

Mobile phones and driving.

It shouldn't be news to anyone that you can be charged with 'use of mobile phone while driving', which results in a penalty of four demerit points and a hefty fine of \$433. In Victoria, almost 60,000 drivers were charged with using a phone while driving in 2012-13, with most of them in Melbourne.

But what does "using" a mobile phone "while driving" actually mean? What are the rules about hands-free usage, and when are you considered to be driving? Does that include pulled over with the engine still running? Read on to find out.

'Using a phone'

'Using' a phone includes the following:

- Holding the phone (although you CAN touch it in order to pass it to another passenger in the car);
- Plugging the phone into anything, e.g. a charger or USB connection;
- Using the phone;
- Looking at something on the phone;
- Turning the phone on or off;
- Operating any other function of the phone; and
- Having the phone resting on your lap (although you CAN have it in your pocket)

Also, interestingly, you will be considered to be using the phone if you receive an automatic communication alert (text message, email) AND the communication itself (ie: the actual message, rather than just an indication that the message has been received) becomes visible to you on the screen of the phone. If the phone merely shows an indication that the message has been received (such as a 'new message' alert) then you will not be considered to be using the phone.

'While driving'

'While driving' means you are in the driver's seat of the car and you are driving, not parked. Note that driving includes being stopped in traffic, and parked means properly and legally parked (although you CAN still be parked and have the engine running). Parked does not include pulling over into the emergency stopping lane on a freeway, unless it's actually an emergency.

Hands-free

The only exception for these rules is that a driver on a full licence (not L or P plates) can make a call (not text) or use a navigation system if the phone is properly mounted and you do not need to touch it at all. The phone mount must be a device designed for this purpose (i.e. not taped to the window, or sitting on the dashboard). Remember that L and P-platers cannot use a phone at all, even with hands-free.

Also, having your phone on loudspeaker in your lap does NOT fall under the hands-free exception.

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Although there are as yet any rules specifically aimed at iPads, laptops or tablet devices, it's safe to assume that the same rules will apply – i.e. properly mounted, hands-free use is acceptable, but everything else is not.

Please feel free to contact us if you are affected by the above or require any assistance or simply just wish to talk through the issues.

Veena Plaha-Bassi
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Sources:

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