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Acting Governor Kim Guadagno Signs Legislation to Assist in Criminal Prosecution of Hands-Free Cell Phone Law Violators

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Kulesh's, Kuberts' and Bolis' Law
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Violators Causing Serious Crashes Face Prosecution Under Criminal Homicide or Assault-By-Vehicle Laws

Trenton, NJ – Taking action to protect motorists, passengers and pedestrians, Acting Governor Kim Guadagno today signed legislation, A-1074, that will assist in the criminal prosecution of violators of the hands-free law who cause serious crashes.

Known as the "Kulesh, Kubert and Bolis' Law," the measure is named after New Jersey residents who were killed or severely injured in a crash caused by someone using a handheld cell phone while driving. Elderly Elizabeth resident Helen Kulesh was crossing the street when she was killed by a driver illegally using a cell phone. David and Linda Kubert, formerly of Dover, are now amputees after a man who was texting crashed into their motorcycle. Washington Township resident Toni Bolis, nine months pregnant with her son Ryan Jeffrey Bolis, was killed in a motor vehicle accident caused by a driver using a cell phone.

"The consequences of distracted driving are devastating. It's baffling why otherwise law abiding citizens, who would never get behind the wheel holding an open beer, will text or talk on their cell phones while driving and ignore the danger," said Acting Governor Guadagno. "This new law sends a clear and serious message to people who dare to talk or text on their cell phone while driving."

Under the new law, proof that a defendant was operating a hand-held wireless telephone while driving a motor vehicle may give rise to the presumption that the defendant was engaged in reckless driving. Prosecutors are empowered to charge the offender with committing vehicular homicide or assault when such type of accident occurs from reckless driving. Vehicular homicide is generally a crime of the second degree, punishable by imprisonment of five to ten years, a fine of up to \$150,000, or both. Assault by auto is a crime of the fourth degree if serious bodily injury occurs and a disorderly persons offense if bodily injury occurs. A fourth degree crime is punishable by up to 18 months imprisonment, a fine of up to \$10,000, or both. The penalty for a disorderly persons offense is imprisonment for up to six months, a fine of up to \$1,000, or both.

"The irresponsible use of a cell phone while driving can have tragic consequences as evidenced by the stories of Ms. Kulesh, Mr. and Mrs. Kubert and Toni and Ryan Bolis," said Assemblyman Anthony Bucco, a primary sponsor of the bill. "Because of the distraction of a cell phone, two people lost limbs, and three others died. Driving is a responsibility, not a right. Everyone must take that responsibility seriously. These are three cases of what heartbreak inattentive driving can cause. There is now a price to pay for such capricious acts."

"No call or text is more important than a person's life or limb," said Assemblywoman Annette Quijano, also a primary sponsor of the bill. "Tragedies like the ones the Kulesh, Kuthbert and Bolis families endured are more heartbreaking because they could have been avoided. This law will hopefully make people more accountable for their actions and minimize injuries and deaths caused by cell phone distractions."

"There is no question that illegally using a cell phone causes distractions for those out on the road," said Senator Fred Madden, a Democratic sponsor of the bill. "Sometimes those distractions can have tragic results. That is why it is important that we send a message that such behavior must cease. This is about saving lives and protecting people."

According to the New Jersey Division of Highway Traffic Safety, since 2008, over 10,000 drivers have been involved in crashes while using a cell phone.

A recent study conducted by the National Highway Traffic Safety Administration (NHTSA) showed that not only do people tend to answer the phone and keep driving, but almost half of the people polled (45 percent) hold the phone in their hand while driving. When asked how they thought their own driving changed when sending text messages, 25 percent of the respondents said the distraction made no difference in their driving yet almost all of the men and women asked (86 percent of the men and 90 percent of the women) said they felt unsafe as a passenger in a car while the driver was sending a text message or email.

In Massachusetts in June, Aaron Deveau, 18, was convicted of homicide for texting while driving, which led to a crash killing a 55-year-old New Hampshire man. Deveau is believed to be the first person in the country convicted of

vehicular homicide for texting while driving.

Primary sponsors of the legislation are Assemblyman Anthony M. Bucco (R-Morris and Somerset), Assemblyman Michael Patrick Carroll (R-Morris and Somerset), Assemblywoman Annette Quijano (D-Union), Assemblyman Paul Moriarty (D-Camden and Gloucester), Assemblywoman Gabriela Mosquera, (D-Camden and Gloucester), Assemblyman Charles Mainor (D-Hudson) and Assemblyman Albert Coutinho, (D-Essex).

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