

Kelsey's Law Curbs Cell Phone Use for Drivers in Training

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A recently enacted state law prohibits drivers in training from using a cellphone while operating a motor vehicle upon a highway or street.

The law, MCL 500.602c, was signed into law by Michigan Gov. Rick Snyder in January and went into effect on March 28, 2013. Known by its popular name, "Kelsey's Law," in honor of a Michigan teenager who was killed in a motor vehicle accident while talking on her cellphone, teenagers with restricted driver's licenses will no longer be able to use their cellphones while driving. The law applies to Michigan teenagers with Level 1 and Level 2 driver's licenses under Michigan's graduated licensing system.

Level 1 is a learner's license or learner's permit, which carries the most restrictions. With a Level 1 license, the driver may only drive with a licensed parent/guardian or designated licensed adult, age 21 or older. A teenager may apply for and be granted a Level 1 learner's license at the age of 14 years and 9 months.

A Level 2 license is also known as an "intermediate license," which has restrictions on the number of passengers and on nighttime driving, but does not require that the driver be accompanied by a licensed parent/guardian or designated licensed adult, age 21 or older. However, a Level 2 license holder may not operate a motor vehicle between 10 p.m. and 5 a.m., and may not operate a motor vehicle at any time with more than one passenger in the vehicle who is less than 21 years of age.

There are exceptions to these limitations for certain authorized activities. For example, a Level 2 driver may commute to and from work or in the scope of employment despite the Level 2 curfew restrictions. Additionally, the number of passengers and/or curfew restrictions do not apply if the Level 2 driver is accompanied by a parent or legal guardian or a licensed driver 21 years of age or older designated by the parent or legal guardian. A teenager may apply for and be granted a Level 2 license at age 16.

A teenager who is at least 17 years old and has at least six months of driving experience at Level 2, may qualify for a Level 3, or unrestricted, driver's license, at which point Kelsey's Law would no longer apply.

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In short, Level 1 and Level 2 drivers can now be charged with a civil infraction for violating the new law, which will carry a fine with possible court costs. However, Kelsey's Law carves out exceptions for "an individual using a voice-operated system that is integrated into the motor vehicle," as well as for those using their cellphone to report a traffic accident, medical emergency, serious road hazard, or in situations in which a driver's personal safety is in jeopardy or to report or avert criminal activity.

Violations of Kelsey's Law is a primary offense, meaning a police officer can pull over a teenaged driver without any other cause. It will be interesting to see whether police officers pull drivers over solely based on the perceived age of the driver. To date, the constitutionality of such stops has not been challenged in court. If there are many challenges that are upheld in court, a cellphone ban on all drivers would be the easiest to enforce, as it would eliminate any guesswork for police officers.

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