

# The Shopfront

## YOUTH LEGAL CENTRE

### Traffic Fact Sheet 10 – Driving and mobile phone use

#### 1 Can I drive and use my mobile phone at the same time?

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This depends on what kind of licence you hold.

Learner and Provisional drivers are not allowed to use mobile phones *at all* while driving, including while stopped at traffic lights or stuck in traffic (except in some situations when you need to show your digital licence or make payments).

If you have an unrestricted licence, you may use a hands-free phone but not a hand-held phone.

#### 2 When do the rules apply?

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The rules against using phones also apply if your vehicle is *stopped but not parked* (e.g. if you are stopped in a traffic jam, at a stop sign, or at the lights).

These rules apply to *road-related areas* as well as roads. A road-related area includes almost any public area where people might drive: for example, median strips, footpaths, cycle tracks, nature strips, public carparks, driveways at apartment blocks.

The rules against using mobile phones while driving do not apply to:

- CB radios and two-way radios;
- Sole function GPS navigation devices;
- Other devices like computers and tablets (except maybe if you are using a tablet like a phone, e.g. to make and receive calls). However, there are rules about using “television receivers” or “visual display units” (which could include laptops, tablets, etc) while driving. See part 5 of this fact sheet for more details.

#### 3 Special rules for L and P platers

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Learner, P1 and P2 drivers are not allowed to use a mobile phone, even hands-free, while driving. Remember this includes being stopped but not parked (e.g. at a red light or in a traffic jam). If you need to use your phone, you must pull over and park properly.

This also includes using your phone as a navigational aid. To use maps or GPS, you will need to buy a stand-alone GPS navigation device, or use your car’s built-in GPS if it has one.

The only time a L or P driver can use their phone is:

- to access a digital driver licence, only after a police officer has asked you to do so and after the car is parked; or

- to use wallet functions (to pay for goods or services or to show a coupon or voucher) or to access an area, only if the vehicle is stationary and off the road; or
- if lawfully driving a police or emergency vehicle.

## 4 Rules for full (unrestricted) licence holders

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You *must not hold* a phone while driving (including if you are stopped but not parked).

You *must not even touch your phone*, unless it is secured in a mounted cradle fixed to the dashboard of the vehicle and doesn't obscure your view of the road.

You may use a phone:

- to make or receive a call; or
- to use the audio playing function; or
- as a navigation aid;

but only if:

- the phone is in a secured mounting fixed to your dashboard, and not obscuring your view; or
- if not in a mounting, using the phone must not require the driver to touch or manipulate the phone in any way, so it would need to be operated via Bluetooth or voice activation.

You may use your phone, *unmounted*, to:

- access a digital driver licence, only after a police officer has asked you to do so and after the car is parked; or
- use wallet functions (to pay for goods or services or to show a coupon or voucher) or to access an area, only if the vehicle is stationary and off the road.

You are not allowed to use your phone to send or read text messages, use social media, take photos, or play games.

Even if you are using your phone legally, if you cannot keep control of your vehicle, you could be charged with negligent driving or a similar offence.

## 5 Rules about devices such as TVs and “visual display units”

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These rules apply regardless of whether you are a L, P, or full licence holder.

You are not allowed to drive a vehicle with a “television receiver” or a “visual display unit” inside or on the vehicle, if any part of the image on the screen:

- can be seen from your normal position of driving; or
- would likely distract another driver.

A visual display unit (VDU) would include a laptop or tablet. It may also include a mobile phone if someone in the car is watching something on the screen.

You can use a TV or VDU while driving if:

- it is used as a driver's aid (e.g. a GPS) and is either part of the vehicle design or mounted to the vehicle; or
- you are driving a bus and the display shows a destination sign or other bus sign; or

- it is a mobile data terminal fitted to a police vehicle or an emergency vehicle; or
- you are exempted by another law.

## 6 Use of cameras to detect mobile phone offences

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Just like speed cameras, you can be photographed using a mobile phone while driving and this can be used as evidence against you.

The system uses artificial intelligence to automatically review images. According to Transport for NSW, the computer first checks to see if both hands are on the steering wheel. If not, the computer then begins to look for objects which have the size and appearance of a mobile phone or are being held in a manner consistent with a mobile phone.

If the automated system selects an image, it is then reviewed by a person and a decision is made whether to take action against the driver.

If you receive a fine for this offence and you were *not* using a phone, you may wish to challenge the fine in court. In this situation, the prosecutor will have to prove the item was a phone – it's not up to you to prove it wasn't.

For more information about mobile phone detection cameras, see

<https://roadsafety.transport.nsw.gov.au/staying-safe/mobile-phones/technology.html#faq4>.

## 7 Penalties and demerit points

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### 7.1 Using a mobile phone while driving

If you are given a penalty notice (an on-the-spot fine) for using a hand-held mobile phone (or, if you have a L or P1 licence, any phone) while driving, the fine amount is \$362, or \$481 if the offence occurs in a school zone.

If you are dealt with by a court, the maximum fine is \$2,200.

The offence also carries 5 demerit points (or 10 during double demerit point periods).

### 7.2 Using a TV or VDU while driving

The penalty notice amounts for this offence are the same as for using a mobile phone: \$362, or \$481 in a school zone.

If you are dealt with by a court, the maximum fine is \$2,200.

This offence attracts 3 demerit points, or 4 in a school zone. The demerit points *don't* increase during double demerit point periods.

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*The information in this fact sheet contains a basic summary of the law in New South Wales. It is not legal advice. If you need legal advice, you should speak to a lawyer.*

The Shopfront Youth Legal Centre  
356 Victoria Street, Darlinghurst, NSW 2010  
Tel: (02) 9322 4808  
Email: [shopfront@theshopfront.org](mailto:shopfront@theshopfront.org)  
Web: [www.theshopfront.org](http://www.theshopfront.org)