

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT ROAD TRAFFIC OFFENDERS ACT 1998  
(PENALTY POINTS) (AMENDMENT) ORDER 2016

*Tuesday 6 December 2016*

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**Saturday 10 December 2016**

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**The Committee consisted of the following Members:**

*Chair:* GRAHAM STRINGER

Allen, Mr Graham (*Nottingham North*) (Lab)  
 † Blackman, Bob (*Harrow East*) (Con)  
 † Brown, Alan (*Kilmarnock and Loudoun*) (SNP)  
 † Doyle-Price, Jackie (*Thurrock*) (Con)  
 † Elliott, Julie (*Sunderland Central*) (Lab)  
 † Foxcroft, Vicky (*Lewisham, Deptford*) (Lab)  
 † Glass, Pat (*North West Durham*) (Lab)  
 Johnson, Alan (*Kingston upon Hull West and Hessle*)  
 (Lab)  
 † Jones, Andrew (*Parliamentary Under-Secretary of  
 State for Transport*)

† Merriman, Huw (*Bexhill and Battle*) (Con)  
 † Morgan, Nicky (*Loughborough*) (Con)  
 † Offord, Dr Matthew (*Hendon*) (Con)  
 † Penrose, John (*Weston-super-Mare*) (Con)  
 † Pickles, Sir Eric (*Brentwood and Ongar*) (Con)  
 Powell, Lucy (*Manchester Central*) (Lab/Co-op)  
 † Prentis, Victoria (*Banbury*) (Con)  
 † Villiers, Mrs Theresa (*Chipping Barnet*) (Con)

Clementine Brown, *Committee Clerk*

† **attended the Committee**

## Fourth Delegated Legislation Committee

Tuesday 6 December 2016

[GRAHAM STRINGER *in the Chair*]

### Draft Road Traffic Offenders Act 1988 (Penalty Points) (Amendment) Order 2016

8.55 am

**The Parliamentary Under-Secretary of State for Transport (Andrew Jones):** I beg to move,

That the Committee has considered the draft Road Traffic Offenders Act 1988 (Penalty Points) (Amendment) Order 2016.

The order is being made to improve road safety by increasing the number of penalty points imposed when a driver is caught using a handheld mobile phone or similar device while driving. When the Government published the road safety statement in December 2015, we re-emphasised the manifesto commitment to make British roads even safer in the future to

“reduce the number of cyclists and other road users killed or injured on our roads every year.”

One priority identified in that statement was to take tough action against people who use mobile phones while on the road. We therefore launched a public consultation on increasing the penalty for handheld mobile phone use while driving. The consultation ran from January to March 2016. We received well over 4,000 responses, which were overwhelmingly in favour; 94% supported an increase. In fact, a significant number urged us to go further than we proposed and introduce even harsher penalties for the offence. We have listened, and this order increases the number of penalty points endorsed on the driving record of someone who commits the offence from three to six, and we will shortly lay before Parliament a further order, to increase the fixed penalty for the offence from £100 to £200.

Let me explain why we are doing this. Handheld mobile phone use while driving is very dangerous. It was a contributory factor in 22 fatal collisions in 2015. Each one of those is a needless tragedy, and we must bring the numbers down. As road safety Minister, I regularly meet families who have lost loved ones in road collisions, and those are some of the most difficult experiences that I have had as a Minister. The families are understandably very upset and angry that they have lost a loved one, and in this particular case there is a degree of anger because someone has been killed because of something that could easily have been prevented.

As well as the personal tragedies for the families involved, there is a cost to our emergency services and the national health service in dealing with the aftermath of fatal and other collisions. Moreover, the number of incidents in which mobile phone use is a contributory factor is, we think, under-reported. The Royal Automobile Club motoring report published in September 2016 suggests that increasing numbers of drivers are using a handheld mobile phone while at the wheel.

**Bob Blackman** (Harrow East) (Con): I completely support the principle of the order, but the key issue is enforcement. Clearly, with the number of people using handheld mobile devices on the rise, the most important thing with the current penalties is apprehending those who use their mobile phones and place other drivers and road users at risk.

**Andrew Jones:** I certainly agree that enforcement is part of it. I will come on to that, but I am grateful to my hon. Friend for articulating his support for the order.

According to the 2016 RAC report, 31% of motorists said that they had used a handheld phone behind the wheel, compared with just 8% in 2014. The number of drivers who said that they had sent a message or posted on social media rose from 7% to 19%, and 14% said that they had taken a photograph or made a video while driving. In 2014, the Department commissioned roadside observational studies, which showed that about 1.6% of drivers are using a handheld mobile phone at any given moment.

Driving ability is clearly impaired if someone is using a handheld mobile phone. Studies show that that potentially impairs driving more than being above the drink-drive limit. The Royal Society for the Prevention of Accidents has calculated that a driver is four times more likely to crash when using a mobile phone. The police regard using a handheld mobile phone as one of the “fatal four” causes of accidents, along with speeding, drink or drug-driving and not wearing a seatbelt.

In the light of all the evidence, it is clear that change is needed. The increase in the number of penalty points that a driver committing this offence will receive means that drivers need only commit two mobile phone offences, accruing 12 points, before facing the possibility of being disqualified by the courts. In addition, one of the intended consequences of the order is that novice drivers who have passed their test in the past two years face revocation of their licence if they commit a single mobile phone offence. Under the Road Traffic (New Drivers) Act 1995, novice drivers can only accrue six points, rather than the usual 12, before they face disqualification. To regain their licence they must reapply for a provisional driving licence and pass a further theory and practical driving test.

The majority of novice drivers are young people below the age of 25, and evidence suggests that young drivers are the group most likely to use a handheld mobile phone while driving. Younger drivers are disproportionality represented in the number of fatalities and serious injuries on our roads. Given the risk that they pose, there is a need for a strong deterrent to tackle their offending behaviour. It is therefore proportionate that the consequence of a single mobile phone offence may be disqualification. We aim to achieve behavioural change in the group. If we do not make more progress with them, we will not be making more progress in improving overall road safety.

The drivers of heavy goods vehicles and passenger service vehicles who commit the offence continue to face the possibility of the traffic commissioners, who regulate HGV and PSV operators, using their powers to review and suspend the driver’s vocational licence entitlement to drive the vehicles. Given the greater impact that such large vehicles have in accidents, I believe that measure to be proportionate.

As well as increasing the penalties for using a handheld mobile phone while driving, if the Committee approves the order we will launch a new hard-hitting THINK! educational campaign to coincide with the changes. The aim of the campaign is to alert drivers to the new regulations and raise awareness of the dangers of using a handheld mobile phone. The long-term aim is to change behaviour and make using a handheld mobile phone while driving as socially unacceptable as drink-driving.

I expect colleagues to be engaged in the issue and to ask questions about enforcement. Making progress in road safety comes from a mixture of three ingredients: engineering, whether that is roads or the vehicle; education, which includes the THINK! campaign and initiatives that we are taking to improve the driving test so that people are better prepared when they get behind the wheel; and enforcement.

Enforcement is not something that we are considering with the order, which makes a straightforward amendment to move an offence from three to six points, but it matters. There is no single, simple causal link between enforcement and the number of fatalities on our roads. My hon. Friend the Member for Harrow East may be interested to learn that I have looked at some of the data. In 2011, 120,000 fixed penalty notices were given and 22 people lost their life in a road collision in which mobile phone use was implicated. In 2013, 50,000 fixed penalty notices were given and 22 people lost their life. Last year, 16,700 fixed penalty notices were given and 22 people lost their life. I agree that enforcement matters, but to suggest that there was a direct, simple cause is simply wrong. Having said that, this issue is significant. Local police forces and police and crime commissioners can set priorities on their enforcement activity. I hope to work with police and crime commissioners to emphasise the importance that the Government attach to the issue as they set their priorities locally.

Today, mobile phones are commonplace. We all live on our smartphones. People only have to attend a debate in the House of Commons to see how many people look at their mobile phone on an hourly basis. We must get to the point where all drivers take responsibility for their actions. It may seem harmless to reply to a text while driving, or to answer a call or use an app, but the truth is that these actions can kill and cause untold misery to others. We all have a part to play in ensuring that our family and friends do not use their handheld mobile phones while driving. The order increases the penalty points from three to six and is part of a suite of actions that the Government are taking to improve road safety.

We have some of the safest roads in the world. We are working to make them safer still and to ensure that fewer families have to face the devastation of losing a loved one.

**Sir Eric Pickles** (Brentwood and Ongar) (Con): Will my hon. Friend clarify whether there is a difference where somebody is using their mobile phone for sat-nav? Would that fall into this category? How would that be regarded? Do Members looking at their phone for sat-nav face the provisions of the order?

**Andrew Jones:** No, such use would not be included in the provisions. Sat-navs can be an aid to driving, as can other things on screen, which would be reasonable to

use. We are increasing the use of sat-navs in driving tests so that people become more familiar with them and their use without compromising the safety of the driving, so they are not involved in these provisions at all.

**John Penrose** (Weston-super-Mare) (Con): The Minister is being very generous in the dying moments of his remarks. Further to the question from my right hon. Friend the Member for Brentwood and Ongar, will the Minister clarify whether someone using a mobile phone with a hands-free device would be caught in general by the measures that he is introducing today? For example, if they are stationary at a traffic light and they elected to dial somebody not on hands free but using the screen of their mobile phone and then moved off while speaking on a hands-free device, would that be caught by the measures he is proposing?

**Andrew Jones:** In our legal system, the bottom line is that it is not illegal to use hands-free or Bluetooth kits; however, such equipment may also distract people. Good practice would be to pull off the road and make sure that one is entirely secure before using a mobile phone, using an app or sending a text or whatever. It is safer not to use any mobile phone while driving or riding.

**Bob Blackman:** I thank my hon. Friend for giving way again and I crave his indulgence. Is there not a responsibility on car manufacturers to introduce as standard a hands-free capability so that drivers could use a hands-free mobile phone while driving without breaking the law?

**Andrew Jones:** Generally, technology in vehicles makes vehicles easier to use and the cost of digital technology is falling rapidly. Whether that should be made mandatory is a separate question, but the amount of kit available in our cars helps us. As I have mentioned, one of the three Es is engineering, which makes the vehicle experience much safer and more pleasurable for all of us.

9.8 am

**Pat Glass** (North West Durham) (Lab): It is a pleasure to serve under your chairmanship, Mr Stringer. I had written a speech for this morning, but I do not think my voice will last to the end of it. I therefore intend to cut to the chase and just ask a few questions.

We do not intend to oppose the order. We support both the Government's intention and the way in which they have consulted on the order. I have a number of questions. First, why six penalty points as opposed to an outright ban? The Minister was very eloquent in telling us about the number of fatal accidents in which a handheld mobile device has been a contributory factor. This is becoming an increasing, almost endemic problem on our roads. Every time we take the car out on the weekend, we usually see somebody doing something silly and then see that they are using a mobile phone. It is also fast becoming the biggest single killer on our roads.

The Department's own figures show that it is now more dangerous than drink-driving, yet the penalty for drink-driving is an outright ban. Why the difference? Why is there no consistency?



[Pat Glass]

If this is about changing behaviour it would be helpful to know why the Minister thinks that six penalty points are going to change behaviour. I remind the Committee that back in 1967, when I was just a child, the Labour Transport Secretary, Barbara Castle, introduced the drink-driving laws; it was precisely about changing behaviour. Drink-driving was endemic on our roads and it was felt that penalty points were not going to change behaviour, whereas an all-out ban would. It was a question of enforcement: when people saw individuals they knew losing their licence, it started to change their behaviour.

Why have the Government not considered an outright ban? I notice that the Ministry of Justice is currently consulting on changing the penalty for death by dangerous driving where a handheld device is involved from 14 years to life. Given that the difference between someone using a mobile phone having a near-miss and actually killing somebody is largely about luck and the surrounding circumstances, there appears to be very little consistency. Why six penalty points and not an outright ban?

The second question is on monitoring and targets. What targets will the Department for Transport have in place and what monitoring will it be carrying out to ensure that this is actually working, so that if it is not working, we can come back and look at it again?

9.12 am

**Sir Eric Pickles:** It is a great pleasure, Mr Stringer, to serve under your chairmanship. I want some clarification, because we have a duty, when considering such things, to make sure that we do not create circumstances by which a citizen inadvertently breaks the law under a road traffic Act. I entirely support the idea of increasing the penalty points, but we need a degree of clarity as to when a mobile phone can and cannot be used. The situation with a telephone call is pretty clear: if the device is handheld and not played out through Bluetooth or a speaker, clearly it will be caught and nobody, I suspect, has any problem with that. However, I do not know about you, Mr Stringer, but when I am using my mobile phone, a telephone call is a bit of a rarity—it is texts and that kind of thing. There are all kinds of functions that exist.

I spoke about satellite navigation on the mobile phone. If a mobile phone is on the dashboard, or held in place with one of these stickers on the windscreen, I understand from the Minister that that is perfectly acceptable: it is being used for satellite navigation. However, if somebody is watching iTunes or is using Facebook or Snapchat, I do not think that that is entirely satisfactory—it is quite a dangerous thing to do. How will a diligent police officer be able to ascertain whether a person is engaged in sensible navigation, trying to be courteous to other road users, or is keeping up with Michael Bublé or Beyoncé, or talking to a close friend or a pet at home? How will they ascertain the difference between those two? That is my worry.

The hon. Member for North West Durham—I hope that she recovers quickly—made a very good point about targeting. How many targets will we have? It will be awfully tempting for police officers not to look at actual phone use and simply nab people with these things on their dashboard, so will the Minister clarify that?

9.15 am

**Alan Brown** (Kilmarnock and Loudoun) (SNP): It is a pleasure to serve under your chairmanship, Mr Stringer. We in the Scottish National party also support these measures. The hon. Member for North West Durham asked a valid question about why it was six points. Work has been done on trying to identify how many people use mobile phones and there have also been consultations, but has there been any work on behavioural analysis and whether the measures will make an impact? The Minister spoke at length about the fact that novice drivers are the younger drivers most likely to use mobile phones and most likely to be at risk of losing their licence, so hopefully the measures will be effective. However, in terms of campaigning, how do we get the message through to those young people? They are generally the ones who are not party to the usual radio campaigns or television and newspaper advertising. If we are going to educate them and try to change their behaviour, we need to find a way to communicate effectively.

Drive-driving was mentioned as a comparator, but I think drink-driving is another elephant in the room, given that England, Wales and Northern Ireland still have the joint highest allowable alcohol levels. Is the UK Government going to look at that? On the previous questions about citizens getting caught up and inadvertently becoming victims, I do not think we should tie ourselves in knots. We should go ahead with the legislation rather than worry about somebody who might get caught. If they are using a mobile phone as a satnav system, they certainly should not be touching it or operating it, in which case they should be caught under the legislation.

9.17 am

**Andrew Jones:** There have been interesting and important questions from the Committee. I will tackle the drink-driving one first, which offers a clue as to how we can make progress on road safety. The first year for which we have detailed information on road fatalities in which alcohol was a factor was 1979, when 1,650 people lost their life. That number went down to 240 in 2014, the last year for which we have full data available. That reduction has been down to a mixture of enforcement and education, but especially peer pressure. It is now socially unacceptable to drink and drive, although there is a hard core of people still engaged in it.

We have seen social change in the world of drink-driving and I want to see such change in the world of handheld mobile phone usage while driving. There is a direct read-across in terms of social peer pressure. We are not seeking to make any changes to the limits because I do not want to criminalise the people who might go out and have a glass of wine with their Sunday lunch. I do not think that that is how we will make more progress on this issue. Other countries may have lower drink-drive limits, but they do not have better road safety records.

**Alan Brown:** I do not want to get bogged down in this, but the Minister's argument is nonsense. That argument was put forward in the Scottish Parliament. It was said that the police would end up criminalising the wee old lady who goes out and has a gin and tonic and that the police should be doing other things. Drink-driving convictions in Scotland are down by more than 7% since the drink-driving limits were lowered, so the effect has been beneficial.

**Andrew Jones:** I was not suggesting that the police would target older women having a glass of wine. I simply do not want to criminalise them, and I do not want to stop the police focusing on those who are not in the 50 mg to 80 mg per 100 ml of blood category. The people who drink-drive are way over the limit. Those are the people we should be targeting. Just over 2% of road fatalities in which alcohol is a factor are from that band of 50mg to 80mg per 100 ml. We can make changes there too, but it only affects just over 2%. Our real target should be people who are way, way over that limit.

I was asked about targets. We do not have any road safety targets and I am not planning to introduce them, because I do not need a target to tell me that road safety is important. I have a fairly relaxed approach about other bodies setting targets for themselves, as Highways England has done, but there will be no national targets coming out from the Department.

Monitoring will certainly be important. I look at all the quarterly statistics, and every time a statistical review is released by the Department I monitor it extremely carefully. We have been able to make good progress because we are targeting the specific issues rather than making sweeping road safety statements and comments. We have now reached the point where 1,770 people are still losing their life on our roads, but the broad-brush approach that has made such progress over the years will not make us progress in future. Instead, it should be about targeted messages at the groups who are still causing problems.

Why six points, rather than 12, three or four? We have had to take a view on what a proportionate sentence is. This is a significant change: a driver who commits two offences could lose a licence. We have had to take a judgment call on what will affect behaviour change and be proportionate, and we think that six points, rather than three or four, will achieve that—two offences and you are out.

**Pat Glass:** I understand the issue with targets: if targets are put in place, people work to them and things start to leak out in other areas. However, did the Department for Transport and the Minister consider an all-out ban? He must have some figures in his head. If there is one fewer death or serious accident, is that considered enough? At what point will he look again at something more serious, such as an all-out ban?

**Andrew Jones:** The hon. Lady tempts me into targets in a very gentle way. I review all the data. Is any progress good? Certainly, but I want to see more progress. That is why this measure is part of a suite of actions. It was one ingredient in our road safety statement. I am conscious that we are focusing on one thing today, but it should be viewed in the context of an overall package of measures to improve safety on our roads.

I will not be bringing back targets; I do not think they are necessary. We do not have a target that says, "You as road safety Minister must bring forward a plan." I brought forward a plan because I thought it was the right thing to do. That plan is populated with ideas that are the right thing to do to make a difference. I am not planning to reintroduce targets.

On clarity, my right hon. Friend the Member for Brentwood and Ongar raised some difficulties. I am amused at the thought of people watching Beyoncé and

Bublé, but he is right: we have seen some shocking cases in which people have been busy watching programmes that they have downloaded on tablets or whatever. That is clearly wrong; it is dangerous. We want people's minds to be on the road and their hands on the wheel. That is broadly what we should be doing and it is what the highway code says. I will have another look at the highway code in the light of my right hon. Friend's comments, but there is absolutely no doubt that if there are concerns about safety, people simply should not be doing it. It comes down to individuals taking responsibility for it. The rules are clear.

**Sir Eric Pickles:** I make it absolutely clear that someone who is watching a video should be prosecuted. My worry is that an ordinary citizen who uses Google, Apple Maps or Waze on their mobile phone might find themselves inadvertently breaking the law when they think they are doing something perfectly legal. I do not expect the Minister to reply now, but the police have offered guidance suggesting ways in which people can use their mobile phone for navigation and other ways that they cannot. We need clarity on that. I do not expect a comprehensive report now, but I would like him to look at it.

**Andrew Jones:** I take on board my right hon. Friend's comments, and I will always keep a watchful eye on all technological progress and what it can do to cause a distraction or to offer opportunities for road safety. He says that it is hard for the police and, yes, it is, particularly if people are using hands-free. What is the difference between using hands-free and singing along to the radio? How can a policeman tell? It is difficult. Of course, the police are able to take action if they see drivers who are not in proper control of their vehicle. That is an offence, as is careless or inconsiderate driving. The police are able to take action on those and other offences.

The last question was specifically about how to get messages across to younger drivers who may not necessarily be consumers of mainstream media. The answer is that, alongside all other communication campaigns, we have to get the right message to the right audience using the right creatives and the right media. In this particular case, I suggest that digital media are the way ahead. For example, in the Christmas drink-driving campaign, which launched last week, we are using digital advertising, Facebook, Twitter, Spotify and others. It is about getting the message to the right audience via the media with which they are engaged. Digital media will reach the right audience.

I hope I have answered colleagues' questions. I thank colleagues and right hon. and hon. Members for their comments and questions. This order is a necessary part of our package of measures to improve safety on our roads and streets. We owe it to those who have been killed or injured in accidents caused by people behaving in a selfish and irresponsible way by using their handheld mobile phone while driving. I hope the Committee will approve the order.

*Question put and agreed to.*

*Resolved,*

That the Committee has considered the draft Road Traffic Offenders Act 1988 (Penalty Points) (Amendment) Order 2016.

9.28 am

*Committee rose.*

