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Cellphone regulation: The good, the bad and the dicey

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We have all experienced it: that "Chatty Kathy" who drives around the corner, almost swerving into our lane without looking, all the while carrying on a cellphone conversation. Drivers who pay more attention to their conversations than to the road can cause tragic accidents, like the one in which a child was killed recently in Fort Collins. So it is not surprising to see state Rep. Claire Levy's House Bill 1094, which would ban cellphone use by young drivers and require all drivers using cellphones to utilize hands-free devices. Many other states have considered similar legislation (and five have passed such laws).

This month, the non-profit National Safety Council called for a complete ban on all cellphone use, hands-free or not, in cars. Emotionally, it is easy to favor such a bill. On the other hand, tools of policy analysis can help inform the decision, adding more value than ideological, knee-jerk reactions.

First, it is not clear that cellphone use causes more accidents than other forms of distracted driving, such as drivers putting on makeup, stopping children from fighting in the backseat, eating drive-through lunches or following GPS directions. Anecdotally, it sure looks like cellphone users drive worse, and some studies argue that the "conversation distraction" is nearly as bad as drunken driving. But other data do not show that cellphone use is more dangerous than other forms of distracted driving and most states already have laws against distracted driving, though they are hard to enforce. One approach to regulation is more common in European countries. It's the "precautionary principle": If it looks like a new behavior imperils life and safety, regulate or ban it. (Most European countries have passed legislation like the Levy bill.)

However, a study published in 2007 by the AEI-Brookings Joint Center on Regulation cleverly uses the spike in cellphone usage that occurs at times of day when calls become completely free, and correlates that with changes in traffic accidents. That study finds virtually no increase in accidents from greater cellphone use.

Regulations in America usually are promulgated after doing cost-benefit analyses to see if the gains from the regulation exceed the costs. While quantifying the value of avoided accidents and saved lives is not simple or without controversy, most analyses on cellphone use while driving take these into account, and find that the bans are not supported by the data.

Partly, cost-benefit analyses *favor* cellphone use because people value using their cellphones in the car. The point of cellphones is to be able to engage in mobile communications, and much of American mobility takes place in cars. Even though some cellphone usage in cars seems like "cheap talk," lots of it is important and a valuable exchange of information. It consists of conversations with clients for a traveling salesperson, parents talking about when to pick up their child at school, or reporting of road accidents. The costs of distracted cellphone driving, however large or small, need to be balanced against the real benefits.

This is also a case where one size might not fit all. As with differential speed limits, whatever the distractions of cellphone use while driving are almost certainly more problematic on busy Interstate 25 in metro Denver than on a relatively empty rural road outside Lamar. Perhaps a bill should take population density into account, or should allow counties to address the issue, as has been done in some other states.

Enforcement is another issue. It is hard for police to determine when distracted driving and cellphone use are taking place. This leaves lots of room for discretion and the potential for discrimination by age, race, gender or type of vehicle being driven.

While policy and cost-benefit analyses provide valuable information, these are ultimately political decisions, appropriately informed by values. And these choices are occurring in a dynamic world. We now see more GPS systems and Internet access in cars, and drivers are texting rather than just having verbal conversations. (Eighteen percent of American motorists in an insurance survey said they now text while driving, and seven states ban that.) Also, if more states mandate the use of hands-free devices, their costs will fall (as with prior safety requirements, like air bags). These changes would alter the cost-benefit equation.

Ultimately, these are the complicated tradeoffs we face in a society with more multitasking happening all the time while the human ability to pay close attention to more than one thing at a time remains pretty much unchanged.

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