with my children in the car. Children whose parents drive distracted are 2-3 times more likely to also drive distracted. University of Michigan Transportation Research Institute 2012 ["Driver Distraction: Do as I say not as I do."](#)

Many in traffic safety talk about an epidemic of distracted driving crashes that is getting worse, especially for our children. Our children are the most inexperienced of drivers and inexperience and distraction is a deadly combination. It is imperative that we act now for the benefit of all of the citizens of Pennsylvania, but especially for our children. Pennsylvania can take the lead in protecting its children and citizens from senseless tragedies caused by distracted driving. This is what we need to do:

Legislation- We need to enact legislation that will permit Pennsylvania to avail itself of the funding which is available through NHTSA (MAP-21) for distracted driving enforcement and education. In order to qualify states must enact legislation that will:

- Prohibit *texting*, to include using personal wireless device for texting, e-mailing ,IM, and other forms of electronic data retrieval, as a primary offense, for all drivers operating a motor vehicle(including while temporarily stopped because of traffic or control devices, with increasing severity of fines for successive violations, with minimum fine of \$25; (present PA law has \$50 fine for all violations but allows texting while temporarily stopped in traffic)
- Prohibit drivers under the age of 18 from using any personal wireless communication device –hand- held or hands-free(primary offense) with increasing severity of fines for successive violations, with minimum fine of \$25; and
- Require distracted driving issues to be tested as part of State’s driver’s license examination (according to [GHSA Survey of the States](#), for 2012 Pennsylvania does not).

[See Federal Register, p 5018-5019, section 1200.24 describing *Distracted driving grants*](#)

Accordingly Senate Bill 153 would have to be modified so that the preclusion of hand-held use of portable electronic devices would be applicable to only drivers over the age of 18 as those younger would not be permitted to use portable electronic devices, hands-free or hand-held, and existing law banning “texting” would have to be amended to provide for increasing fines for successive violations and to prohibit “texting” while stopped in traffic.

Enforcement—High visibility enforcement, with educational awareness campaigns, was found to significantly [reduce hand-held cell phone use in Hartford and Syracuse](#).

Education- Most importantly, we must educate to change our culture so that just like drunk driving, distracted driving is not socially acceptable. Most of us have seen drivers who are clearly distracted and have criticized those drivers. Yet, many of us will drive distracted ourselves. Those of us who are parents and have children who are driving have repeatedly told our children not to drive distracted, yet we drive distracted, and often with our children in the car. Changing attitudes and behaviors about distracted driving must confront our society’s mindset of “Do as I say, not as I do” This can be accomplished only through educational

programs and support for programs that raise awareness about distracted driving. Accordingly educational efforts should include:

- Legislators sponsoring science-based community-wide educational programs within their districts, including at local high schools and for parents and employers in their communities—EndDD.org has worked with legislators across the country to do so and these events are very well received by constituents. It is crucial that parents be educated about distracted driving and the importance of being good role models for their children. Parents must be the drivers they want their children to be.
- Holding annual state-wide distracted driving summits in Pennsylvania modeled after successful summits from other states, including [Virginia's Annual Distracted Driving Summit](#) that will raise awareness about distracted driving
- Inclusion of distracted driving in health/physical education and driver's ed curriculums
- Encouraging employers to adopt safe driving policies for their companies for safety and to reduce liability The [National Safety Council \(NSC\)](#) has taken the lead in working with employers across the country to adopt safe driving policies
- Legislators should lead by example and adopt safe driving policies for themselves as have thousands of companies across the United States –Safety is good business.

After speaking with so many teens and adults I am very optimistic that together we can change our attitudes and behaviors about distracted driving and save lives in Pennsylvania.

Thank you

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Additional References and Information

Effect of texting and hand-held bans

States with primarily enforced texting and hand-held cell phone bans for all drivers saw reductions in traffic fatalities. Ferdinand, A.O., Menachemi, N., et al. *“Impact of Texting laws on Motor Vehicle Fatalities in the United States.”* American Journal of Public Health, Vol 104, No 8 , August 2014 . Enactment of primarily enforced texting and hand-held cell phone bans has been demonstrated to reduce long-term overall cell phone use while driving, while secondarily enforced band have not. (McCartt, A.T., Kidd, D.G. and Teoh , E.R. *“Driver Cellphone and Texting Bans in the United States: Evidence of Effectiveness.”* Engaged Driving Symposium, Annals of Advances in Automotive Medicine, March 31, 2014.

Feedback from teens and parents

From teens:

“As teens we can make good choices- adults should stop lecturing us and telling us what to do all the time.”

“My mom tells me not to drive distracted but she does it all the time...I guess you could say she is a hypocrite.”

“I want to be a good role model for my little brother and sister - I can’t drive distracted with them watching even though my mom does.”

“Teens really care about each other-we can keep each other safe by not letting friends drive distracted. It’s my responsibility as a friend to speak up and not let my friends drive distracted.”

From parents:

“Looking back I know I have driven distracted many times with my kids in the car-I worry about what they have learned from watching me.”

“I am so scared with my teen daughter driving-I just want her and all her friends to be safe.”

“As a parent I would do anything to keep my children safe.”

grant funds. (1) *Low-range* use grant funds awarded section for the following programs:

support of high visibility efforts, training and criminal justice (including law t, prosecutors, judges, and officers) to assist such s in handling impaired s, hiring traffic safety secutors, hiring judicial ions, and establishing e intoxicated courts; of ignition interlock

ring blood-alcohol e testing and reporting; nd earned media in support ility enforcement of ving laws, and conducting l field sobriety training, dside impaired driving aining, and drug expert training for law , and equipment and related s used in connection with ving enforcement; ing on the use of alcohol d brief intervention; loping impaired driving systems; and associated with a 24-7 rum.

as designed to reduce ving based on problem l. ge States may use grant d under this section for uthorized uses described in (1) of this section, provided ant funds for programs paragraph (i)(1)(x) of this res advance approval from

ge States may use grant d under this section for e enforcement efforts and uthorized uses described in (1) of this section, provided uses are described in a paired driving plan and approved by NHTSA with paragraph (f)(2) of ad subject to the paragraph (j) of this

interlock States may use arded under this section uthorized uses described h (i)(1) of this section

and for eligible activities under 23 U.S.C. 402.

(i) *Special conditions for use of funds by high-range States.* No expenses incurred or vouchers submitted by a high-range State shall be approved for reimbursement until such State submits for NHTSA review and approval a statewide impaired driving plan as provided in paragraph (f)(2) of this section. If a high-range State fails to timely provide the statewide impaired driving plan required under paragraph (f)(2) of this section, the agency will redistribute any grant funds in accordance with § 1200.20(e) to other qualifying States under this section.

§ 1200.24 **Distracted driving grants.**

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(e), for awarding grants to States that enact and enforce laws prohibiting distracted driving, beginning with fiscal year 2014 grants.

(b) *Definitions.* As used in this section—

Driving means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise, but does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

Texting means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, emailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.

(c) *Qualification criteria.* To qualify for a distracted driving grant in a fiscal year, a State shall submit the assurances in Part 4 of Appendix D, signed by the Governor's Representative for Highway Safety, providing legal citations to the State statute or statutes demonstrating compliance with the following requirements:

(1) *Prohibition on texting while driving.* The statute shall—

- (i) Prohibit drivers from texting through a personal wireless communications device while driving;
- (ii) Make a violation of the law a primary offense; and
- (iii) Establish—
 - (A) A minimum fine of \$25 for a first violation of the law; and
 - (B) Increased fines for repeat violations within five years of the previous violation.

(2) *Prohibition on youth cell phone use while driving.* The statute shall—

(i) Prohibit a driver who is younger than 18 years of age from using a personal wireless communications device while driving;

- (ii) Make a violation of the law a primary offense;
- (iii) Require distracted driving issues to be tested as part of the State's driver's license examination; and
- (iv) Establish—
 - (A) A minimum fine of \$25 for a first violation of the law; and
 - (B) Increased fines for repeat violations within five years of the previous violation.

(3) *Permitted exceptions.* A State statute providing for the following exceptions, and no others, shall not be deemed out of compliance with the requirements of this section:

- (i) A driver who uses a personal wireless communications device to contact emergency services;
- (ii) Emergency services personnel who use a personal wireless communications device while operating an emergency services vehicle and engaged in the performance of their duties as emergency services personnel; and
- (iii) An individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is permitted under the regulations promulgated pursuant to 49 U.S.C. 31136.

(d) *Use of grant funds.* (1) At least 50 percent of the grant funds awarded under this section shall be used to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving, for traffic signs that notify drivers about the distracted driving law of the State, or for law enforcement costs related to the enforcement of the distracted driving law;

(2) Not more than 50 percent of the grant funds awarded under this section may be used for any eligible project or activity under 23 U.S.C. 402.

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